As filed with the Securities and Exchange Commission on May 31, 2012
1933 Act File No. 333-178548

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

Form N-2

(Check Appropriate Box or Boxes)

☑ **REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**
☑ Pre-Effective Amendment No. 3
☐ Post-Effective Amendment No. ____

HMS INCOME FUND, INC.

(Exact Name of Registrant as Specified in Charter)

2800 Post Oak Boulevard, Suite 5000
Houston, Texas 77056-6118
Address of Principal Executive Offices (Number, Street, City, State, Zip Code)

Registrant's Telephone Number, Including Area Code: **(888) 220-6121**

Charles N. Hazen
HMS Income Fund, Inc.
2800 Post Oak Boulevard, Suite 5000
Houston, Texas 77056-6118
Name and Address (Number, Street, City, State, Zip Code) of Agent For Service

COPIES TO:

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Approximate Date of Proposed Public Offering: As soon as practicable after the effective date of this Registration Statement.

If any securities being registered on this form will be offered on a delayed or continuous basis in reliance on Rule 415 under the Securities Act of 1933, other than securities offered in connection with a distribution reinvestment plan, check the following box. ☑

It is proposed that this filing will become effective (check appropriate box):
☐ when declared effective pursuant to section 8(c).

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of Securities Being Registered	Amount Being Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price[1]	Amount of Registration Fee
Common Stock, $0.001 par value per share	150,000,000 shares	$10.00	$1,500,000,000	$171,900[2]

(1) Estimated pursuant to Rule 457(o) under the Securities Act of 1933 solely for the purpose of determining the registration fee.
(2) Previously paid.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED MAY 31, 2012

PRELIMINARY PROSPECTUS

HMS INCOME FUND, INC.

Maximum Offering of 150,000,000 Shares of Common Stock

HMS Income Fund, Inc. is a newly organized specialty finance company sponsored by Hines Interests Limited Partnership, or Hines. Our primary investment objective is to generate current income through debt and equity investments. A secondary objective is to generate long-term capital appreciation through such investments.

Immediately prior to commencement of the offering, we will acquire, through a merger, HMS Income LLC, which owns our initial investment portfolio, in exchange for the number of shares of our common stock determined by dividing the net asset value of HMS Income LLC, as determined by the board of directors of HMS Income Fund, Inc. within 48 hours prior to the merger, by $9.00 (based on the $10.00 per share initial offering price of our common stock less the $1.00 combined selling commissions and dealer manager fee), which will be issued to an affiliate of Hines and an unaffiliated investor who are the members of HMS Income LLC. See "Formation Transaction" and "Certain Relationships and Related Party Transactions."

Upon the commencement of this offering, we will be an externally managed, non-diversified, closed-end management investment company that intends to file an election to be treated as a business development company under the Investment Company Act of 1940, or the 1940 Act. We intend to elect to be treated for U.S. federal income tax purposes, and to qualify annually thereafter, as a regulated investment company under the Internal Revenue Code of 1986, as amended, or the Code. We are managed by HMS Adviser LP, or our Adviser. Our Adviser is a recently formed private investment management firm that is registered as an investment adviser under the Investment Advisers Act of 1940, or the Advisers Act. Our Adviser will oversee the management of our activities and will have responsibility for making investment decisions with respect to and providing day-to-day management and administration of our investment portfolio. Our Adviser has engaged a wholly owned subsidiary of Main Street Capital Corporation, or Main Street, a New York Stock Exchange-listed business development company and a registered investment adviser to act as our investment sub-adviser. The wholly owned subsidiary of Main Street, which employs all of Main Street's investment professionals, is subject to Main Street's supervision and control. We refer to this subsidiary of Main Street as our "Sub-Adviser," and we refer to the Adviser and the Sub-Adviser collectively as our "Advisers." The Sub-Adviser has been engaged by our Adviser to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by our Adviser, monitor our investment portfolio and provide certain ongoing administrative services to our Adviser.

We are offering on a continuous basis up to 150,000,000 shares of our common stock at an initial offering price of $10.00 per share through Hines Securities, Inc., our dealer manager. The dealer manager is not required to sell any specific number or dollar amount of shares but will use its best efforts to sell the shares offered. Subject to the requirements of state securities regulators with respect to sales to residents of their states, there is no minimum number of shares required to be sold in this offering. Therefore, we intend to have our initial closing as soon as practicable after the effective date of the registration statement of which this prospectus is a part. After our initial closing, we intend to conduct closings on a semi-monthly basis until conclusion of this offering. All subscription payments will be placed in a segregated account and held in trust for our subscribers' benefit, pending release to us at the next scheduled semi-monthly closing. If the initial closing does not occur, 100% of the paid subscriptions, including any interest earned, will be promptly returned to the subscribers.

We are offering our shares on a continuous basis at an initial offering price of $10.00; however, to the extent our net asset value per share increases after commencement of the offering, we intend to sell our shares at a price necessary to ensure that shares are not sold at a price per share, after deduction of selling commissions and dealer manager fees, that is below our net asset value per share. In the event of a material decline in our net asset value per share, which we consider to be a non-temporary 5% decrease below our then-current net offering price, and subject to certain conditions, we will reduce our offering price accordingly. Because of the possibility that the price per share will change, persons who subscribe for shares in this offering must submit subscriptions for a fixed dollar amount rather than for a number of shares and, as a result, may receive fractional shares of our common stock. We are required to file post-effective amendments to this registration statement, which are subject to Securities and Exchange Commission, or the SEC, review, to allow us to continue this offering for at least two years, subject to our right to terminate this offering at any time or to extend this offering beyond two years.

We do not intend to list the shares on any securities exchange during the offering period, and we do not expect a secondary market in the shares to develop in the near future. Therefore, if you purchase shares you will likely have limited ability to sell your shares regardless of how we perform. If you are able to sell your shares, you will likely receive less than your purchase price. We may explore a potential liquidity event between four and six years following the completion of our offering period. We will view our offering period to have ended as of the termination date of our most recent public offering if we have not conducted a public equity offering in any continuous two year period. However, there can be no assurance that we will complete a liquidity event within such time or at all. To provide limited, interim liquidity to our stockholders, our board of directors may implement a share repurchase program, but only a limited number of shares will be eligible for repurchase by us. This will be the only method available to our stockholders to obtain liquidity that we will offer prior to a liquidity event; therefore, you should consider that you may not have access to your cash investment for an extended period of time. See "Share Repurchase Program" and "Liquidity Strategy."

Investing in our common stock may be considered speculative and involves a high degree of risk, including the risk of a complete loss of investment. See " Risk Factors" beginning on page 31 to read about the risks you should consider before buying shares of our common stock, including the risk of leverage.

This prospectus contains important information about us that a prospective investor should know before investing in our common stock. Please read this prospectus before investing and keep it for future reference. Upon completion of this offering, we will file annual, quarterly and current reports, proxy statements and other information about us with the SEC as required. This information will be available free of charge by contacting us at 2800 Post Oak Boulevard, Suite 4700, Houston, Texas 77056-6118 or by telephone at (888) 220-6121 or on our website at www.HinesSecurities.com. The SEC also maintains a website at www.sec.gov that contains such information.

Neither the SEC, the Attorney General of the State of New York nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense. Except as specifically required by the 1940 Act and the rules and regulations thereunder, the use of forecasts is prohibited and any representation to the contrary and any predictions, written or oral, as to the amount or certainty of any present or future cash benefit or tax consequence which may flow from an investment in our common stock is not permitted.

	Per Share	Total Maximum
Price to Public(1)	$ 10.00	$1,500,000,000
Selling Commissions	$ 0.70	$ 105,000,000
Dealer Manager Fee	$ 0.30	$ 45,000,000
Net Proceeds (Before Expenses)(2)	$ 9.00	$1,350,000,000

(1) Assumes all shares are sold at the initial offering price per share of $10.00 per share.

(2) In addition to the sales load, we estimate that the maximum amount of expenses that would be incurred in connection with this offering is $22.5 million (1.5% of the gross proceeds) if the maximum number of shares is sold at $10.00 per share. **Because you pay a 10% sales load and could incur up to 1.5% in offering expenses, if you invest $2,500 in shares in this offering, we estimate that only $2,212.50 will actually be used by us for investment.**

The date of this prospectus is , 2012.

Hines Securities, Inc.

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we have filed with the SEC to register a continuous offering of our shares of common stock. Periodically, as we make material investments or have other material developments, we will provide a prospectus supplement that may add, update or change information contained in this prospectus. We will endeavor to avoid interruptions in the continuous offering of our shares of common stock, including, to the extent permitted under the rules and regulations of the SEC, filing post-effective amendments to the registration statement to include new annual audited financial statements as they become available. There can be no assurance, however, that our continuous offering will not be suspended while the SEC reviews any such amendment until it is declared effective.

Any statement that we make in this prospectus may be modified or superseded by us in a subsequent prospectus supplement or post-effective amendment. The registration statement we have filed with the SEC includes exhibits that provide more detailed descriptions of certain matters discussed in this prospectus. You should read this prospectus and the related exhibits filed with the SEC and any prospectus supplement, together with additional information described below under "Available Information." In this prospectus, we use the term "day" to refer to a calendar day, and we use the term "business day" to refer to any day other than Saturday, Sunday, or a federal holiday.

You should rely only on the information contained in this prospectus. Neither we, nor the dealer manager has authorized any other person to provide you with different information from that contained in this prospectus. The information contained in this prospectus is complete and accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or sale of our common stock. If there is a material change in the affairs of our company, we will amend or supplement this prospectus.

HMS INCOME FUND, INC.
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PROSPECTUS SUMMARY

This summary highlights some of the information in this prospectus. It is not complete and may not contain all of the information that you may want to consider. To understand this offering fully, you should read the entire prospectus carefully including the financial statements beginning on page F-2 and the section entitled "Risk Factors" beginning on page 31 before making a decision to invest in our common stock.

Unless otherwise noted, the terms "we," "us," "our," and "Company" refer to HMS Income LLC, a Maryland limited liability company, and its consolidated subsidiaries for the periods prior to the consummation of the BDC Formation described below in this summary and in the section entitled "Formation Transaction" beginning on page 56, and refer to HMS Income Fund, Inc., a Maryland corporation, and its consolidated subsidiaries for the periods after the consummation of the BDC Formation. We refer to HMS Adviser LP as "HMS Adviser" or "our Adviser." We refer to Hines Interests Limited Partnership as "Hines" or "our Sponsor." We refer to Main Street Capital Corporation as "Main Street" and the wholly owned subsidiary of Main Street that acts as our investment sub-adviser as "our Sub-Adviser." Our Adviser and Sub-Adviser are collectively referred to as "our Advisers."

Prior to the date of this prospectus and our election to be treated as a business development company, or BDC, we will complete a merger pursuant to which HMS Income Fund, Inc. will succeed to the business of HMS Income LLC and its consolidated subsidiaries, and the members of HMS Income LLC will become stockholders of HMS Income Fund, Inc. In this prospectus, we refer to such transactions as the "BDC Formation." Unless otherwise indicated, the disclosure in this prospectus gives effect to the BDC Formation.

The Company

We are a recently organized specialty finance company sponsored by Hines. We were formed for the purpose of succeeding to the investment portfolio of HMS Income LLC through the BDC Formation and, thereafter, to make debt and equity investments in middle market companies which we define as companies with annual revenues generally between $10 million and $3 billion that operate in diverse industries. Upon commencement of this offering, we will be an externally managed, non-diversified closed-end investment company that intends to file an election to be treated as a BDC under the Investment Company Act of 1940, or the 1940 Act. We are therefore required to comply with certain regulatory requirements. We intend to elect to be treated for U.S. federal income tax purposes, and to qualify annually thereafter, as a regulated investment company, or RIC, under Subchapter M of the Internal Revenue Code of 1986, as amended, or the Code.

We are managed by HMS Adviser, a recently formed private investment management firm that is registered as an investment adviser under the Investment Advisers Act of 1940, or the Advisers Act. Our Adviser, which is an indirect wholly owned affiliate of Hines, will oversee the management of our activities and will have responsibility for making investment decisions with respect to and providing day-to-day management and administration of our investment portfolio. HMS Adviser has engaged a wholly owned subsidiary of Main Street, a New York Stock Exchange-listed BDC and a registered investment adviser under the Advisers Act, to act as our investment sub-adviser. The Sub-Adviser has been engaged to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by our Adviser, monitor our investment portfolio and provide certain ongoing administrative services to our Adviser.

On December 12, 2011, an affiliate of Hines, or the Hines Investor, and an unaffiliated investor purchased 1,111,111 units of membership interest in HMS Income LLC for a price of $9.00 per unit (based on our $10.00 per share initial offering price less the 10% selling commissions and dealer manager fee not incurred) or an aggregate of $10 million, $7.5 million of which was contributed by the Hines Investor and the remaining $2.5 million of which was contributed by the unaffiliated investor. Simultaneous with that initial capitalization, HMS Income LLC entered into a senior secured single advance term loan credit facility with Main Street in the committed principal amount of $7.5 million, or the Main Street Facility, which loan has subsequently been repaid with borrowings from a credit facility the Company entered into on May 24, 2012. See "Credit Facility" below. Additionally, Main Street and the Hines Investor entered into a letter agreement pursuant to which the Hines

Investor has the right to sell to Main Street up to one-third of its equity interest in the Company at a price per share equal to the then current price to the public in the offering (less the selling commissions and dealer manager fee of 10%) at the time of exercise of the right. The right may be exercised from time to time, in whole or in part, subject only to the condition that immediately following Main Street's purchase, Main Street's ownership would not exceed the limits on investment company ownership of other investment companies as set forth in the 1940 Act. On December 12, 2011, HMS Income LLC fully drew the entire committed principal amount under the credit facility and acquired from Main Street approximately $16.5 million of investments utilizing its initial equity capital and proceeds from the Main Street Facility. In the BDC Formation, we will acquire the initial portfolio through a merger of HMS Income LLC into us, in which the holders of membership interests of HMS Income LLC will receive the number of shares of our common stock determined by dividing the net asset value of HMS Income LLC, as determined by the board of directors of HMS Income Fund, Inc. within 48 hours prior to the merger, by $9.00 (based on the $10.00 per share initial offering price of our common stock less the $1.00 combined selling commissions and dealer manager fee). As of May 31, 2012, the initial portfolio consisted of the following investments:

Company	Nature of Principal Business	Title of Securities Held by Us	Percentage of Class Held[1]	Cost of Investment[2][3]	Fair Value of Investment	Maturity Date
Academy, Ltd.	Sporting Goods Retailer	LIBOR Plus 4.50%, current coupon 6.0% *Senior Secured Debt*	–	$1,987,305	$2,002,471	August 3, 2018
Ameritech College Operations, LLC	Education Services	*18% Senior Secured Debt*	–	$750,000	$750,000	March 9, 2017
California Healthcare Medical Billing, Inc.	Healthcare Services	*12% Senior Secured Debt*	–	$750,000	$750,000	October 17, 2015
Ipreo Holdings LLC	Software Solutions	LIBOR Plus 6.5%, current coupon 8.0% *Senior Secured Debt*	–	$732,049	$742,519	August 5, 2017
IRTH Holdings, LLC	Utility Technology Services	*12% Senior Secured Debt*	–	$750,000	$750,000	December 29, 2015
Metropolitan Health Networks, Inc.	Primary Care Network	LIBOR Plus 11.75%, current coupon 13.5% *Subordinated Debt*	–	$735,264	$731,250	October 4, 2017
MultiPlan, Inc.	Healthcare Preferred Provider Organization	LIBOR Plus 3.25%, current coupon 4.75% *Senior Secured Debt*	–	$735,895	$706,735	August 26, 2017
NAPCO Precast, LLC	Precast Concrete Manufacturing	*18% Senior Secured Debt*	–	$750,000	$750,000	February 1, 2013
National Healing Corporation	Wound Care Services	LIBOR Plus 6.75%, current coupon 8.25% *Senior Secured Debt*	–	$710,625	$744,384	November 30, 2017
NRI Clinical Research, LLC	Clinical Research	*14% Senior Secured Debt*	–	$717,977	$717,977	September 8, 2016

Company	Nature of Principal Business	Title of Securities Held by Us	Percentage of Class Held[1]	Cost of Investment[2][3]	Fair Value of Investment	Maturity Date
Pacific Architects and Engineers Incorporated	Architecture and Engineering Services	LIBOR Plus 6%, current coupon 7.5% *Senior Secured Debt*	–	$691,147	$699,713	April 4, 2017
Phillips Plastics Corporation	Custom Plastic and Metal Services	LIBOR Plus 5%, current coupon 6.5% *Senior Secured Debt*	–	$739,087	$742,519	February 12, 2017
Principle Environmental, LLC	Noise Abatement Products/Services	*12% Senior Secured Debt*	–	$750,000	$750,000	February 1, 2016
Ulterra Drilling Technologies, L.P.	Oilfield Services	LIBOR Plus 7.5%, current coupon 9.5% *Senior Secured Debt*	–	$717,167	$738,323	June 9, 2016
UniTek Global Services, Inc.	Telecommunications	LIBOR Plus 7.5%, current coupon 9% *Senior Secured Debt*	–	$3,384,571	$3,430,176	April 15, 2018
VFH Parent LLC	Electronic Trading and Market Making	LIBOR Plus 6.0%, current coupon 7.5% *Senior Secured Debt*	–	$683,900	$701,082	July 8, 2016
Visant Corporation	School Affinity Products	LIBOR Plus 4.0%, current coupon 5.25% *Senior Secured Debt*	–	$711,748	$744,384	December 22, 2016
Total				$16,296,735	$16,399,680	

(1) All of the investments in the initial portfolio are debt investments, therefore, we do not hold an equity interest in any of the portfolio companies listed.

(2) The assets in the initial portfolio were purchased at the proportional face amount or par value for customized lower middle market securities and at Main Street's amortized cost for over-the-counter debt securities, which the parties agreed reasonably represented the fair value of the assets at the time of the transaction.

(3) The cost of investment is net of principal payments received through May 31, 2012 in the aggregate amount of $232,444 .

Risk Factors

An investment in our common stock involves a high degree of risk and may be considered speculative. You should carefully consider the information found in "Risk Factors" before deciding to invest in shares of our common stock. The following are some of the risks you will take in investing in our shares:

- Except for the initial investments described in this prospectus, we have not identified specific investments that we will make with the proceeds from this offering, and you will not have the opportunity to evaluate the investments we will acquire with the proceeds from our sale of shares of common stock to you.

- We were recently formed in Maryland and commenced operations on December 12, 2011 with $10 million equity capitalization. Accordingly, due to our limited operating history, we are subject to the business risks and uncertainties associated with any new business, including the risk that we will not achieve our investment objective.
- Current market conditions have adversely affected the capital markets and have reduced the availability of debt and equity capital for the market as a whole and financial firms in particular. These conditions may make it more difficult for us to achieve our investment objective.
- The amount of any distributions we pay is uncertain. Our distributions to our stockholders may exceed our earnings, particularly during the period before we have substantially invested the net proceeds from this offering. Therefore, portions of the distributions that we pay may represent a return of capital to you for U.S. federal income tax purposes.
- A significant portion of our portfolio will be recorded at fair value as determined in good faith by our board of directors and, as a result, there will be ongoing uncertainty as to the ultimate market value of our portfolio investments.
- We may not realize gains from our equity investments, which may adversely affect our investment returns and stockholders' ability to recover their entire investment in us.
- Our board of directors may change our operating policies and investment strategies without prior notice or stockholder approval, the effects of which may be adverse.
- Our Advisers and their respective affiliates may have conflicts of interest as a result of compensation arrangements, time constraints and competition for investments, which they will attempt to resolve in a fair and equitable manner, but which may result in actions that are not in your best interests.
- The potential for our Advisers to earn incentive fees under our investment advisory and administrative services agreement with HMS Adviser, or the Investment Advisory Agreement, (50% of which are payable to the Sub-Adviser pursuant to the investment sub-advisory agreement between HMS Adviser, the Sub-Adviser, Main Street and us, or the Sub-Advisory Agreement) may create an incentive for the Advisers to enter into investments that are riskier or more speculative than would otherwise be the case, and our Advisers may have an incentive to increase portfolio leverage in order to earn higher management fees.
- We expect to borrow funds to make investments. As a result, we will be exposed to the risks of borrowing, also known as leverage. The use of leverage may be considered a speculative investment technique insofar as leverage increases the volatility of investments by magnifying the potential for gain and loss on amounts invested, therefore, increasing the risks associated with investing in our securities. Moreover, any assets we may acquire with leverage will be subject to management fees payable to our Advisers.
- We intend to invest primarily in senior secured term loans, second lien loans and mezzanine debt and selected equity investments issued by private companies. For our senior secured and second lien loans, the collateral securing these investments may fluctuate in value or lose its entire value over time based on the performance of the portfolio company which may lead to a loss in principal. Mezzanine debt investments are typically unsecured, and investing in mezzanine debt may involve a heightened level of risk, including a loss of principal or the loss of the entire investment. Most loans in which we invest will be rated, or would be if they were rated by a rating agency, as "below investment grade" quality or "junk." Indebtedness of below investment grade

quality is regarded as having predominantly speculative characteristics with respect to the issuer's capacity to pay interest and repay principal.

- Because there is no public trading market for shares of our common stock and we are not obligated to effectuate a liquidity event by a specified date, it will be difficult for you to sell your shares.
- Our investments, especially until we raise significant capital from this offering, may be concentrated in over-the-counter debt securities of a limited number of issuers that will likely carry lower yields than those we will seek in future customized financings, which could result in a lower distribution than we have estimated and magnify the effect of any losses suffered by a few of these investments.
- We will be subject to financial market risks, including changes in interest rates, which may have a substantial negative impact on our investments.
- As a result of the annual distribution requirement to qualify as a RIC, we will likely need to continually raise cash or make borrowings to fund new investments. At times, these sources of funding may not be available to us on acceptable terms, if at all.
- We intend to qualify as a RIC, but may fail to do so. Such failure would subject us to U.S. federal income tax on all of our income, which would have a material adverse effect on our financial performance.
- We established the offering price for our shares of common stock on an arbitrary basis, and the offering price may not accurately reflect the value of our assets.
- The purchase price for our shares will be determined at each semi-monthly closing date. As a result, your purchase price may be higher than the price per share paid in the prior closing, and you may receive a smaller number of shares than if you had subscribed at the prior closing price.
- This is a "best efforts" offering and if we are unable to raise substantial funds then we will be more limited in the number and type of investments we may make.
- One of our potential exit strategies is to list our shares for trading on a national exchange, and shares of publicly traded closed-end investment companies frequently trade at a discount to their net asset value. In such case, we would not be able to predict whether our common stock would trade above, at or below net asset value. This risk is separate and distinct from the risk that our net asset value per share may decline.

See "Risk Factors" and the other information included in this prospectus for a discussion of factors you should carefully consider before deciding to invest in shares of our common stock.

Our Investment Objective and Strategies

Our primary investment objective is to generate current income through debt and equity investments. A secondary objective is to generate long-term capital appreciation through such investments. We anticipate that during our offering period we will invest a majority of the net proceeds from the offering in senior secured and second lien debt securities issued by middle market companies in private placements and negotiated transactions, which are traded in private over-the-counter markets for institutional investors. In this prospectus, we collectively refer to these securities as over-the-counter debt securities. We define middle market companies as those with annual revenues generally between $10 million and $3 billion that operate in diverse industries.

As we increase our capital base during our offering period, we will continue investing in, and ultimately intend to have a significant portion of our assets invested in, customized direct secured and unsecured loans to and equity securities of lower middle market companies, which we define as companies with annual revenues generally between $10 million and $150 million. In this prospectus we refer to these securities as customized lower middle market securities. In most cases, companies that issue customized lower middle market securities to us will be privately held at the time we invest in them. While the structure of our investments in customized lower middle market securities in which we invest is likely to vary, we may invest in senior secured debt, senior unsecured debt, subordinated secured debt, subordinated unsecured debt, mezzanine debt, convertible debt, convertible preferred equity, preferred equity, common equity, warrants and other instruments, many of which generate current yields. We will make other investments as allowed by the 1940 Act and consistent with our continued qualification as a RIC. For a discussion of the risks inherent in our portfolio investments, see "Risk Factors — Risks Relating to Our Business and Structure."

We intend to leverage the experience and expertise of the principals of our Advisers to execute our investment strategies. Our Adviser's senior management team, through affiliates of Hines, has sponsored and manages two publicly offered and non-traded real estate investment trusts, or REITs, which collectively have investments in aggregate gross real estate assets of approximately $9.0 billion. Hines is a fully integrated real estate investment and management firm which, with its predecessor, has been investing in real estate assets and providing acquisition, development, financing, property management, leasing and disposition services for over 50 years. This experience includes credit evaluation and underwriting of tenants across numerous industries and geographic markets, including middle market companies. Main Street's primary investment focus is providing customized debt and equity financing to lower middle market companies and debt capital to middle market companies that operate in diverse industry sectors. At March 31, 2012, Main Street had debt and equity investments with an aggregate fair value of $639.1 million in 115 portfolio companies, including investments in over-the-counter debt securities with an aggregate fair value of approximately $251.0 million in 62 separate issuers. The principals of our Adviser and Sub-Adviser, have access to a broad network of relationships with financial sponsors, commercial and investment banks, middle market companies and leaders within a number of industries that we believe will produce significant investment opportunities.

Our Market Opportunity

We believe that the banking and financial services crisis that began in the summer of 2007 and the resulting global credit crisis have created a unique opportunity for specialty finance companies with experience in investing in middle market companies to make investments with attractive yields and significant opportunities for sharing in new value creation. Our current opportunity is highlighted by the following factors:

- ***There is a large pool of uninvested private equity capital likely to seek additional capital to support private investments*** We believe there remains a large pool of uninvested private equity capital available to middle market companies. We expect that private equity firms will be active investors in middle market companies and that these private equity firms will seek to supplement their investments with senior secured and junior loans and equity co-investments from other sources, such as us.

- ***The credit crisis and consolidation among commercial banks has reduced the focus on middle market business.*** The commercial banks in the United States, or U.S., which have traditionally been the primary source of capital to middle market companies, have experienced consolidation, unprecedented loan losses, capital impairments, increased capital requirements and stricter regulatory scrutiny, which have led to a significant tightening of credit standards and substantially reduced loan volume to the middle market. Many financial institutions that have historically loaned to middle market companies have failed or been acquired, and we believe that larger

financial institutions are now more focused on syndicated lending to larger corporations and are allocating capital to business lines that generate fee income and involve less balance sheet risk. We believe this market dynamic will provide us with numerous opportunities to originate new debt and equity investments primarily in middle market companies. While we believe the credit crisis and the resultant market dynamic have created an opportunity for us, we also note that the credit crisis and current tenuous economic environment also present certain risks to our success. Unfavorable economic conditions or other factors could increase our funding costs, limit our access to the capital markets or result in a decision by lenders not to extend credit to us. An inability to successfully access the capital markets could limit our ability to grow our business and fully execute our business strategy and could decrease our earnings, if any.

- ***There is currently a limited market for collateralized debt obligations, or CDOs, or collateralized loan obligations, or CLOs*** Prior to the credit crisis, these asset-backed vehicles were used by many funds and BDCs to provide inexpensive capital to fund additional investments. We also believe that some specialty finance companies that heavily utilized this funding vehicle may be forced to liquidate assets to meet obligations under these vehicles and may have limited access to equity capital due to their shrinking balance sheets, potentially providing us with opportunities to purchase loans at attractive values and also reducing competition for future middle market investments.

- ***There exists currently a favorable pricing environment in the secondary loan market***. Lower valuation levels, combined with reduced liquidity in the secondary loan market, have created opportunities to acquire relatively high yielding middle market senior and subordinated loans, both secured and unsecured, at potentially attractive prices.

Our Competitive Strengths

We believe that we have the following competitive advantages over other publicly-traded BDCs and other public non-traded BDCs:

- affiliates of our Adviser have more than 50 years of experience in evaluating and underwriting credit of companies in numerous industries and geographic markets including middle market companies in connection with managing approximately 135.3 million square feet of retail, office and industrial real estate to a wide variety of tenants, including middle market companies;

- our Sub-Adviser has substantial experience investing in the types of companies and securities we expect to acquire and an established record of creating stockholder value through increasing distributions, periodic capital gains and stable net asset values; and

- the principals of Hines, our Adviser and our Sub-Adviser have extensive relationships with loan syndication and trading desks, lending groups, management teams, investment bankers, business brokers, attorneys, accountants and other persons whom we believe will continue to provide us with significant investment opportunities.

Our Investment Process

Under the terms of the Investment Advisory Agreement, HMS Adviser will oversee the management of our activities and will have responsibility for making investment decisions with respect to and providing day-to-day management and administration of our investment portfolio. Our Adviser has engaged the Sub-Adviser pursuant to the Sub-Advisory Agreement to identify, evaluate, negotiate and structure our prospective investments, make investment and portfolio management recommendations for approval by our Adviser, monitor our investment portfolio and provide certain ongoing administrative services to the Adviser.

We expect a substantial majority of our investment opportunities to be identified and originated by the Sub-Adviser. Each investment opportunity will first be evaluated by the Sub-Adviser for suitability for our portfolio, and the Sub-Adviser will perform, or cause to be performed due diligence procedures, and provide to our Adviser due diligence information with respect to the investment. The Sub-Adviser will recommend investments to our Adviser, whose investment committee will independently evaluate the investment considering, among other things, the analysis, due diligence information and recommendation provided by the Sub-Adviser. In addition, the Sub-Adviser will monitor our investment portfolio on an ongoing basis and make recommendations regarding ongoing portfolio management. The Adviser will make all decisions to acquire, hold or sell investments for us except those decisions reserved for our Board.

As a BDC, we are subject to certain regulatory restrictions in making our investments. For example, we will not be permitted to co-invest with our Advisers or their affiliates in certain transactions originated by our Advisers or their affiliates unless we obtain an exemptive order from the SEC. We have currently applied for an exemptive order from the SEC. However, there can be no assurance that we will obtain such relief.

If granted, the exemptive relief would allow us, and/or any future entity that is managed, advised or controlled by us or the Adviser on one hand, and Main Street and/or any future entity that is managed, advised or controlled by Main Street on the other hand, to co-invest in the same investment opportunities where such investment would otherwise be prohibited under Section 57(a)(4) of the 1940 Act. If the application for exemptive relief is granted, each co-investment transaction would be allocated between us and the Main Street entities based upon an agreed upon allocation. This relative allocation would be approved at the onset of each quarter or, as necessary or appropriate, between quarters by a required majority of the independent directors of both the Company and Main Street eligible to vote under Section 57(o) of the 1940 Act. The allocations could be adjusted by the approval of a required majority of the independent directors of both the Company and Main Street for any reason, including, among other things, in the case of a specific investment, if our or Main Street's participation at a certain level could cause either one of us to fail to meet the diversification or other requirements necessary for either one of us to qualify as a RIC under the Code. Unless adjusted in the manner described above, once agreed upon, the relative allocation plan would apply prospectively for the following quarter. Additional information regarding the operation of the co-investment program is set forth in the application for exemptive relief, which has been filed with the SEC.

Prior to obtaining exemptive relief, we intend to co-invest alongside our Sub-Adviser and/or its affiliates only in accordance with existing regulatory guidance. For example, at any time, we may co-invest in syndicated deals and secondary loan market transactions where price is the only negotiated point. While we desire to receive exemptive relief from the SEC, given the latitude permitted within existing regulatory guidance and our current universe of investment opportunities, we do not feel that the absence of exemptive relief materially affects our ability to achieve our investment objective.

About Our Adviser

Our Adviser, HMS Adviser, is a Texas limited partnership formed on April 13, 2012 that is registered as an investment adviser under the Advisers Act. Our Adviser has no operating history and no experience managing a BDC. Our Adviser is wholly-owned by Hines. Hines is currently owned by Gerald D. Hines and Jeffrey C. Hines.

Hines has sponsored two publicly offered and non-traded REITs: Hines Real Estate Investment Trust, Inc., or Hines REIT, and Hines Global REIT, Inc., or Hines Global REIT, which collectively have investments in aggregate gross real estate assets of approximately $9.0 billion. Charles N. Hazen and Ryan T. Sims, our Chief Executive Officer and Chief Financial Officer, respectively, joined Hines in 1989 and 2003, respectively, and have substantial experience in private equity, real estate acquisitions and dispositions, public company management and administration and finance and have served as executive officers of companies in the REIT and investment real estate industries.

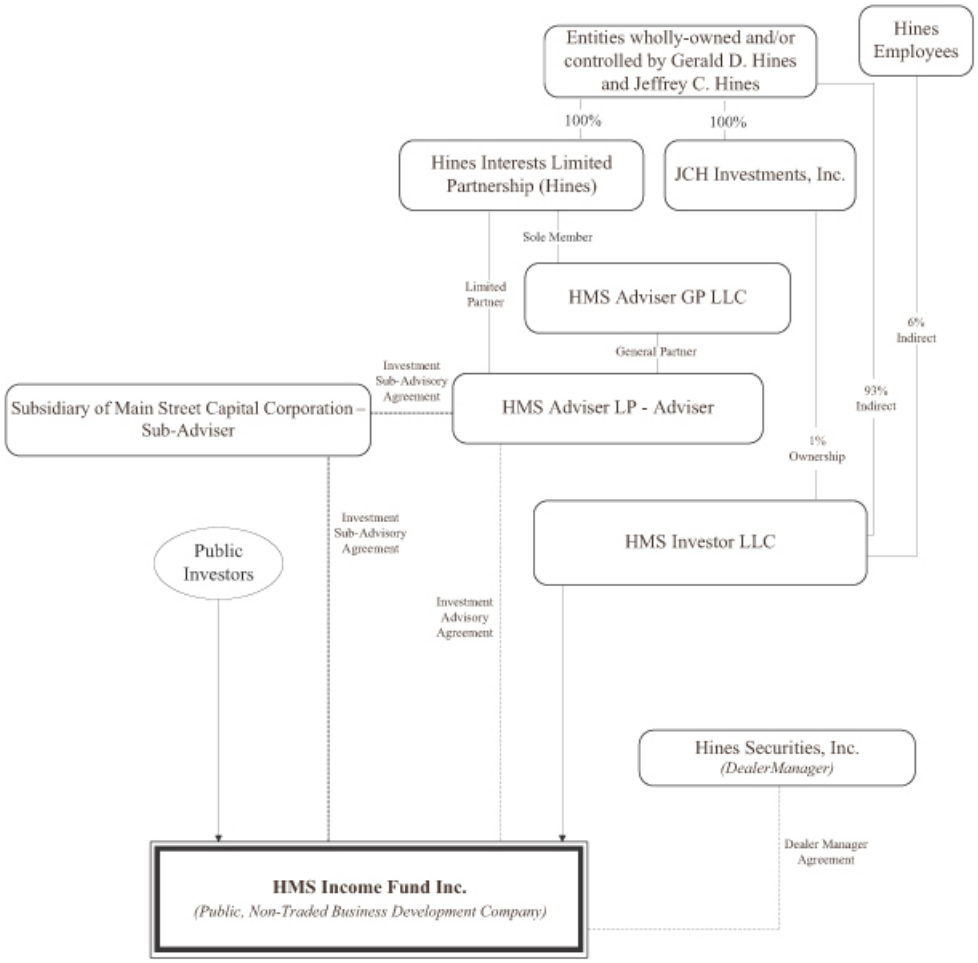
About Our Sub-Adviser

The Sub-Adviser is a wholly owned subsidiary of Main Street, which is an internally managed BDC and a registered investment adviser. The Sub-Adviser, which employs all of Main Street's investment professionals, is subject to Main Street's supervision and control. The Sub-Adviser's management team includes a unique group of professionals with over 100 years of collective investment experience. The members of the Sub-Adviser's investment team have broad investment backgrounds, with prior experience at private investment funds, investment banks and other financial services companies, and currently include eight certified public accountants and one chartered financial analyst. Main Street has developed a reputation in the market place as a responsible and efficient source of financing, which has created a stream of proprietary deal flow. At March 31, 2012, Main Street had debt and equity investments with an aggregate fair value of $639.1 million in 115 portfolio companies, including investments in over-the-counter debt securities with an aggregate fair value of approximately $251.0 million in 62 separate issuers. We expect to leverage the Sub-Adviser's expertise in analyzing, valuing, structuring, negotiating and closing transactions, which should provide us with a competitive advantage in offering customized financing solutions to lower middle market companies and in executing investments in over-the-counter debt securities. The Sub-Adviser and Main Street are based in Houston, Texas. Main Street's common stock trades on the New York Stock Exchange under the ticker symbol "MAIN."

About Our Sponsor

Hines is our Sponsor. Hines is a fully integrated global real estate investment and management firm and, with its predecessor, has been investing in real estate and providing acquisition, development, financing, property management, leasing and disposition services for over 50 years. Hines provides real estate investment and management services to numerous investors and partners including pension plans, domestic and foreign institutional investors, high net worth individuals and retail investors. Hines is owned and controlled by Gerald D. Hines and his son Jeffrey C. Hines. As of December 31, 2011, Hines and its affiliates had ownership interests in a real estate portfolio of over 210 projects, valued at approximately $22.9 billion. Please see "Investment Objective and Strategies — About Our Sponsor " for more information regarding Hines.

The following chart shows the ownership structure and various entities affiliated with us, our Advisers and our Sponsor:



Plan of Distribution

We are offering on a continuous basis up to 150,000,000 shares of our common stock at an initial offering price of $10.00 per share through Hines Securities, Inc., our dealer manager. The dealer manager is not required to sell any specific number or dollar amount of shares but will use its best efforts to sell the shares offered. The minimum permitted purchase by a single subscriber is $2,500 in shares of our common stock. Subject to the requirements of state securities regulators with respect to sales to residents of their states, there is no minimum number of shares required to be sold in this offering. Accordingly, we intend to have our initial closing as soon as practicable after the effective date of the registration statement of which this prospectus is a part. After our initial

closing, we intend to conduct closings on a semi-monthly basis until conclusion of this offering. All subscription payments will be placed in a segregated account and will be held in trust for our subscribers' benefit, pending release to us at the next scheduled semi-monthly closing. If the initial closing does not occur, 100% of the paid subscriptions, including any interest earned, will be promptly returned to the subscribers. After holding our initial closing we will offer our shares on a continuous basis at an initial offering price of $10.00; however, to the extent our net asset value per share increases after commencement of this offering, we intend to sell our shares at a price necessary to ensure that shares are not sold at a price per share, after deduction of selling commissions and dealer manager fees, that is below our net asset value per share. In the event of a material decline in our net asset value per share, which we consider to be a non-temporary 5% decease below our then-current net offering price, and subject to certain conditions, we will reduce our offering price accordingly. Therefore, persons who subscribe for shares in this offering must submit subscriptions for a fixed dollar amount rather than a number of shares and, as a result, may receive fractional shares of our common stock. Promptly following any such adjustment to the offering price per share, we will file a prospectus supplement with the SEC disclosing the adjusted offering price, and we will also post the updated information on our website at www.HinesSecurities.com. Information contained on our website is not incorporated by reference into this prospectus, and you should not consider that information to be part of this prospectus.

Suitability Standards

Pursuant to applicable state securities laws, shares of common stock offered through this prospectus are suitable only as a long-term investment for persons of adequate financial means who have no need for liquidity in this investment. Initially, there is not expected to be any public market for the shares, which means that it may be difficult for stockholders to sell their shares. As a result, we have established suitability standards that require investors to have either (i) a net worth (not including home, furnishings, and personal automobiles) of at least $70,000 and an annual gross income of at least $70,000, or (ii) a net worth (not including home, furnishings, and personal automobiles) of at least $250,000. Our suitability standards also require that a potential investor (1) be positioned to reasonably benefit from an investment in our common stock based on such investor's overall investment objectives and portfolio structuring; (2) be able to bear the economic risk of the investment based on the prospective stockholder's overall financial situation; and (3) have an apparent understanding of (a) the fundamental risks of the investment, (b) the risk that such investor may lose his or her entire investment, (c) the lack of liquidity of the shares, (d) the background and qualifications of our Advisers and (e) the tax consequences of the investment. For additional information, including special suitability standards for residents of Alabama, Arizona, California, Idaho, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Tennessee, Texas and Vermont, see "Suitability Standards."

How to Subscribe

Investors who meet the suitability standards described herein may purchase shares of our common stock. Investors seeking to purchase shares of our common stock should proceed as follows:

- Read this entire prospectus and all appendices and supplements accompanying this prospectus.
- Complete the execution copy of the subscription agreement. A specimen copy of the subscription agreement, including instructions for completing it, is included in this prospectus as Appendix A.
- Deliver a check for the full purchase price of the shares of our common stock being subscribed for along with the completed subscription agreement to the selected broker-dealer. You should make your check payable to "HMS Income Fund, Inc." You must initially invest at least $2,500 in shares of our common stock to be eligible to participate in this offering. After you have satisfied the applicable minimum purchase requirement, additional purchases must be in increments of $500, except for purchases made pursuant to our distribution reinvestment plan.

- By executing the subscription agreement and paying the total purchase price for the shares of our common stock subscribed for, each investor attests that he or she meets the suitability standards as stated in the subscription agreement and agrees to be bound by all of its terms.

All subscription proceeds will be placed in a segregated account and held in trust for our subscribers' benefit pending acceptance of subscriptions and closing the sale and issuance of shares. No subscriptions will be accepted, and the initial closing will not occur, until the SEC has declared effective the registration statement of which this prospectus is a part. After holding our initial closing, we expect to accept subscriptions and admit new stockholders at semi-monthly closings. Subscriptions will be effective only upon our acceptance, and we reserve the right to reject any subscription in whole or in part. Subscriptions will be accepted or rejected within 30 days of receipt by us and, if rejected, all funds shall be returned to subscribers without interest and without deduction for any expenses within ten business days from the date the subscription is rejected. We are not permitted to accept a subscription for shares of our common stock until at least five business days after the date you receive the final prospectus. In addition, while we have no minimum offering amount and may execute the sale of shares of common stock immediately following effectiveness of the registration statement of which this prospectus is a part, certain states may require us to sell a minimum number or dollar amount of shares prior to selling shares to residents of those states.

An approved trustee must process and forward to us subscriptions made through IRAs, Keogh plans and 401(k) plans. In the case of investments through IRAs, Keogh plans and 401(k) plans, we will send the confirmation and notice of our acceptance or rejection to the trustee.

Estimated Use of Proceeds

We intend to use substantially all of the proceeds from this offering, net of expenses, to make debt and equity investments in accordance with our investment objective and using the strategies described in this prospectus. There can be no assurance that we will be able to sell all of the shares we are presently offering. If we sell only a portion of the shares offered hereby, we may be unable to achieve our investment objective.

We expect initially to invest a significant portion of our net proceeds in over-the-counter debt securities. Over-the-counter debt securities generally produce lower yields than customized lower middle market securities. We could experience time lags between each closing of the sale of shares and our investment of the net proceeds from such closing.

During our offering period, we intend to use a portion of the net proceeds of the offering and proceeds from the sale or repayment or other liquidation of existing investments to invest in customized lower middle market securities, depending on the availability of appropriate investment opportunities consistent with our investment objective and market conditions. By the end of our offering period, we expect to have invested a significant portion of our net proceeds in customized lower middle market securities. We will view our offering period to have ended as of the termination date of our most recent public offering if we have not conducted a public equity offering in any continuous two year period. See "Risk Factors — Risks Relating to this Offering and Our Common Stock — *We may be unable to invest a significant portion of the net proceeds of this offering on acceptable terms in the timeframe contemplated by this prospectus.*"

While seeking appropriate investments consistent with our investment objective, we will invest the net proceeds primarily in short-term securities consistent with our status as a BDC and our election to be taxed as a RIC. During this time, we may also use the net proceeds to pay operating expenses and for other working capital purposes. In addition, during this time we will pay management fees to our Advisers as described elsewhere in this prospectus. Net proceeds received by us from the sale or liquidation of assets, to the extent not used to fund operating expenses or working capital needs, are expected to be reinvested by us in assets in accordance with our investment objective and strategies.

Credit Facility

On December 12, 2011 we entered into a loan agreement with Main Street for a $7,500,000 senior secured single advance term loan credit facility. On December 12, 2011, HMS Income LLC fully drew the entire committed principal amount under the Main Street Facility and utilized the borrowings, together with the initial $10 million equity investment by the Hines Investor and an unaffiliated investor, to acquire from Main Street approximately $16.5 million of investments.

On May 24, 2012, we entered into a $15 million senior secured revolving credit facility with Capital One, National Association, or Capital One, and immediately borrowed $7 million under the facility, which proceeds were used in the repayment of the Main Street Facility. The Capital One facility has an accordion provision allowing increases in borrowings of up to $60 million, for a total facility of up to $75 million subject to certain conditions. The credit facility is secured by all of our assets (owned at the time we entered into the facility and those to be subsequently acquired) as well as all of the assets, and a pledge of equity ownership interests, of any future subsidiaries of the Company, which would be joined as guarantors. The facility has a maturity date of May 23, 2015. Interest under the facility will be payable monthly based on either the Base Rate plus 1.50% or LIBOR plus 2.75%, subject to our election. The Base Rate is equal to the greater of: a) the Prime Rate or b) Federal Funds Rate plus .50%. Base Rate, Prime Rate and Federal Funds Rate are defined as set forth in the loan agreement.

The loan agreement contains affirmative and negative covenants usual and customary for leveraged financings, including but not limited to covenants to provide information to Capital One on a regular basis, preserve our corporate existence, comply with applicable laws, including the 1940 Act, pay our obligations when they become due, and invest the proceeds of this offering in accordance with the investment objective and strategies and the procedures described in this prospectus. Additionally, the loan agreement contains usual and customary default provisions including, without limitation: (i) a default in the payment of interest and principal; (ii) insolvency or bankruptcy of the borrower; (iii) a material adverse change in our business; or (iv) breach of any covenant, representation or warranty in the loan agreement or other credit documents and failure to cure such breach within defined periods.

As a BDC, we generally are required to meet a coverage ratio of total assets to total borrowings and other senior securities, which include all of our borrowings and any preferred stock that we may issue in the future, of at least 200%. If this ratio declines below 200%, we cannot incur additional debt and could be required to sell a portion of our investments to repay some debt when it is disadvantageous to do so. For more information regarding the risks related to our use of leverage, see "Risk Factors — Risks Relating to Business Development Companies — *Regulations governing our operation as a BDC and RIC will affect our ability to raise, and the way in which we raise, additional capital or borrow for investment purposes, which may have a negative effect on our growth"* and "Risk Factors — Risks Relating to Debt Financing — *If we borrow money, the potential for gain or loss on amounts invested in us will be magnified and may increase the risk of investing in us*".

Share Repurchase Program

During the term of this offering, we do not intend to list our shares on a securities exchange, and we do not expect there to be a public market for our shares. As a result, if you purchase shares of our common stock, your ability to sell your shares will be limited. Beginning 12 months after holding our initial closing, we intend to commence a share repurchase program pursuant to which we intend to conduct quarterly share repurchases to allow our stockholders to sell their shares back to us. We intend to conduct the repurchases on the date that we hold the first closing of the month in January, April, July and October, or on such other date and time as determined by our board of directors and disclosed to our stockholders through any means reasonably designed to inform them thereof, each such date, the Repurchase Date. The repurchase price per share to be paid by us to the stockholder will be equal to the net asset value per share, as determined within 48 hours prior to the Repurchase Date. Our share repurchase program will include numerous restrictions that limit your ability to sell your shares. Unless our board of directors determines

otherwise, we will limit the number of shares to be repurchased during any calendar year to the number of shares we can repurchase with the proceeds we receive from the sale of shares of our common stock under our distribution reinvestment plan. We will repurchase shares under this provision of our charter on a pro rata basis in the event that we cannot satisfy all repurchase requests made by our stockholders because of any of the limitation described above. The limitations and restrictions relating to our share repurchase program may prevent us from accommodating all repurchase requests made in any quarter. There is no assurance that our board of directors will exercise its discretion to conduct a share repurchase program and a share repurchase program will only be conducted when our board of directors determines it is in our best interests to repurchase shares of our common stock.

Our board of directors will consider the following factors, among others, in making its determination regarding whether to commence a share repurchase program and under what terms:

- the effect of such repurchases on our qualification as a RIC (including the consequences of any necessary asset sales);
- the liquidity of our assets (including fees and costs associated with disposing of assets);
- our investment plans and working capital requirements;
- the relative economies of scale with respect to our size;
- our history in repurchasing shares of our common stock or portions thereof; and
- the condition of the securities markets.

See "Description of Our Securities — Limited Repurchase Rights" and "Share Repurchase Program."

In the event of the death or disability of a stockholder, we will, upon request, repurchase the shares held by such stockholder regardless of the period the deceased or disabled stockholder has owned such shares. The repurchase price per share to be paid by us to the stockholder or stockholder's estate, as applicable, will be equal to the net asset value per share, as determined within 48 hours prior to the Repurchase Date. See "Description of Our Securities — Limited Repurchase Rights" and "Share Repurchase Program" for a description of certain limitations and restrictions relating to our requirement to repurchase shares in the event of the death or disability of a stockholder.

Liquidity Strategy

The shares have no preemptive, exchange, conversion or redemption rights and will be freely transferable, except where their transfer is restricted by federal and state securities laws or by contract. We do not currently intend to list our shares on an exchange and do not expect a public trading market to develop for the shares in the foreseeable future. Because of the lack of a trading market for our shares, stockholders may not be able to sell their shares promptly or at a desired price. Furthermore, shares transferred by investors may be transferred at a discount to our current net asset value. We intend to explore a potential liquidity event for our stockholders between four and six years following the end of our offering period. However, we may explore or complete a liquidity event sooner or later than that time period. We will view our offering period as complete as of the termination date of our most recent public equity offering, if we have not conducted a public equity offering in any continuous two year period. We may determine not to pursue a liquidity event if we believe that then-current market conditions are not favorable for a liquidity event and that such conditions will improve in the future. A liquidity event could include (1) the sale of all or substantially all of our assets either on a complete portfolio basis or individually followed by a liquidation, (2) a listing of our shares on a national securities exchange, or (3) a merger or another transaction approved by our board of directors in which our stockholders will receive

cash or shares of a publicly traded company. While our intention is to explore a potential liquidity event between four and six years following the completion of our offering period, there can be no assurance that a suitable transaction will be available or that market conditions for a liquidity event will be favorable during that timeframe. See *"*Risk Factors — Risks Relating to this Offering and Our Common Stock —*We are not obligated to complete a liquidity event by a specified date; therefore, it will be difficult for you to sell your shares."*

Investment Advisory Fees

Pursuant to our Investment Advisory Agreement, we will pay our Adviser a fee for its services consisting of two components — a management fee and an incentive fee. The Sub-Advisory Agreement among our Adviser, our Sub-Adviser, Main Street and us provides that our Sub-Adviser will receive 50% of all fees payable to HMS Adviser under the Investment Advisory Agreement. The management fee will be calculated at an annual rate of 2.0% of our average gross assets, which we estimate will be 3.0% of our average net assets (assuming we borrow funds equal to 50% of net assets), and will be payable quarterly in arrears.

The incentive fee will consist of two parts. The first part, which we refer to as the subordinated incentive fee on income, will be calculated and payable quarterly in arrears based on our pre-incentive fee net investment income for the immediately preceding quarter. The subordinated incentive fee on income will be equal to 20% of our pre-incentive fee net investment income for the immediately preceding quarter, expressed as a quarterly rate of return on adjusted capital at the beginning of the most recently completed calendar quarter, exceeding 1.875% (7.5% annualized), subject to a "catch up" feature. For purposes of this fee, adjusted capital means cumulative gross proceeds generated from sales of our common stock (including proceeds from our distribution reinvestment plan) reduced for non-liquidating distributions, other than distributions of profits, paid to our stockholders and amounts paid for share repurchases pursuant to our share repurchase program.

The second part of the incentive fee, referred to as the incentive fee on capital gains, shall be an incentive fee on realized capital gains earned from the portfolio of the Company and shall be determined and payable in arrears as of the end of each calendar year (or upon termination of the Investment Advisory Agreement). This fee shall equal 20.0% of our incentive fee capital gains, which shall equal our realized capital gains on a cumulative basis from inception, calculated as of the end of each calendar year, computed net of all realized capital losses and unrealized capital depreciation on a cumulative basis, less the aggregate amount of any previously paid capital gain incentive fees. See "Investment Advisory and Administration Services Agreement — Advisory Fees" for a description of the investment advisory fees payable to our Advisers pursuant to such agreements.

Management and Incentive Fee Waiver

Subject to a conditional fee waiver agreement, our Advisers have agreed to waive management and incentive fees for up to twelve months from the commencement of the offering to the extent required to avoid distributions that are estimated to represent a return of capital for U.S. federal income tax purposes during such period. In certain circumstances, we may determine that it is appropriate to reimburse the Advisers for fees waived under the conditional fee waiver agreement, as more fully described in the same. This management and incentive fee waiver arrangement is intended to support the reasonable alignment of our expenses with our income during the initial phase of our operations.

Administration

We anticipate that our Advisers will provide to us all administrative services required to be performed in connection with the proper conduct and operation of our business, including, but not limited to, legal, accounting, tax, insurance and investor relations services, or, collectively, the Administrative Services, pursuant to the Investment Advisory Agreement and the Sub-Advisory Agreement. The Investment Advisory Agreement and the Sub-Advisory Agreement provide for our payment of certain administration expenses related to the Administrative Services, as well as personnel and related employment direct costs and overhead, at the actual

cost of such services. In the future, however, we may decide to enter into a separate administration agreement with affiliates of the Advisers or a third party provider, pursuant to which we will reimburse such administrator for administrative expenses. See "Administrative Services."

Conflicts of Interest

Our Advisers and certain of their affiliates will have certain conflicts of interest in connection with the management of our business affairs, including, but not limited to, the following:

- Our Advisers and their respective affiliates must allocate their time between advising us and managing other investment activities and business activities in which they may be involved, including, with respect to the Sub-Adviser, Main Street's ordinary day-to-day business of operating a publicly-traded BDC, and, with respect to the Adviser, certain programs sponsored by affiliates of HMS Adviser, as well as certain programs that may be sponsored by such affiliates in the future;
- The compensation payable by us to our Advisers and other affiliates will be approved by our board of directors consistent with the exercise of the requisite standard of care applicable to directors under Maryland law. Such compensation is payable, in most cases, whether or not our stockholders receive distributions and may be based in part on the value of assets acquired with leverage;
- Regardless of the quality of the assets acquired, the services provided to us or whether we pay distributions to our stockholders, our Advisers are entitled to receive compensation pursuant to the Investment Advisory Agreement and the Sub-Advisory Agreement;
- Except for certain restrictions on the Advisers set forth in the Sub-Advisory Agreement, our Adviser, Sub-Adviser and their respective affiliates are not restricted from forming additional investment funds, from entering into other investment advisory relationships or from engaging in other business activities, even though such activities may be in competition with us and/or may involve substantial time and resources of our Adviser, our Sub-Adviser and their affiliates;
- To the extent permitted by the 1940 Act and staff interpretations, our Advisers may determine it appropriate for us and one or more other investment accounts managed by our Sub-Adviser or any of its affiliates to participate in an investment opportunity. To the extent required, we will seek exemptive relief from the SEC to engage in co-investment opportunities with our Sub-Adviser and/or its affiliates. There can be no assurance that we will obtain such exemptive relief and if we are unable to obtain such relief, we may be excluded from such investment opportunities. These co-investment opportunities may give rise to conflicts of interest or perceived conflicts of interest among us and the other participating parties; and
- Since Hines Securities, Inc., our dealer manager, is an affiliate of our Adviser, you will not have the benefit of an independent due diligence review and investigation of the type normally performed by an independent underwriter in connection with the offering of securities.

Reports to Stockholders

Within 60 days after the end of each fiscal quarter, we will distribute our quarterly report on Form 10-Q to all stockholders of record. In addition, we will distribute our annual report on Form 10-K to all stockholders of record within 120 days after the end of each fiscal year. Both our quarterly reports on Form 10-Q and our annual reports on Form 10-K will be made available on our website at www.HinesSecurities.com at the end of each fiscal quarter and fiscal year, as applicable. These reports will also be available on the SEC's website at www.sec.gov.

Distributions

We intend to declare distributions quarterly and pay distributions on a monthly basis beginning no later than the first full calendar month after the month in which we hold our initial closing. Subject to the board of directors' discretion and applicable legal restrictions, our board of directors intends to authorize us to declare a quarterly distribution amount per share of our common stock. We will then calculate each stockholder's specific distribution amount for the month using daily record dates, and your distributions will begin to accrue at a daily distribution rate on the date we accept your subscription for shares of our common stock. From time to time, but no more frequently than annually, we may also pay interim distributions, including capital gains distributions, at the discretion of our board of directors. Our distributions may exceed our earnings, especially during the period before we have substantially invested the proceeds from this offering. As a result, a portion of the distributions we make may represent a return of capital for U.S. federal income tax purposes. A return of capital is a return of your investment rather than earnings or gains derived from our investment activities. Stockholders will not recognize tax on a distribution consisting of a return of capital, however, the tax basis of shares must be reduced by the amount of any return of capital distributions. Any return of capital will result in an increase in the amount of any taxable gain (or a reduction in any deductible loss) on a subsequent disposition of such shares. See "Material U.S. Federal Income Tax Considerations." We have not established any limit on the extent to which we may use borrowings, if any, or proceeds from this offering to fund distributions (which may reduce the amount of capital we ultimately invest in assets). There can be no assurance that we will be able to sustain distributions at any particular level or at all.

Distribution Reinvestment Plan

We have adopted an "opt in" distribution reinvestment plan pursuant to which you may elect to have the full amount of your cash distributions reinvested in additional shares of our common stock. For example, if our board of directors authorizes, and we declare, a cash distribution, then if you have "opted in" to our distribution reinvestment plan you will have your cash distributions reinvested in additional shares of our common stock, rather than receiving the cash distributions. We expect to coordinate distribution payment dates so that the same price that is used for the closing date immediately following such distribution payment date will be used to calculate the purchase price for purchasers under the distribution reinvestment plan. Your reinvested distributions will purchase shares at a price equal to the price that shares are sold in the offering on such closing date minus the sales load. In the event that this offering is suspended or terminated, then the reinvestment purchase price will be the net asset value per share. See "Distribution Reinvestment Plan" and "Risk Factors — Federal Income Tax Risks — *You may have current tax liability on distributions you elect to reinvest in our common stock but would not receive cash from such distributions to pay such tax liability*."

Taxation

We intend to elect to be treated for U.S. federal income tax purposes, and intend to qualify annually thereafter, as a RIC under Subchapter M of the Code. As a RIC, we generally will not have to pay corporate-level U.S. federal income taxes on any ordinary income or capital gain that we distribute to our stockholders from our taxable earnings and profits. Even if we qualify as a RIC, we generally will be subject to corporate-level U.S. federal income tax on our undistributed taxable income and could be subject to U.S. federal excise, state, local and foreign taxes. To obtain and maintain our RIC tax treatment, we must meet specified source-of-income and asset diversification requirements and distribute annually at least 90% of our ordinary income and net short-term capital gain in excess of net long-term capital loss, if any. Depending on the level of taxable income earned in a tax year, we may choose to carry forward taxable income in excess of current year distributions into the next tax year and pay a 4% excise tax on such income. Any such carryover taxable income must be distributed through a dividend declared prior to filing the final tax return related to the year which generated such taxable income. See "Material U.S. Federal Income Tax Considerations."

Corporate Information

Our principal executive offices are located at 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118. We maintain a website at www.HinesSecurities.com. Information contained on our website is not incorporated by reference into this prospectus, and you should not consider that information to be part of this prospectus.

FEES AND EXPENSES

The following table is intended to assist you in understanding the fees and expenses that an investor in this offering will bear directly or indirectly. We caution you that some of the percentages indicated in the table below are estimates and may vary. Except where the context suggests otherwise, whenever this prospectus contains a reference to fees or expenses paid by "you," "us" or "HMS Income Fund, Inc.," or that "we" will pay fees or expenses, stockholders will indirectly bear such fees or expenses as investors in us.

Stockholder Transaction Expenses:

Expenses (as a percentage of offering price)	
Sales load to dealer manager[1]	10.00%
Offering expenses[2]	1.50%
Distribution reinvestment plan expenses[3]	—
Total stockholder transaction expenses	11.50%
Annual expenses (as a percentage of net assets attributable to common stock)[4]	
Management fee[5]	3.00%
Incentive fees[6]	0.00%
Interest payments on borrowed funds[7]	1.50%
Other expenses[8]	0.75%
Total Annual Expenses.	5.25%

Example

The following example demonstrates the projected dollar amount of total cumulative expenses that would be incurred over various periods with respect to a hypothetical investment in our common stock. In calculating the following expense amounts, we have assumed our annual operating expenses would remain at the percentage levels set forth in the table above and that stockholders would pay a selling commission of 7.0% and a dealer manager fee of 3.0% with respect to common stock sold by us in this offering.

	1 Year	3 Years	5 Years	10 Years
You would pay the following expenses on a $1,000 investment, assuming a 5.0% annual return[1]:	$ 163	$ 257	$ 351	$ 583

The example and the expenses in the tables above should not be considered a representation of our future expenses, and actual expenses may be greater or less than those shown. While the example assumes, as required by the SEC, a 5.0% annual return, our performance will vary and may result in a return greater or less than 5.0%. In addition, while the example assumes reinvestment of all distributions at net asset value, participants in our distribution reinvestment plan will receive a number of shares of our common stock, determined by dividing the total dollar amount of the distribution payable to a participant by the most recent offering price, net of all sales load. In no event will the shares sold pursuant to the distribution reinvestment plan be sold at a price that is below net asset value. See "Distribution Reinvestment Plan" for additional information regarding our distribution reinvestment plan. See "Plan of Distribution" for additional information regarding stockholder transaction expenses.

(1) As shares are sold, you will pay a maximum sales load of 10% for combined selling commissions and dealer manager fees to our dealer manager in accordance with the terms of a dealer manager agreement to be entered into between us and our dealer manager. Our dealer manager will engage unrelated, third-party participating broker-dealers in connection with the offering of shares. In connection with the sale of shares by participating broker-dealers, our dealer manager will collect 10% of the gross proceeds as sales load

and will generally pay participating broker-dealers 7% of the gross proceeds from their allocated sales as a selling commission and retain 3% of the gross proceeds as a dealer manager fee. The dealer manager may reallow a portion of the dealer manager fees to participating broker-dealers. See "Plan of Distribution."

(2) The maximum size of the offering is $1.5 billion, or 150 million shares of common stock sold at $10.00 per share. The offering expense ratio of 1.5% is based on the assumption that we will raise $150 million in gross proceeds, as a result of selling 15 million shares of common stock at $10.00 per share, during the first twelve months of this offering. Based on this offering expense ratio, the offering expenses (including due diligence expenses) incurred would be $2.25 million, or $0.15 per share of common stock. If we sold the maximum number of shares offered, or 150 million shares of common stock sold at $10.00 per share, and the offering expense ratio remained 1.5%, the offering expenses (including due diligence expenses) incurred would be $2.25 million, or $0.15 per share of common stock. Under our Investment Advisory Agreement, our Adviser will be responsible for the payment of our organization and offering expenses to the extent they exceed 1.5% of the aggregate gross proceeds from offerings of our common stock during our offering period, without recourse against or reimbursement by us. Additionally, and in accordance with the terms of the Sub-Advisory Agreement, our Adviser and Sub-Adviser will share equally all non-reimbursed organization and offering expenses in excess of $2 million, exclusive of sales and marketing costs incurred by the Adviser and its affiliates. Assuming that the offering expenses do not exceed the stated ratio of 1.5% of the aggregate gross proceeds from offerings of our common stock, our Advisers would not be responsible for the payment of any organization and offering expenses.

(3) The expenses of the distribution reinvestment plan are included in other expenses. See "Distribution Reinvestment Plan."

(4) Amount assumes we sell $150 million worth of our common stock during the twelve months following the commencement of the offering and also assumes we borrow funds equal to 50% of our net assets. Actual expenses will depend on the number of shares we sell in this offering and the amount of leverage we employ. Our expenses as a percentage of the offering price will increase proportionally to the extent we raise less than $150 million in the offering. There can be no assurance that we will sell $150 million worth of our common stock.

(5) Our management fee is calculated at an annual rate of 2%, based on the average value of our gross assets, and is payable quarterly in arrears. See "Investment Advisory and Administrative Services Agreement." If we borrow funds equal to 50% of net assets, our management fee in relation to our net assets would be higher because the management fee is calculated on the basis of our gross assets (which includes any borrowings for investment purposes). This assumes that the value of net assets does not change during the period to which this table pertains. Under the Sub-Advisory Agreement between our Adviser, the Sub-Adviser, Main Street and us, our Adviser will pay to the Sub-Adviser 50% of the fees our Adviser receives from us. Our Advisers have agreed to waive management fees and incentive fees for up to twelve months after commencement of the offering in certain events. See "Management's Discussion and Analysis of Financial Condition and Results of Operations and the Company's Expected Operating Plans—Management and Incentive Fee Waiver."

(6) We may have capital gains and investment income that could result in the payment of an incentive fee in the first year of this offering. Our Advisers have agreed to waive management fees and incentive fees for up to twelve months after commencement of the offering in certain events. See "Management's Discussion and Analysis of Financial Condition and Results of Operations and the Company's Expected Operating Plans—Management and Incentive Fee Waiver." The incentive fees, if any, are divided into two parts:

(i) a subordinated incentive fee on income, calculated and payable quarterly in arrears, which, at a maximum, for any quarter in which our pre-incentive fee net investment income exceeds 1.875% of

our average adjusted capital (a rate of 7.5% per annum), will equal 20% of the amount of our pre-incentive fee net investment income, subject to "a catch up" feature. For purposes of this fee, adjusted capital means cumulative gross proceeds generated from sales of our common stock (including proceeds from our distribution reinvestment plan) reduced for non-liquidating distributions, other than distributions of profits, paid to our stockholders and amounts paid for share repurchases pursuant to our share repurchase program; and

(ii) an incentive fee on capital gains that will equal 20% of our cumulative net realized capital gains (defined as cumulative realized capital gains less cumulative realized capital losses and unrealized capital depreciation), if any, less the aggregate amount of any previously paid incentive fee on capital gains.

The incentive fees are based on our performance and will not be paid unless we achieve certain goals. As we cannot predict whether we will meet the necessary performance targets, we have assumed an incentive fee of 0% in this chart. Once fully invested, we expect the incentive fees we pay to increase to the extent we earn greater interest income or generate capital gains through our investments in portfolio companies. *See* "Investment Advisory and Administrative Services – Advisory Fees" for more information concerning the incentive fees.

(7) We may borrow funds to make investments, including before we have fully invested the proceeds of this continuous offering. To the extent that we determine it is appropriate to borrow funds to make investments, the costs associated with such borrowing will be indirectly borne by our investors. The figure in the table assumes we borrow for investment purposes an amount equal to 50% of our net assets and that the average annual interest rate on the amount borrowed is 3.0%. Our ability to incur leverage during the twelve months following commencement of this offering depends, in large part, on the amount of money we are able to raise through the sale of shares registered in this offering.

(8) Other Expenses, including expenses incurred in connection with administering our business, are based on estimated amounts for the initial 12-month period of our investment operations following the date of our initial closing. See "Management's Discussion and Analysis of Financial Condition and Results of Operations and the Company's Expected Operating Plans – Expenses."

COMPENSATION OF THE DEALER MANAGER AND THE INVESTMENT ADVISER

The dealer manager will receive compensation and reimbursement for services relating to this offering, and we will compensate our Adviser for the investment and management of our assets. The most significant items of compensation, fees, expense reimbursements and other payments that we expect to pay to these entities and their affiliates are included in the table below. The selling commissions and dealer manager fee may vary for different categories of purchasers. See "Plan of Distribution." This table assumes the shares are sold through distribution channels associated with the highest possible selling commissions and dealer manager fees. For illustrations of how the management fee, the subordinated incentive fee on income and the incentive fee on capital gains are calculated, see "Investment Advisory and Administrative Services Agreement — Advisory Fees."

Type of Compensation	Determination of Amount	Estimated Amount for Maximum Offering (150,000,000 Shares)[1]
	Fees to the Dealer Manager	
Sales Load		
Selling commissions[2]	7.0% of gross offering proceeds from the offering; all selling commissions are expected to be reallowed to selected broker-dealers.	$105,000,000
Dealer manager fee[2]	3.0% of gross proceeds, of which up to 1.5% may be reallowed to selected broker-dealers as a marketing fee.	$45,000,000
	Reimbursement to Our Adviser	
Other organization and offering expenses[3]	We will reimburse our Advisers for the organizational and offering costs they incur on our behalf only to the extent of 1.5% of gross proceeds from the offering of our common stock during our offering period.	$22,500,000
	Investment Adviser Fees[4]	
Management fee	The management fee will be calculated at an annual rate of 2.0% of our average gross assets. The management fee will be payable quarterly in arrears, and shall be calculated based on the average value of our gross assets at the end of the two most recently completed calendar quarters. All or any part of the management fee not taken as to any quarter shall be deferred without interest and may be taken in such other quarter as the Adviser will determine. The management fee for any partial month or quarter will be appropriately pro rated.	$30,000,000

Type of Compensation	Determination of Amount	Estimated Amount for Maximum Offering (150,000,000 Shares)[1]
Subordinated Incentive Fee on Income	The subordinated incentive fee on income will be calculated and payable quarterly in arrears based on our pre-incentive fee net investment income for the immediately preceding quarter. The payment of the subordinated incentive fee on income will be equal to 20% of our pre-incentive fee net investment income for the previous quarter, expressed as a quarterly rate of return on adjusted capital at the beginning of the most recently completed calendar quarter, exceeding 1.875% (7.5% annualized), subject to a "catch up" feature (as described below). We call this the "hurdle rate." For this purpose, pre-incentive fee net investment income means interest income, dividend income and any other income (including any other fees, such as commitment, origination, structuring, diligence and consulting fees or other fees that we receive from portfolio companies) accrued during the calendar quarter, minus our operating expenses for the quarter (including the base management fee, expenses payable under any administration agreement and any interest expense and dividends paid on any issued and outstanding preferred stock, but excluding the incentive fee). Pre-incentive fee net investment income includes, in the case of investments with a deferred interest feature (such as original issue discount debt instruments with payment-in-kind interest and zero coupon securities), accrued income that we have not yet received in cash. Pre-incentive fee net investment income does not include any realized capital gains, realized capital losses or unrealized capital appreciation or depreciation. For purposes of this fee, adjusted capital means cumulative gross proceeds generated from sales of our common stock (including proceeds from our distribution reinvestment plan) reduced for non-liquidating distributions, other than distributions of profits, paid to our stockholders and amounts paid for share repurchases pursuant to our share repurchase program. We will pay the Adviser a subordinated incentive fee on income for each quarter as follows: • No subordinated incentive fee on income shall be payable to the Adviser in any calendar quarter in which our pre-incentive fee net investment income does not exceed 1.875% (or 7.5% annualized) of adjusted capital;	These amounts cannot be estimated since they are based upon the performance of the assets held by us.

Type of Compensation	Determination of Amount	Estimated Amount for Maximum Offering (150,000,000 Shares)[1]
	• 100% of our pre-incentive fee net investment income, if any, that exceeds 1.875% (or 7.5% annualized) of adjusted capital but is less than or equal to 2.34375% (or 9.375% annualized) of adjusted capital in any calendar quarter shall be payable to the Adviser. This portion of the subordinated incentive fee on income is referred to as the "catch up" and is intended to provide the Adviser with an incentive fee of 20.0% on all of our pre-incentive fee net investment income as if the hurdle did not apply when our pre-incentive fee net investment income exceeds 2.34375% (or 9.375% annualized) of adjusted capital in any calendar quarter; and • For any quarter in which our pre-incentive fee net investment income exceeds 2.34375% (or 9.375% annualized) of adjusted capital, the subordinated incentive fee on income shall equal 20.0% of the amount of our pre-incentive fee net investment income, as the hurdle rate and catch-up will have been achieved.	
Incentive Fee on Capital Gains	The incentive fee on capital gains will be earned on realized capital gains from the portfolio of the Company and shall be determined and payable in arrears as of the end of each calendar year (or upon termination of the Investment Advisory Agreement). This fee shall equal 20.0% of our incentive fee capital gains, which shall equal our realized capital gains on a cumulative basis from inception, calculated as of the end of each calendar year, computed net of all realized capital losses and unrealized capital depreciation on a cumulative basis, less the aggregate amount of any previously paid capital gain incentive fees. In order to provide an incentive for our Adviser to successfully execute a merger transaction involving us that is financially accretive and/or otherwise beneficial to our stockholders even if our Adviser will not act as an investment adviser to the surviving entity in the merger, we may seek exemptive relief from the SEC to allow us	These amounts cannot be estimated since they are based upon the performance of the assets held by the Company.

Type of Compensation	Determination of Amount	Estimated Amount for Maximum Offering (150,000,000 Shares)(1)
	to pay our Adviser an incentive fee on capital gains in connection with our merger with and into another entity. Absent the receipt of such relief, our Adviser will not be entitled to an incentive fee on capital gains or any other incentive fee in connection with any such merger transaction.	
	Other Expenses	
Other Operating Expenses(3)	We will reimburse the actual expenses incurred by our Advisers or their affiliates, or any third-party administrator, in connection with the provision of Administrative Services (as opposed to investment advisory) to us, including the personnel and related employment direct costs and overhead of our Advisers or their affiliates, or any third-party administrator. We will not reimburse for personnel costs in connection with services for which our Advisers or their affiliates, or any third-party administrator receives a separate fee.	Actual expenses are dependent on actual expenses incurred by our Advisers or their affiliates, or any third-party, and therefore cannot be determined at this time

(1) Assumes all shares are sold at $10.00 per share with no reduction in selling commissions or dealer manager fees.

(2) In addition, the dealer manager may pay out of its dealer manager fee up to an additional 1% of gross offering proceeds from the sales of shares sold in the offering by selected broker-dealers as reimbursement for distribution and marketing-related costs and expenses. The selling commission and dealer manager fee may be reduced or waived in connection with certain categories of sales, such as sales for which a volume discount applies, sales through investment advisers or banks acting as trustees or fiduciaries and sales to our affiliates. No selling commission or dealer manager fee will be paid in connection with sales under our distribution reinvestment plan.

(3) In connection with the offering, we expect to incur organizational and offering expenses, as well as other expenses. The organizational and offering expense and other expense reimbursements may include a portion of costs incurred by our Adviser and Sub-Adviser, their members and their affiliates on our behalf for the SEC registration fee, Financial Industry Regulatory Authority, or FINRA, filing fee, printing and mailing expenses, blue sky filing fees and expenses, accounting fees and expenses, transfer agent fees, advertising and sales literature, due diligence expenses, adviser personnel salaries and bank and other administrative expenses. Any such reimbursements will not exceed actual expenses incurred by our Adviser and Sub-Adviser, their members or affiliates.

Our Advisers, or their affiliates, will be responsible for the payment of our cumulative organizational and offering expenses to the extent they exceed 1.5% of gross proceeds from the offering of our common stock during our offering period. Additionally, and in accordance with the terms of the Sub-Advisory Agreement, our Adviser and Sub-Adviser will share equally all non-reimbursed, organization and offering expenses in excess of $2 million, exclusive of sales and marketing costs incurred by the Adviser and its affiliates. For purposes of this paragraph, sales and marketing costs shall include, among other things, all costs and expenses relating to advertisements and selling literature or brochures, sales meetings, sales training sessions, investor meetings, website hosting and other expenses directly related to the offer and sale of securities by the Company pursuant to this Prospectus.

(4) Pursuant to the Sub-Advisory Agreement, the Sub-Adviser will receive 50% of all fees payable to HMS Adviser under the Investment Advisory Agreement. Our Advisers have agreed to waive management and incentive fees for up to twelve months from the commencement of the offering to the extent required to avoid distributions that are estimated to represent a return of capital for U.S. federal income tax purposes during such period. See "Managment's Discussion and Analysis of Financial Conditions and Results of Operations and the Company's Expected Operating Plans — Management and Incentive Fee Waiver."

Certain of the advisory fees payable to our Advisers are not based on the performance of our investments. See "Investment Advisory and Administrative Services Agreement" and "Certain Relationships and Related Party Transactions" for a more detailed description of the fees and expenses payable to our Advisers, the dealer manager and their affiliates and the conflicts of interest related to these arrangements.

QUESTIONS AND ANSWERS ABOUT THIS OFFERING

Set forth below are some of the more frequently asked questions and answers relating to our structure, our management, our business and an offering of this type. See "Prospectus Summary" and the remainder of this prospectus for more detailed information about our structure, our management, our business, and this offering.

Q: What is a "BDC"?

A: BDCs are closed-end management investment companies that elect to be treated as business development companies under the 1940 Act. As such, BDCs are subject to only certain provisions of the 1940 Act, as well as the Securities Act of 1933, or the Securities Act, and the Securities Exchange Act of 1934, or the Exchange Act. BDCs make investments in private or thinly-traded public companies in the form of long-term debt or equity capital, with the goal of generating current income and/or potential capital growth. BDCs can be internally or externally managed and, if certain requirements are met, may qualify to elect to be taxed as "regulated investment companies" for federal tax purposes.

Q: Who is the Sponsor?

A: Hines is our Sponsor and the parent company of our Adviser. Hines is a fully integrated global real estate investment and management firm and, with its predecessor, has been investing in real estate and providing acquisition, development, financing, property management, leasing and disposition services for over 50 years. This experience includes credit evaluation and underwriting of tenants across numerous industries and geographic markets, including middle market companies. Hines provides real estate investment and management services to numerous investors and partners including pension plans, domestic and foreign institutional investors, high net worth individuals and retail investors. Hines is owned and controlled by Gerald D. Hines and his son Jeffrey C. Hines. As of December 31, 2011, Hines and its affiliates had ownership interests in a real estate portfolio of over 210 projects, valued at approximately $22.9 billion and have raised gross proceeds of $3.5 billion through sponsored public programs. Please see "Investment Objective and Strategies — About Our Sponsor" for more information regarding Hines.

Q: Who is the Sub-Adviser?

A: The Sub-Adviser is a wholly owned subsidiary of Main Street, an internally managed business development company and a registered investment adviser. The Sub-Adviser, which employs all of Main Street's investment professionals, is subject to Main Street's supervision and control. The Sub-Adviser's management team includes a unique group of professionals with over 100 years of collective investment experience. The members of the Sub-Adviser's investment team have broad investment backgrounds, with prior experience at private investment funds, investment banks and other financial services companies, and currently include eight certified public accountants and one chartered financial analyst. Main Street has developed a reputation in the market place as a responsible and efficient source of financing, which has created a stream of proprietary deal flow. At March 31, 2012, Main Street had debt and equity investments with an aggregate fair value of $639.1 million in 115 portfolio companies, including investments in over-the-counter debt securities with an aggregate fair value of approximately $251.0 million in 62 separate issuers. We expect to leverage the Sub-Adviser's expertise in analyzing, valuing, structuring, negotiating and closing transactions, which should provide us with a competitive advantage in offering customized financing solutions to lower middle market companies and in executing investments in over-the-counter debt securities. The Sub-Adviser and Main Street are based in Houston, Texas. Main Street's common stock trades on the New York Stock Exchange under the ticker symbol "MAIN."

Q: What is a "RIC"?

A: A "RIC" is an entity that has elected to be treated and qualifies as a regulated investment company under Subchapter M of the Code. A RIC generally does not have to pay corporate-level U.S. federal income taxes on any income or gain that it distributes to its stockholders from its tax earnings and profits. To qualify as a RIC, a company must, among other things, meet certain source-of-income and asset diversification requirements. In

addition, in order to obtain RIC tax treatment, a company must distribute to its stockholders, for each taxable year, at least 90% of its "investment company taxable income," which is generally its net ordinary income plus the excess, if any, of net short-term capital gain over net long-term capital loss. Even if we qualify as a RIC, we generally will be subject to corporate-level U.S. federal income tax on our undistributed taxable income and could be subject to U.S. federal excise, state, local and foreign taxes. See "Material U.S. Federal Income Tax Considerations" for more information regarding RICs.

Q: How will our investments be selected and acquired?

A: Pursuant to the Sub-Advisory Agreement, the Sub-Adviser will be primarily responsible for identifying and evaluating investment opportunities, providing due diligence information with respect to prospective investments, recommending investments to our Adviser and negotiating and structuring our investments. HMS Adviser will oversee all investment activities and will be ultimately responsible for making all investment decisions with respect to our portfolio. All investment decisions made by our Adviser will require the approval of its investment committee which will be led by Sherri W. Schugart, who is a Senior Managing Director of the general partner of Hines. Our board of directors, including a majority of independent directors, oversees and monitors our investment performance and will review the compensation under the Investment Advisory Agreement and determine whether the provisions of the Investment Advisory and Sub-Advisory Agreements have been carried out.

Q: How does a "best efforts" offering work?

A: When securities are offered to the public on a "best efforts" basis, the broker-dealers participating in the offering are only required to use their best efforts to sell the offered securities. In this offering, broker-dealers will not have a firm commitment or obligation to purchase any of the shares of common stock we are offering.

Q: How long will this offering last?

A: This is a continuous offering of our shares as permitted by the federal securities laws. We intend to file post-effective amendments to this registration statement, which are subject to SEC review, to allow us to continue this offering for two years from the date of this prospectus. Under certain conditions, we may decide to extend this offering beyond two years. Generally, state registrations are for a period of one year. We may be required to discontinue selling shares in any state in which our registration is not renewed or otherwise extended annually. We may terminate the offering at any time.

Q: Will I receive a stock certificate?

A: No. Our board of directors has authorized the issuance of shares of our capital stock without certificates. We expect that we will not issue shares in certificated form, although we may decide to issue certificates at such time, if ever, as we list our shares on a national securities exchange. We anticipate that all shares of our common stock will be issued in book-entry form only. The use of book-entry registration protects against loss, theft or destruction of stock certificates and reduces the offering costs.

Q: Who can buy shares of common stock in this offering?

A: In general, you may buy shares of our common stock pursuant to this prospectus if you have either (1) a net worth of at least $70,000 and an annual gross income of at least $70,000, or (2) a net worth of at least $250,000 (not including home, furnishings and personal automobiles). For this purpose, net worth does not include your home, home furnishings and personal automobiles. Our suitability standards also require that a potential investor (i) can reasonably benefit from an investment in us based on such investor's overall investment objectives and portfolio structuring; (ii) is able to bear the economic risk of the investment based on the prospective stockholder's overall financial situation; and (iii) has an apparent understanding of (a) the fundamental risks of the investment, (b) the risk that such investor may lose his or her entire investment, (c) the lack of liquidity of the shares, (d) the background and qualifications of our Advisers, and (e) the tax consequences of the investment. Residents of Alabama, Arizona, California, Idaho, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Tennessee, Texas and Vermont have additional suitability standards. See "Suitability Standards."

Generally, you must purchase at least $2,500 in shares of our common stock. After you have satisfied the applicable minimum purchase requirement, additional purchases must be in increments of at least $500, except for purchases made pursuant to our distribution reinvestment plan. These minimum net worth and investment levels may be higher in certain states, so you should carefully read the more detailed description under "Suitability Standards."

Certain volume discounts may be available for large purchases. See "Plan of Distribution." The net proceeds to us from a sale eligible for a volume discount will be the same, but the selling commissions payable to the selected broker-dealer will be reduced.

The Hines Investor and an unaffiliated investor have acquired in a private placement 1,111,111 units of membership interest in HMS Income LLC at a price of $9.00 per unit for an aggregate purchase price of $10 million. These units will be converted into the number of shares of our common stock determined by dividing the net asset value of HMS Income LLC, as determined by the board of directors of HMS Income Fund, Inc. within 48 hours prior to the merger, by $9.00 (based on the $10.00 per share initial offering price of our common stock less the $1.00 combined selling commissions and dealer manager fee) in the BDC Formation prior to commencement of this offering. The purchase price for these units was based on a $10.00 per share initial offering price per share of our common stock less the $1.00 per share selling commission and dealer manager fee. Certain of our affiliates may purchase additional shares of our common stock in the offering. The selling commissions and the dealer manager fee that are payable by other investors in this offering will be reduced or waived for our affiliates.

Q: How do I subscribe for shares of common stock?

A: If you meet the net worth and suitability standards and choose to purchase shares in this offering, you will need to (1) complete a subscription agreement, the form of which is attached to this prospectus as Appendix A, and (2) pay for the shares at the time you subscribe. We reserve the right to reject any subscription in whole or in part. Subject to the requirements of state securities regulators with respect to sales to residents of their state, there is no minimum number of shares required to be sold in this offering. Therefore, we intend to have our initial closing as soon as practicable after the effective date of the registration statement of which this prospectus is a part, and we intend to accept subscriptions and admit new stockholders at semi-monthly closings. If the initial closing does not occur, 100% of the paid subscriptions, including any interest earned, will be promptly returned to the subscribers. After holding our initial closing, subscriptions will be accepted or rejected by us within 30 days of receipt by us and, if rejected, all funds will be returned to subscribers without deduction for any expenses within ten business days from the date the subscription is rejected.

Q: Is there any minimum initial investment required?

A: Yes. To purchase shares in this offering, you must make an initial purchase of at least $2,500. Once you have satisfied the minimum initial purchase requirement, any additional purchases of our shares in this offering must be in amounts of at least $500 except for additional purchases pursuant to our distribution reinvestment plan. See "Plan of Distribution."

Q: Can I invest through my IRA, SEP or after-tax deferred account?

A: Yes, subject to the suitability standards. An approved trustee must process and forward to us subscriptions made through IRAs, Keogh plans and 401(k) plans. In the case of investments through IRAs, Keogh plans and 401(k) plans, we will send the confirmation and notice of our acceptance or rejection to the trustee. Please be aware that in purchasing shares, custodians or trustees of employee pension benefit plans or IRAs may be subject to the fiduciary duties imposed by ERISA or other applicable laws and to the prohibited transaction rules prescribed by ERISA and related provisions of the Code. In addition, prior to purchasing shares, the trustee or custodian of an employee pension benefit plan or an IRA should determine that such an investment would be permissible under the governing instruments of such plan or account and applicable law. See "Suitability Standards" for more information.

Q: How will the payment of fees and expenses affect my invested capital?

A: The payment of fees and expenses will reduce the funds available to us for investment in portfolio companies and the income generated by the portfolio as well as funds available for distribution to stockholders. The payment of fees and expenses will also result in the net asset value per share of your common stock initially being less than your purchase price.

Q: Will the distributions I receive be taxable?

A: Distributions by us generally are taxable to U.S. stockholders as ordinary income or capital gain. Distributions of our "investment company taxable income" (which is, generally, our taxable income excluding net capital gain) will be taxable as ordinary income to U.S. stockholders to the extent of our current or accumulated earnings and profits, whether paid in cash or reinvested in additional common stock. To the extent such distributions paid by us to non-corporate stockholders (including individuals) are attributable to "qualified dividends" from U.S. corporations and certain qualified foreign corporations, such distributions may be eligible for a maximum tax rate of 15% (through 2012). In this regard, it is anticipated that distributions paid by us generally will not be attributable to "qualified dividends" and, therefore, generally will not qualify for the preferential rate applicable to "qualified dividends." Distributions of our net capital gain (which is generally our net long-term capital gain in excess of net short-term capital loss) properly designated by us as "capital gain dividends" generally will be taxable to a U.S. stockholder as long-term capital gain that is currently taxable at a maximum rate of 15% (through 2012) in the case of individuals, trusts or estates, regardless of the U.S. stockholder's holding period for his, her or its common stock and regardless of whether the distribution is paid in cash or reinvested in additional common stock. Distributions in excess of our earnings and profits first will reduce a U.S. stockholder's adjusted tax basis in such stockholder's common stock and, after the adjusted basis is reduced to zero, will constitute capital gain to such U.S. stockholder.

Q: When will I get my detailed tax information?

A: We will send to each of our U.S. stockholders, as promptly as possible after the end of each calendar year, in any event, no later than 75 days after the end of each fiscal year, a notice detailing, on a per share and per distribution basis, the amounts includible in such U.S. stockholder's taxable income for such year as ordinary income and as long-term capital gain.

Q: Will I be notified of how my investment is doing?

A: Yes, periodic updates on the performance of your investment will be made available to you, including:

- distribution statements;
- periodic prospectus supplements during the offering;
- an annual report;
- an annual IRS Form 1099-DIV, if required; and
- three quarterly financial reports.

We will make this information available to you via one or more of the following methods:

- electronic delivery; or
- posting on our website located at www.HinesSecurities.com, along with any required notice.

In addition, to the extent required by law or regulation or, in our discretion, we may make certain of this information available to you via U.S. mail or other courier.

Q: Are there any restrictions on the transfer of shares?

A: No. Shares of our common stock have no preemptive, exchange, conversion or redemption rights, but are entitled to the limited repurchase rights described below relating to our share repurchase program and repurchases upon the death or disability of a stockholder. Additionally, shares of our common stock are freely transferable,

except where their transfer is restricted by federal and state securities laws or by contract. We do not intend to list our securities on any securities exchange during the offering period, and we do not expect there to be a public market for our shares in the foreseeable future. As a result, your ability to sell your shares will be limited. We will not charge for transfers of our shares except for necessary and reasonable costs actually incurred by us.

Q: Who can help answer my questions?

A: If you have more questions about the offering or if you would like additional copies of this prospectus, you should contact your registered representative or the dealer manager at:

Hines Securities, Inc.
2800 Post Oak Boulevard, Suite 4700
Houston, Texas 77056-6118
(888) 446-3773
Attention: Investor Services
www.HinesSecurities.com

RISK FACTORS

Investing in our common stock involves a number of significant risks. In addition to the other information contained in this prospectus, you should consider carefully the following information before making an investment in our common stock. If any of the following events occur, our business, financial condition and results of operations could be materially and adversely affected. In such case, the net asset value of our common stock could decline, and you may lose all or part of your investment.

Risks Relating to Our Business and Structure

Except for the initial investments described in this prospectus, we have not identified specific investments that we will make with the proceeds from this offering, and you will not have the opportunity to evaluate the investments we will acquire with the proceeds from our sale of shares of common stock to you.

Except for the initial investments described in this prospectus, neither we nor our Advisers have identified, made investments in or contracted to make investments in any debt or equity security. As a result, you will not be able to evaluate the economic merits, transaction terms or other financial or operational data concerning our investments prior to purchasing shares of our common stock. You must rely on our Advisers and our board of directors to implement our investment policies, to evaluate our investment opportunities and to structure the terms of our investments. Because investors are not able to evaluate our investments in advance of purchasing shares of our common stock, this offering may entail more risk than other types of offerings. This additional risk may hinder your ability to achieve your own personal investment objectives related to portfolio diversification, risk-adjusted investment returns and other objectives.

We have little operating history.

We were recently formed in Maryland and commenced operations on December 12, 2011 with $10 million of equity capitalization. See "Formation Transaction." Accordingly, we have only operated our initial investment portfolio for a limited period of time and have not established a track record with respect to our initial investment portfolio.

Current market conditions have impacted debt and equity capital markets in the United States, and we do not expect these conditions to improve in the near future.

While financial conditions may have improved since March 2009, economic activity remains subdued and corporate interest rate risk premiums, otherwise known as credit spreads, remain at historically high levels, particularly in the loan and high yield bond markets. These conditions may negatively impact our ability to obtain financing, particularly from the debt markets. In addition, future financial market uncertainty could lead to further financial market disruptions and could further impact our ability to obtain financing, which could limit our ability to grow our business, fully execute our business strategy and could decrease our earnings, if any. Future financial market uncertainty could lead to further financial market disruptions and could further adversely impact our ability to obtain financing and the value of our investments.

The downgrade of the U.S. credit rating and the economic crisis in Europe could negatively impact our liquidity, financial condition and earnings.

Recent U.S. debt ceiling and budget deficit concerns, together with deteriorating sovereign debt conditions in Europe, have increased the possibility of additional credit-rating downgrades and economic slowdowns. Although U.S. lawmakers passed legislation to raise the federal debt ceiling, Standard & Poor's Ratings Services lowered its long-term sovereign credit rating on the U.S. from "AAA" to "AA+" in August 2011. The impact of this or any further downgrades to the U.S. government's sovereign credit rating, or its perceived creditworthiness, and the impact of the current crisis in Europe with respect to the ability of certain European Union countries to continue to service their sovereign debt obligations is inherently unpredictable and could adversely effect the U.S. and global financial markets and economic conditions. There can be no assurance that governmental or other measures to aid economic recovery will be effective. These developments and the

government's credit concerns in general, could cause interest rates and borrowing costs to rise, which may negatively impact our ability to access the debt markets on favorable terms. In addition, the decreased credit rating could create broader financial turmoil and uncertainty, which may exert downward pressure on the price of our common stock. Continued adverse economic conditions could have a material adverse effect on our business, financial condition and results of operations.

Unfavorable economic conditions or other factors may affect our ability to borrow for investment purposes, and may therefore adversely affect our ability to achieve our investment objective.

Unfavorable economic conditions or other factors could increase our funding costs, limit our access to the capital markets or result in a decision by lenders not to extend credit to us. An inability to successfully access the capital markets could limit our ability to grow our business and fully execute our business strategy and could decrease our earnings, if any.

There is a risk that investors in our equity securities may not receive distributions or that our distributions may not grow over time.

We intend to make distributions to our stockholders out of assets legally available for distribution. We cannot assure you that we will achieve investment results that will allow us to make a specified level of cash distributions or year-to-year increases in cash distributions. In addition, due to the asset coverage test applicable to us as a BDC, we may be limited in our ability to make distributions.

The amount of our distributions to our stockholders is uncertain. Portions of the distributions that we pay may represent a return of capital to you for U.S. federal income tax purposes which will lower your tax basis in your shares and reduce the amount of funds we have for investment in targeted assets. We may not be able to pay you distributions, and our distributions may not grow over time.

We intend to declare distributions quarterly and pay distributions on a monthly basis beginning no later than the first full calendar month after the month in which we hold our initial closing. We will pay these distributions to our stockholders out of assets legally available for distribution. We cannot assure you that we will achieve investment results that will allow us to make a targeted level of distributions or year-to-year increases in distributions. Our ability to pay distributions might be adversely affected by, among other things, the impact of one or more of the risk factors described in this prospectus. In addition, the inability to satisfy the asset coverage test applicable to us as a BDC can limit our ability to pay distributions. All distributions will be paid at the discretion of our board of directors and will depend on our earnings, our financial condition, maintenance of our RIC status, compliance with applicable BDC regulations and such other factors as our board of directors may deem relevant from time to time. We cannot assure you that we will pay distributions to our stockholders in the future. We may pay all or a substantial portion of our distributions from the proceeds of this offering or from borrowings in anticipation of future cash flow, which may constitute a return of your capital and will lower your tax basis in your shares. Our Advisers have agreed to waive management and incentive fees for up to twelve months from the commencement of the offering to the extent required to avoid distributions that are estimated to represent a return of capital for U.S. federal income tax purposes during such period. Distributions from the proceeds of this offering or from borrowings also could reduce the amount of capital we ultimately invest in debt and equity interests of portfolio companies. We have not established any limit on the extent to which we may use borrowings, if any, or proceeds from this offering to fund distributions (which may reduce the amount of capital we ultimately invest in assets). There can be no assurance that we will be able to sustain distributions at any particular level or at all.

Price declines in the large corporate leveraged loan market may adversely affect the fair value of over-the-counter debt securities we hold, reducing our net asset value through increased net unrealized depreciation.

Prior to the onset of the financial crisis, CLOs, a type of leveraged investment vehicle holding corporate loans, hedge funds and other highly leveraged investment vehicles, comprised the majority of the market for purchasing and holding senior secured and second lien secured loans. As the secondary market pricing of the

loans underlying these portfolios deteriorated during the fourth quarter of 2008, it is our understanding that many investors, as a result of their generally high degrees of leverage, were forced to raise cash by selling their interests in performing loans in order to satisfy margin requirements or the equivalent of margin requirements imposed by their lenders. This resulted in a forced deleveraging cycle of price declines, compulsory sales, and further price declines, with widespread redemption requests and other constraints resulting from the credit crisis generating further selling pressure. While prices have appreciated measurably since the end of 2008, conditions in the large corporate leveraged loan market may deteriorate again, which may cause pricing levels to decline. As a result, we may suffer unrealized depreciation and could incur realized losses in connection with the sale of over-the-counter debt securities we hold, which could have a material adverse impact on our business, financial condition and results of operations.

Our ability to achieve our investment objective depends on our Adviser's and our Sub-Adviser's ability to manage and support our investment process. If our Adviser or our Sub-Adviser were to lose any members of their respective senior management teams, our ability to achieve our investment objective could be significantly harmed.

We are externally managed and depend upon the investment expertise, diligence, skill and network of business contacts of our Advisers. We also depend, to a significant extent, on our Advisers' access to the investment professionals and the information and deal flow generated by these investment professionals in the course of their investment and portfolio management activities. Our Advisers will evaluate, negotiate, structure, close, monitor and service our investments. Our success depends to a significant extent on the continued service and coordination of our Advisers, including their key professionals. The departure of a significant number of our Adviser's or Sub-Adviser's key professionals could have a materially adverse effect on our ability to achieve our investment objective. In addition, we can offer no assurance that our Advisers will remain our investment adviser and sub-adviser or that we will continue to have access to their investment professionals or their information and deal flow.

Because our business model depends to a significant extent upon relationships with investment banks, business brokers, loan syndication and trading desks, and commercial banks, the inability of our Advisers to maintain or develop these relationships, or the failure of these relationships to generate investment opportunities, could adversely affect our business.

We expect that our Advisers will depend on their relationships with investment banks, business brokers, loan syndication and trading desks, commercial banks and other historical sources of deal flow, and we will rely to a significant extent upon these relationships to provide us with potential investment opportunities. If our Advisers fail to maintain their existing relationships or develop new relationships with other sources of investment opportunities, we will not be able to grow our investment portfolio. In addition, individuals with whom our Adviser's professionals have relationships are not obligated to provide us with investment opportunities, and, therefore, there is no assurance that such relationships will generate investment opportunities for us.

We may face increasing competition for investment opportunities, which could delay deployment of our capital, reduce returns and result in losses.

We will compete for investments with other BDCs and investment funds (including private equity funds and mezzanine funds), as well as traditional financial services companies such as commercial banks and other sources of funding. Moreover, alternative investment vehicles, such as hedge funds, also make investments in middle market private U.S. companies. As a result, competition for investment opportunities in private U.S. companies may intensify. Many of our competitors are substantially larger and have considerably greater financial, technical and marketing resources than we do. For example, some competitors may have a lower cost of capital and access to funding sources that are not available to us. In addition, some of our competitors may have higher risk tolerances or different risk assessments than we have. These characteristics could allow our competitors to consider a wider variety of investments, establish more relationships and offer better pricing and more flexible structuring than we are able to do. We may lose investment opportunities if we do not match our

competitors' pricing, terms and structure. If we are forced to match our competitors' pricing, terms and structure, we may not be able to achieve acceptable returns on our investments or may bear substantial risk of capital loss. A significant part of our competitive advantage stems from the fact that the market for investments in private U.S. companies is underserved by traditional commercial banks and other financial sources. A significant increase in the number and/or the size of our competitors in this target market could force us to accept less attractive investment terms. Furthermore, many of our competitors may have greater experience operating under, or are not subject to, the regulatory restrictions that the 1940 Act will impose on us as a BDC.

A significant portion of our investment portfolio will be recorded at fair value as determined in good faith by our board of directors and, as a result, there is and will be uncertainty as to the value of our portfolio investments.

Under generally accepted accounting principles, we are required to carry our portfolio investments at market value or, if there is no readily available market value, at fair value, as determined by our board of directors. However, the majority of our investments will not be publicly traded or actively traded on a secondary market and will instead be traded on a privately negotiated over-the-counter secondary market for institutional investors. As a result, we will value these securities quarterly at fair value as determined in good faith by our board of directors.

Certain factors that may be considered in determining the fair value of our investments include dealer quotes for securities traded on the secondary market for institutional investors, the nature and realizable value of any collateral, the portfolio company's earnings and its ability to make payments on its indebtedness, the markets in which the portfolio company does business, comparison to comparable publicly-traded companies, discounted cash flow and other relevant factors. Because such valuations, and particularly valuations of private securities and private companies, are inherently uncertain, may fluctuate over short periods of time and may be based on estimates, our determinations of fair value may differ materially from the values that would have been used if a ready market for these securities existed. Due to this uncertainty, our fair value determinations may cause our net asset value on a given date to materially understate or overstate the value that we may ultimately realize upon the sale of one or more of our investments.

Our board of directors may change our operating policies and investment strategies without prior notice or stockholder approval, the effects of which may be adverse.

Our board of directors has the authority to modify or waive our current operating policies, investment criteria and investment strategies without prior notice and without stockholder approval if it determines that doing so will be in the best interests of stockholders. We cannot predict the effect any changes to our current operating policies, investment criteria and investment strategies would have on our business, net asset value, operating results and value of our stock. However, the effects might be adverse, which could negatively impact our ability to pay you distributions and cause you to lose all or part of your investment. Moreover, we will have significant flexibility in investing the net proceeds of this offering and may use the net proceeds from this offering in ways with which investors may not agree or for purposes other than those contemplated at the time of this offering.

If we internalize our management functions, your interest in us could be diluted and we could incur other significant costs and face other significant risks associated with being self-managed.

Our board of directors may decide in the future to internalize our management functions. If we do so, we may elect to negotiate to acquire our Advisers' assets and personnel. At this time, we cannot anticipate the form or amount of consideration or other terms relating to any such internalization transaction. Such consideration could take many forms, including cash payments, promissory notes and shares of our common stock. The payment of such consideration could result in dilution of your interests as a stockholder and could reduce the earnings per share attributable to your investment.

In addition, while we would no longer bear the costs of the various fees and expenses we expect to pay to our Advisers under the Investment Advisory Agreement and Sub-Advisory Agreement, we would incur the compensation and benefits costs of our officers and other employees and consultants that we now expect will be

paid by our Advisers or their affiliates. We cannot reasonably estimate the amount of fees we would save or the costs we would incur if we became self-managed. If the expenses we assume as a result of an internalization are higher than the expenses we avoid paying to our Advisers, our earnings per share would be lower as a result of the internalization than they otherwise would have been, potentially decreasing the amount of funds available to distribute to our stockholders and the value of our shares. As currently organized, we will not have any employees. If we elect to internalize our operations, we would employ personnel and would be subject to potential liabilities commonly faced by employers, such as workers disability and compensation claims, potential labor disputes and other employee-related liabilities and grievances.

If we internalize our management functions, we could have difficulty integrating these functions as a stand-alone entity. In addition, we could have difficulty retaining such personnel employed by us. Currently, individuals employed by our Adviser, our Sub-Adviser and/or their respective affiliates perform management and general and administrative functions, including accounting and financial reporting, for multiple entities. These personnel have a great deal of know-how and experience. We may fail to properly identify the appropriate mix of personnel and capital needs to operate as a stand-alone entity. An inability to manage an internalization transaction effectively could result in our incurring excess costs and/or suffering deficiencies in our disclosure controls and procedures or our internal control over financial reporting. Such deficiencies could cause us to incur additional costs, and our management's attention could be diverted from most effectively managing our investments.

Changes in laws or regulations governing our operations may adversely affect our business or cause us to alter our business strategy.

We and our portfolio companies will be subject to regulation at the local, state and federal level. New legislation may be enacted or new interpretations, rulings or regulations could be adopted, including those governing the types of investments we are permitted to make, any of which could harm us and our stockholders, potentially with retroactive effect.

Additionally, any changes to the laws and regulations governing our operations relating to permitted investments may cause us to alter our investment strategy to avail ourselves of new or different opportunities. Such changes could result in material differences to the strategies and plans set forth in this prospectus and may result in our investment focus shifting from the areas of expertise of our Advisers to other types of investments in which our Advisers may have less expertise or little or no experience. Thus, any such changes, if they occur, could have a material adverse effect on our results of operations and the value of your investment.

Efforts to comply with the Sarbanes-Oxley Act will involve significant expenditures, and non-compliance with the Sarbanes-Oxley Act may adversely affect us.

Upon commencement of this offering, we will be subject to the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, and the related rules and regulations promulgated by the SEC. Under current SEC rules, our management will be required to report on our internal control over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act and rules and regulations of the SEC thereunder. We will be required to review on an annual basis our internal control over financial reporting, and on a quarterly and annual basis to evaluate and disclose changes in our internal control over financial reporting. As a result, we expect to incur significant additional expenses in the near term, which may negatively impact our financial performance and our ability to pay distributions. This process also will result in a diversion of management's time and attention. We cannot be certain as to the timing of completion of our evaluation, testing and remediation actions or the impact of the same on our operations and we may not be able to ensure that the process is effective or that our internal control over financial reporting is or will be effective in a timely manner. In the event that we are unable to maintain or achieve compliance with the Sarbanes-Oxley Act and related rules, we may be adversely affected.

We may experience fluctuations in our quarterly results.

We could experience fluctuations in our quarterly operating results due to a number of factors, including our ability or inability to make investments in companies that meet our investment criteria, variations in the interest

rates on the debt securities we acquire, the level of our expenses, variations in and the timing of the recognition of realized and unrealized gains or losses, the degree to which we encounter competition in our markets and general economic conditions. As a result of these factors, results for any period should not be relied upon as being indicative of performance in future periods.

Terrorist attacks, acts of war or natural disasters may affect any market for our common stock, impact the businesses in which we invest and harm our business, operating results and financial condition.

Terrorist acts, acts of war or natural disasters may disrupt our operations, as well as the operations of the businesses in which we invest. Such acts have created, and continue to create, economic and political uncertainties and have contributed to recent global economic instability. Future terrorist activities, military or security operations, or natural disasters could further weaken the domestic/global economies and create additional uncertainties, which may negatively impact the businesses in which we invest directly or indirectly and, in turn, could have a material adverse impact on our business, operating results and financial condition.

Risks Related to our Advisers and their Affiliates

Our Adviser is recently formed and has no operating history.

HMS Adviser was formed on April 13, 2012 and has no operating history and no experience acting as an investment adviser for a BDC. HMS Adviser's capabilities in managing the investment process and providing competent services to us will depend on the employment of investment professionals in an adequate number and of adequate sophistication to match the corresponding flow of transactions. To achieve our investment objective, HMS Adviser may need to hire, train, supervise and manage new investment professionals. HMS Adviser may not be able to find investment professionals in a timely manner or at all. Failure to support our investment process could have a material adverse effect on our business, financial condition and results of operations.

Our Advisers and their affiliates, including our officers and some of our directors, may have conflicts of interest caused by compensation arrangements with us and our affiliates, which could result in actions that are not in the best interests of our stockholders.

Our Advisers and their affiliates will receive substantial fees from us in return for their services, and these fees could influence the advice provided to us. Among other matters, the compensation arrangements could affect their judgment with respect to public offerings of equity by us, which allow the dealer manager to earn additional dealer manager fees and our Advisers to earn increased management fees.

We may be obligated to pay our Advisers incentive compensation even if we incur a net loss due to a decline in the value of our portfolio.

Our Investment Advisory and Sub-Advisory Agreements entitle our Advisers to receive incentive compensation on income regardless of any capital losses. In such case, we may be required to pay our Advisers incentive compensation for a fiscal quarter even if there is a decline in the value of our portfolio or if we incur a net loss for that quarter.

We expect that any incentive fee payable by us that relates to our net investment income may be computed and paid on income that may include interest that has been accrued but not yet received. If a portfolio company defaults on a loan that is structured to provide accrued interest, it is possible that accrued interest previously included in the calculation of the incentive fee will become uncollectible. Pursuant to the Investment Advisory and Sub-Advisory Agreements our Adviser and Sub-Adviser, respectively, will not be under any obligation to reimburse us for any part of the incentive fee they received that was based on accrued income that we never received as a result of a default by an entity on the obligation that resulted in the accrual of such income, and such circumstances would result in our paying an incentive fee on income we never received.

For federal income tax purposes, we may be required to recognize taxable income (such as deferred interest that is accrued as original issue discount) in circumstances in which we do not receive a corresponding payment

in cash and to make distributions with respect to such income to maintain our status as a RIC even though we will not have received any corresponding cash amount. Under such circumstances, we may have difficulty meeting the annual distribution requirement necessary to obtain and maintain RIC tax treatment under the Code. Any difficulty in satisfying the annual distribution requirement may be amplified to the extent that we are required to pay an incentive fee with respect to such accrued income for which we have not received a corresponding cash payment. As a result, we may have to sell some of our investments at times and/or at prices we would not consider advantageous, raise additional debt or equity capital or forgo new investment opportunities for this purpose. If we are not able to obtain cash from other sources, we may fail to qualify for RIC tax treatment and thus become subject to corporate-level income tax. For additional discussion regarding the tax implications of a RIC.

The time and resources that individuals employed by the Advisers devote to us may be diverted and we may face additional competition due to the fact that neither our Advisers nor their affiliates are prohibited from raising money for or managing another entity that makes the same types of investments that we target.

The Sub-Adviser currently manages other investment entities, including itself, and neither our Adviser nor our Sub-Adviser is prohibited from raising money for and managing future investment entities that make the same types of investments as those we target; provided, however, that during the terms of the Investment Advisory Agreement and Sub-Advisory Agreement, except as otherwise agreed, neither the Adviser nor the Sub-Adviser may serve as an investment adviser to a public, non-traded BDC (except this restriction will not apply to the Adviser and Sub-Adviser working together on another fund sponsored by the Adviser or the Sub-Adviser). As a result, the time and resources that our Advisers devote to us may be diverted, and during times of intense activity in other programs, they may devote less time and resources to our business than is necessary or appropriate. In addition, we may compete with any such investment entity for the same investors and investment opportunities. While we intend to co-invest with such investment entities to the extent permitted by the 1940 Act and the rules and regulations thereunder, the 1940 Act imposes significant limits on co-investing. As a result, we and our Sub-Adviser have applied for exemptive relief from the SEC under the 1940 Act, which, if granted, would allow us additional latitude to co-invest with our Sub-Adviser and/or its affiliates. However, there is no assurance that we will obtain such relief. In the event the SEC does not grant us relief, we will be limited in our ability to invest in certain portfolio companies in which our Sub-Adviser and/or its affiliates are investing or are invested. Even if we are able to obtain exemptive relief, we will be unable to participate in certain transactions originated by the Sub-Adviser and/or its affiliates prior to receipt of such relief.

Our Sub-Adviser may face conflicts of interest in allocating investment opportunities between us and itself and its affiliates.

The investment professionals employed by our Sub-Adviser are also the investment professionals responsible for investing and managing its own securities portfolio. These professionals will be responsible for allocating investment opportunities between us and itself and its affiliates. Even if exemptive relief is obtained allowing the Sub-Adviser and us to co-invest in investment opportunities, the Sub-Adviser does not currently have an obligation to co-invest with us or to allocate particular investment opportunities to us. If the Sub-Adviser allocates lesser quality investment opportunities to us than it retains for itself, our operating results could be adversely affected.

Our fee structure may induce our Advisers to make speculative investments or incur debt.

The incentive fee payable by us to our Advisers may create an incentive for them to make investments on our behalf that are risky or more speculative than would be the case in the absence of such compensation arrangement. The way in which the incentive fee payable to our Advisers is determined may encourage them to use leverage to increase the return on our investments. In addition, the fact that our management fee is payable based upon our gross assets, which would include any borrowings for investment purposes, may encourage our

Advisers to use leverage to make additional investments. Under certain circumstances, the use of leverage may increase the likelihood of default, which would disfavor holders of our common stock. Such a practice could result in our investing in more speculative securities than would otherwise be the case, which could result in higher investment losses, particularly during cyclical economic downturns.

There are significant potential conflicts of interest that could impact our investment returns.

We pay management and incentive fees to our Advisers, and reimburse our Advisers for certain expenses they incur. In addition, investors in our common stock will invest on a gross basis and receive distributions on a net basis after expenses, resulting in, among other things, a lower rate of return than one might achieve through direct investments.

The part of the incentive fee payable by us that relates to our pre-incentive fee net investment income is computed and paid on income that may include interest that is accrued but not yet received in cash. If a portfolio company defaults on a loan that is structured to provide accrued interest, it is possible that accrued interest previously used in the calculation of the incentive fee will become uncollectible.

Our Adviser may seek to change the terms of our Investment Advisory Agreement, which could affect the terms of our Adviser's compensation.

Our Investment Advisory Agreement will automatically renew for successive annual periods if approved by our board of directors or by the affirmative vote of the holders of a majority of our outstanding voting securities, including, in either case, approval by a majority of our directors who are not interested persons. Moreover, conflicts of interest may arise if our Adviser seeks to change the terms of our Investment Advisory Agreement, including, for example, the terms for compensation. Any material change to the Investment Advisory Agreement must be submitted to stockholders for approval under the 1940 Act.

The Sub-Advisory Agreement and the Investment Advisory Agreement contain co-termination provisions. Such provisions, if triggered, may leave us without an investment adviser or sub-adviser which could negatively impact our investment strategy and our ability to achieve our investment objective.

Under the terms of the Sub-Advisory and Investment Advisory Agreements, if either of the Investment Advisory Agreement or Sub-Advisory Agreement is terminated or not renewed, then the other agreement will also terminate on the effective date of such termination or non-renewal. In addition, under the terms of the Investment Advisory Agreement and the Sub-Advisory Agreement, in the event either the Investment Advisory Agreement or the Sub-Advisory Agreement terminates because we terminate or fail to renew either agreement, neither the Adviser, the Sub-Adviser nor any of their affiliates may, except in certain limited circumstances, be re-engaged as Adviser or Sub-Adviser for a period of three years following the date of such termination without the consent of the party not seeking to be re-engaged. Because our success depends to a significant extent on the deal flow and key professionals of our Advisers, the termination of the Sub-Advisory or Investment Advisory Agreement could have a materially adverse effect on our ability to achieve our investment objective.

In selecting and structuring investments appropriate for us, our Advisers will consider the investment and tax objectives of the Company and our stockholders as a whole, not the investment, tax or other objectives of any stockholder individually.

Our stockholders may have conflicting investment, tax and other objectives with respect to their investments in us. The conflicting interests of individual stockholders may relate to or arise from, among other things, the nature of our investments, the structure or the acquisition of our investments, and the timing of disposition of our investments. As a consequence, conflicts of interest may arise in connection with decisions made by our Advisers, including with respect to the nature or structuring of our investments, that may be more beneficial for one stockholder than for another stockholder, especially with respect to stockholders' individual tax situations.

Risks Related to Business Development Companies

Our failure to invest a sufficient portion of our assets in qualifying assets could result in our failure to maintain our status as a business development company.

As a BDC, we may not acquire any assets other than "qualifying assets" unless, at the time of and after giving effect to such acquisition, at least 70% of our total assets are qualifying assets. See "Regulation." Therefore, we may be precluded from investing in what we believe are attractive investments if such investments are not qualifying assets. Similarly, these rules could prevent us from making additional investments in existing portfolio companies, which could result in the dilution of our position, or could require us to dispose of investments at an inopportune time to comply with the 1940 Act. If we were forced to sell non-qualifying investments in the portfolio for compliance purposes, the proceeds from such sale could be significantly less than the current value of such investments.

Failure to maintain our status as a BDC would reduce our operating flexibility.

If we do not remain a BDC, we might be regulated as a closed-end investment company under the 1940 Act, which would subject us to substantially more regulatory restrictions under the 1940 Act and correspondingly decrease our operating flexibility.

Regulations governing our operation as a BDC and RIC will affect our ability to raise, and the way in which we raise, additional capital or borrow for investment purposes, which may have a negative effect on our growth.

As a result of the annual distribution requirement to qualify as a RIC, we may need to periodically access the capital markets to raise cash to fund new investments. We may issue "senior securities," including borrowing money from banks or other financial institutions only in amounts such that our asset coverage, as defined in the 1940 Act, equals at least 200% after such incurrence or issuance. Our ability to issue different types of securities is also limited. Compliance with these requirements may unfavorably limit our investment opportunities and reduce our ability in comparison to other companies to profit from favorable spreads between the rates at which we can borrow and the rates at which we can lend. As a BDC, therefore, we intend to continuously issue equity at a rate more frequent than our privately owned competitors, which may lead to greater stockholder dilution.

We expect to utilize leverage to generate capital to make additional investments. If the value of our assets declines, we may be unable to satisfy the asset coverage test under the 1940 Act, which could prohibit us from paying distributions and could prevent us from qualifying as a RIC. If we cannot satisfy the asset coverage test, we may be required to sell a portion of our investments and, depending on the nature of our debt financing, repay a portion of our indebtedness at a time when such sales and repayments may be disadvantageous.

Under the 1940 Act, we generally are prohibited from issuing or selling our common stock at a price below net asset value per share, which may be a disadvantage as compared with other public companies. We may, however, sell our common stock, or warrants, options or rights to acquire our common stock, at a price below the current net asset value of the common stock if our board of directors and independent directors determine that such sale is in our best interests and the best interests of our stockholders, and our stockholders as well as those stockholders that are not affiliated with us approve such sale. In any such case, the price at which our securities are to be issued and sold may not be less than a price that, in the determination of our board of directors, closely approximates the fair value of such securities.

Our ability to enter into transactions with our affiliates will be restricted.

We will be prohibited under the 1940 Act from participating in certain transactions with certain of our affiliates without the prior approval of a majority of the independent members of our board of directors and, in some cases, the SEC. Any person that owns, directly or indirectly, 5% or more of our outstanding voting securities will be our affiliate for purposes of the 1940 Act and we will generally be prohibited from buying or selling any securities from or to such affiliate, absent the prior approval of our board of directors. The 1940 Act

also prohibits certain "joint" transactions with certain of our affiliates, which could include investments in the same portfolio company (whether at the same or different times), without prior approval of our board of directors and, in some cases, the SEC. If a person acquires more than 25% of our voting securities, we will be prohibited from buying or selling any security from or to such person or certain of that person's affiliates, or entering into prohibited joint transactions with such persons, absent the prior approval of the SEC. Similar restrictions limit our ability to transact business with our officers or directors or their affiliates. Further, we may be prohibited from buying or selling any security from or to any portfolio company of a private equity fund managed by our Advisers without the prior approval of the SEC. We have applied for an exemptive order to co-invest with our Sub-Adviser, however, there can be no assurance that we will obtain such relief.

We are uncertain of our sources for funding our future capital needs; if we cannot obtain debt or equity financing on acceptable terms, our ability to acquire investments and to expand our operations will be adversely affected.

The net proceeds from the sale of shares will be used for our investment opportunities, operating expenses, working capital requirements, including distributions payable, and for payment of various fees and expenses such as management fees, incentive fees and other fees. Any working capital reserves we maintain may not be sufficient for investment purposes, and we may require debt or equity financing to operate. Accordingly, in the event that we develop a need for additional capital in the future for investments or for any other reason, these sources of funding may not be available to us. Consequently, if we cannot obtain debt or equity financing on acceptable terms, our ability to acquire investments and to expand our operations will be adversely affected. As a result, we would be less able to achieve portfolio diversification and our investment objective, which may negatively impact our results of operations and reduce our ability to pay distributions to our stockholders.

Risks Related to Our Investments

Our investments in prospective portfolio companies may be risky, and we could lose all or part of our investment.

We intend to invest primarily in senior secured term loans, second lien loans and mezzanine debt and selected equity investments issued by middle market companies.

Senior Secured Loans and Second Lien Loans. When we make senior secured term loans and second lien loans, we will generally take a security interest in the available assets of these portfolio companies, including the equity interests of their subsidiaries. We expect this security interest to help mitigate the risk that we will not be repaid. However, there is a risk that the collateral securing our loans may decrease in value over time or lose its entire value, may be difficult to sell in a timely manner, may be difficult to appraise and may fluctuate in value based upon the success of the business and market conditions, including as a result of the inability of the portfolio company to raise additional capital. Also, in some circumstances, our lien could be subordinated to claims of other creditors. In addition, deterioration in a portfolio company's financial condition and prospects, including its inability to raise additional capital, may be accompanied by deterioration in the value of the collateral for the loan. Finally, applicable bankruptcy laws may adversely impact the timing and methods used by us to liquidate collateral securing our loans, which could adversely affect the collectability of such loans. Consequently, the fact that a loan is secured does not guarantee that we will receive principal and interest payments according to the loan's terms, or at all, or that we will be able to collect on the loan should we be forced to enforce our remedies.

Mezzanine Debt. Our mezzanine debt investments will generally be subordinated to senior loans and will generally be unsecured. This may result in a heightened level of risk and volatility or a loss of principal which could lead to the loss of the entire investment.

Most loans in which we invest will be rated, or would be if they were rated by a rating agency, as "below investment grade" quality or "junk". Indebtedness of below investment grade quality is regarded as having predominantly speculative characteristics with respect to the issuer's capacity to pay interest and repay principal.

These investments may involve additional risks that could adversely affect our investment returns. We expect to hold debt and preferred equity instruments in our investment portfolio that contain PIK interest and cumulative dividend provisions. The PIK interest, computed at the contractual rate specified in each debt agreement, is periodically added to the principal balance of the debt and is recorded as interest income. Thus, the actual collection of this interest may be deferred until the time of debt principal repayment. If the debt principal is not repaid in full, then PIK interest will likewise be partially or wholly uncollectible. If our Adviser has collected a fee on an investment that provides for PIK interest, and such investment fails, our Adviser would not be required to re-pay the fee that it received with respect to that investment. To the extent interest payments associated with such debt are deferred, such debt may be subject to greater fluctuations in valuations, and such debt could subject us and our stockholders to non-cash income. Since we will not receive any principal repayments prior to the maturity of some of our mezzanine debt investments, such investments will be of greater risk than amortizing loans.

Equity Investments. We expect to make selected equity investments. In addition, when we invest in first and second lien senior loans or mezzanine debt, we may acquire warrants to purchase equity securities. Our goal is ultimately to dispose of these equity interests and realize gains upon our disposition of such interests. However, the equity interests we receive may not appreciate in value and, in fact, may decline in value. Accordingly, we may not be able to realize gains from our equity interests, and any gains that we do realize on the disposition of any equity interests may not be sufficient to offset any other losses we experience.

In addition, investing in private companies involves a number of significant risks, including that they:

- may have limited financial resources and may be unable to meet their obligations under their debt securities that we hold, which may be accompanied by a deterioration in the value of any collateral and a reduction in the likelihood of us realizing any guarantees we may have obtained in connection with our investment;
- have shorter operating histories, narrower product lines and smaller market shares than larger businesses, which tend to render them more vulnerable to competitors' actions and changing market conditions, as well as general economic downturns;
- are more likely to depend on the management talents and efforts of a small group of persons; therefore, the death, disability, resignation or termination of one or more of these persons could have a material adverse impact on our portfolio company and, in turn, on us;
- generally have less predictable operating results, may from time to time be parties to litigation, may be engaged in rapidly changing businesses with products subject to a substantial risk of obsolescence, and may require substantial additional capital to support their operations, finance expansion or maintain their competitive position. In addition, our officers and directors and employees of our Advisers may, in the ordinary course of business, be named as defendants in litigation arising from our investments in the portfolio companies; and
- may have difficulty accessing the capital markets to meet future capital needs, which may limit their ability to grow or to repay their outstanding indebtedness upon maturity.

Our portfolio companies may incur debt that ranks equally with, or senior to, our investments in such companies.

We will invest primarily in first lien, second lien, mezzanine debt, preferred equity and common equity issued by middle market companies. Our portfolio companies may have, or may be permitted to incur, other debt that ranks equally with, or senior to, the debt in which we invest. By their terms, such debt instruments may entitle the holders to receive payment of interest or principal on or before the dates on which we are entitled to receive payments with respect to the debt instruments in which we invest. Also, in the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of a portfolio company, holders of debt instruments ranking senior to our investment in that portfolio company would typically be entitled to receive payment in full before we receive any distribution.

After repaying such senior creditors, such portfolio company may not have any remaining assets to use for repaying its obligation to us. In the case of debt ranking equally with debt instruments in which we invest, we would have to share on an equal basis any distributions with other creditors holding such debt in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant portfolio company.

There may be circumstances where our debt investments could be subordinated to claims of other creditors or we could be subject to lender liability claims.

Even though we intend to generally structure certain of our investments as senior loans, if one of our portfolio companies were to go bankrupt, depending on the facts and circumstances, including the extent to which we actually provided managerial assistance to that portfolio company, a bankruptcy court might re-characterize our debt investment and subordinate all or a portion of our claim to that of other creditors. In situations where a bankruptcy carries a high degree of political significance, our legal rights may be subordinated to other creditors. We may also be subject to lender liability claims for actions taken by us with respect to a borrower's business or instances where we exercise control over the borrower.

Second priority liens on collateral securing our loans may be subject to control by senior creditors with first priority liens. If there is a default, the value of the collateral may not be sufficient to repay in full both the first priority creditors and us.

Certain loans of ours may be secured on a second priority basis by the same collateral securing senior secured debt of such companies. The first priority liens on the collateral will secure the portfolio company's obligations under any outstanding senior debt and may secure certain other future debt that may be permitted to be incurred by the company under the agreements governing the loans. The holders of obligations secured by the first priority liens on the collateral will generally control the liquidation of and be entitled to receive proceeds from any realization of the collateral to repay their obligations in full before we receive anything. In addition, the value of the collateral in the event of liquidation will depend on market and economic conditions, the availability of buyers and other factors. There can be no assurance that the proceeds, if any, from the sale or sales of all of the collateral would be sufficient to satisfy the loan obligations secured by the second priority liens after payment in full of all obligations secured by the first priority liens on the collateral. If such proceeds are not sufficient to repay amounts outstanding under the loan obligations secured by the second priority liens, then we, to the extent not repaid from the proceeds of the sale of the collateral, will only have an unsecured claim against the company's remaining assets, if any.

The rights we may have with respect to the collateral securing the loans we make to our portfolio companies with senior debt outstanding may also be limited pursuant to the terms of one or more intercreditor agreements that we enter into with the holders of senior debt. Under such an intercreditor agreement, at any time that obligations that have the benefit of the first priority liens are outstanding, any of the following actions that may be taken in respect of the collateral will be at the direction of the holders of the obligations secured by the first priority liens: the ability to cause the commencement of enforcement proceedings against the collateral; the ability to control the conduct of such proceedings; the approval of amendments to collateral documents; releases of liens on the collateral; and waivers of past defaults under collateral documents. We may not have the ability to control or direct such actions, even if our rights are adversely affected.

We generally will not control our portfolio companies.

We generally will not control our portfolio companies, even though we may have board representation or board observation rights, and our debt agreements may contain certain restrictive covenants. As a result, we are subject to the risk that a portfolio company in which we invest may make business decisions with which we disagree and the management of such company, as representatives of the holders of their common equity, may take risks or otherwise act in ways that do not serve our interests as debt investors. Due to the lack of liquidity for our investments in non-traded companies, we may not be able to dispose of our interests in our portfolio companies as readily as we would like or at an appropriate valuation. As a result, a portfolio company may make decisions that could decrease the value of our portfolio holdings.

We will be exposed to risks associated with changes in interest rates.

We will be subject to financial market risks, including changes in interest rates. General interest rate fluctuations may have a substantial negative impact on our investments and investment opportunities and, accordingly have a material adverse effect on our investment objective and our rate of return on invested capital. In addition, an increase in interest rates would make it more expensive to use debt for our financing needs, if any.

Economic recessions or downturns such as the one we have recently experienced could impair our portfolio companies and harm our operating results.

Many of the portfolio companies in which we may invest may be susceptible to economic slowdowns or recessions and may be unable to repay our debt investments during these periods. Therefore, our non-performing assets are likely to increase, and the value of our portfolio is likely to decrease during these periods. Current adverse economic conditions may also decrease the value of any collateral securing our senior secured or second lien secured loans. A prolonged recession may further decrease the value of such collateral and result in losses of value in our portfolio and a decrease in our revenues, net income, assets and net worth. Unfavorable economic conditions also could increase our funding costs, limit our access to the capital markets or result in a decision by lenders not to extend credit to us on terms we deem acceptable. These events could prevent us from increasing investments and harm our operating results. In addition, future financial market uncertainty could lead to further financial market disruptions and could further adversely impact our ability to obtain financing and the value of our investments.

Defaults by our portfolio companies will harm our operating results.

A portfolio company's failure to satisfy financial or operating covenants imposed by us or other lenders could lead to defaults and, potentially, termination of its loans and foreclosure on its secured assets, which could trigger cross-defaults under other agreements and jeopardize a portfolio company's ability to meet its obligations under the debt or equity securities that we hold. We may incur expenses to the extent necessary to seek recovery upon default or to negotiate new terms, which may include the waiver of certain financial covenants, with a defaulting portfolio company.

We may not realize gains from our equity investments, which may adversely affect our investment returns and stockholders' ability to recover their entire investment in us.

Certain investments that we may make could include warrants or other equity securities. In addition, we may make direct equity investments, including controlling investments, in companies. Our goal is ultimately to realize gains upon our disposition of such equity interests. We believe that we may be unable to significantly increase our net asset value per share unless we realize gains on our disposition of equity interests, thus creating risk that we will not ultimately recover our organization and offering costs, including our dealer manager fee and commissions on the sale of our shares of common stock. However, the equity interests we receive may not appreciate in value and, in fact, may decline in value. Accordingly, we may not be able to realize gains from our equity interests, and any gains that we do realize on the disposition of any equity interests may not be sufficient to offset any other losses we experience or to produce returns and distributions upon liquidation or sale of all our assets that provide investors with a return of all of their original purchase price for our shares of common stock. We also may be unable to realize any value if a portfolio company does not have a liquidity event, such as a sale of the business, recapitalization or public offering, which would allow us to sell the underlying equity interests. We intend to seek puts or similar rights to give us the right to sell our equity securities back to the portfolio company issuer. We may be unable to exercise these put rights for the consideration provided in our investment documents if the issuer is in financial distress.

An investment strategy focused primarily on privately held companies presents certain challenges, including the lack of available information about these companies.

We intend to invest in debt and equity securities of middle market companies, including privately held companies. Investments in private companies pose certain incremental risks as compared to investments in public

companies. First, private companies have reduced access to the capital markets, resulting in diminished capital resources and ability to withstand financial distress. Second, the investments themselves tend to be less liquid. As such, we may have difficulty exiting an investment promptly or at a desired price prior to maturity or outside of a normal amortization schedule. Finally, little public information generally exists about private companies. Further, these companies may not have third-party debt ratings or audited financial statements. We must therefore rely on the ability of our Advisers to obtain adequate information through due diligence to evaluate the creditworthiness and potential returns from investing in these companies. These companies and their financial information will generally not be subject to the Sarbanes-Oxley Act and other rules that govern public companies. If we are unable to uncover all material information about these companies, we may not make a fully informed investment decision, and we may lose money on our investments. As a result, the relative lack of liquidity and the potential diminished capital resources of our target portfolio companies may affect our investment returns.

The lack of liquidity in our investments may adversely affect our business.

We intend to invest in companies whose securities are typically not publicly traded, and whose securities will be subject to legal and other restrictions on resale or will otherwise be less liquid than publicly traded securities. The illiquidity of these investments may make it difficult for us to sell these investments when desired. In addition, if we are required to liquidate all or a portion of our portfolio quickly, we may realize significantly less than the value at which we had previously recorded these investments. As a result, we do not expect to achieve liquidity in our investments in the near-term. We expect that our investments will generally be subject to contractual or legal restrictions on resale or are otherwise illiquid because there is usually no established trading market for such investments. The illiquidity of most of our investments may make it difficult for us to dispose of them at a favorable price, and, as a result, we may suffer losses.

We may not have the funds or ability to make additional investments in our portfolio companies.

We may not have the funds or ability to make additional investments in our portfolio companies. After our initial investment in a portfolio company, we may be called upon from time to time to provide additional funds to such company or have the opportunity to increase our investment through the exercise of a warrant to purchase common stock. There is no assurance that we will make, or will have sufficient funds to make, follow-on investments. Any decisions not to make a follow-on investment or any inability on our part to make such an investment may have a negative impact on a portfolio company in need of such an investment, may result in a missed opportunity for us to increase our participation in a successful operation or may reduce the expected return on the investment.

We may concentrate our investments in companies in a particular industry or industries.

In the event we concentrate our investments in companies in a particular industry or industries, any adverse conditions that disproportionately impact that industry or industries may have a magnified adverse effect on our operating results.

Risks Relating to Debt Financing

If we borrow money, the potential for gain or loss on amounts invested in us will be magnified and may increase the risk of investing in us.

The use of borrowings, also known as leverage, increases the volatility of investments by magnifying the potential for gain or loss on invested equity capital. If we use leverage to partially finance our investments, through borrowing from banks and other lenders, you will experience increased risks of investing in our common stock. If the value of our assets increases, leveraging would cause the net asset value attributable to our common stock to increase more sharply than it would have had we not leveraged. Conversely, if the value of our assets decreases, leveraging would cause our net asset value to decline more sharply than it otherwise would have had we not leveraged. Similarly, any increase in our income in excess of interest payable on the borrowed funds would cause our net income to increase more than it would without the leverage, while any decrease in our income would cause net income to decline more sharply than it would have had we not borrowed. Such a decline

could negatively affect our ability to make common stock distribution payments. Leverage is generally considered a speculative investment technique.

Changes in interest rates may affect our cost of capital and net investment income.

Since we intend to use debt to finance investments, our net investment income will depend, in part, upon the difference between the rate at which we borrow funds and the rate at which we invest those funds. As a result, we can offer no assurance that a significant change in market interest rates will not have a material adverse effect on our net investment income. In periods of rising interest rates when we have debt outstanding, our cost of funds will increase, which could reduce our net investment income. We expect that our long-term fixed-rate investments will be financed primarily with equity and long-term debt. We may use interest rate risk management techniques in an effort to limit our exposure to interest rate fluctuations. These techniques may include various interest rate hedging activities to the extent permitted by the 1940 Act. These activities may limit our ability to participate in the benefits of lower interest rates with respect to the hedged portfolio. Adverse developments resulting from changes in interest rates or hedging transactions could have a material adverse effect on our business, financial condition and results of operations. Also, we have limited experience in entering into hedging transactions, and we will initially have to purchase or develop such expertise.

You should also be aware that a rise in the general level of interest rates can be expected to lead to higher interest rates applicable to our debt investments. Accordingly, an increase in interest rates may make it easier for us to meet or exceed the incentive fee hurdle rate and may result in a substantial increase of the amount of incentive fees payable to our Adviser with respect to pre-incentive fee net investment income. See "Investment Advisory and Administrative Services Agreement."

Risks Relating to this Offering and Our Common Stock

Investors will not know the purchase price per share at the time they submit their subscription agreements and could pay a premium for their shares of common stock if our board of directors does not decrease the offering price in the event of a decline to our net asset value per share.

The purchase price at which you purchase shares will be determined at each semi-monthly closing date to ensure that shares are not sold at a price per share, after deduction of selling commissions and dealer manager fees, that is below our net asset value. In the event of a decrease to our net asset value per share, you could pay a premium for your shares of common stock if our board of directors does not decrease the offering price. A decline in our net asset value per share to an amount more than 5% below our current offering price, net of selling commissions and dealer manager fees, creates a rebuttable presumption that there has been a material change in the value of our assets such that a reduction in the offering price per share is warranted. This presumption may only be rebutted if our board of directors, in consultation with our management, reasonably and in good faith determines that the decline in net asset value per share is the result of a temporary movement in the credit markets or the value of our assets, rather than a more fundamental shift in the valuation of our portfolio. In the event that (i) net asset value per share decreases to more than 5% below our current net offering price and (ii) our board of directors believes that such decrease in net asset value per share is the result of a non-temporary movement in the credit markets or the value of our assets, our board of directors will undertake to establish a new net offering price that is not more than 5% above our net asset value per share. If our board of directors determines that the decline in our net asset value per share is the result of a temporary movement in the credit markets, investors will purchase shares at an offering price per share, net of selling commissions and dealer manager fees, which represents a premium to the net asset value per share of greater than 5%. See "Plan of Distribution."

This is a "best efforts" offering, and if we are unable to raise substantial funds, we will be limited in the number and type of investments we may make, and the value of your investment in us may be reduced in the event our assets under-perform.

This offering is being made on a best efforts basis, whereby the dealer manager and broker-dealers participating in the offering are only required to use their best efforts to sell our shares and have no firm

commitment or obligation to purchase any of the shares. In addition, selling brokers have more than one business development company offering to emphasize to prospective purchasers, a choice that may make success in conducting the offering more difficult. To the extent that less than the maximum number of shares is subscribed for, the opportunity for diversification of our investments may be decreased and the returns achieved on those investments may be reduced as a result of allocating all of our expenses among a smaller capital base.

The shares sold in this offering will not be listed on an exchange or quoted through a quotation system for the foreseeable future, if ever. Therefore, if you purchase shares in this offering, you will have limited liquidity and may not receive a full return of your invested capital if you sell your shares.

The shares offered by us are illiquid assets for which there is not expected to be any secondary market nor is it expected that any will develop in the future. We intend to explore a potential liquidity event for our stockholders between four and six years following the completion of our offering period, which may include follow-on offerings after completion of this initial offering. However, there can be no assurance that we will complete a liquidity event within such time or at all. We expect that our board of directors, in the exercise of its duties to us, will determine to pursue a liquidity event when it believes that then-current market conditions are favorable for a liquidity event, and that such an event is in our best interests. A liquidity event could include (1) the sale of all or substantially all of our assets either on a complete portfolio basis or individually followed by a liquidation, (2) a listing of our shares on a national securities exchange or (3) a merger or another transaction approved by our board in which our stockholders will receive cash or shares of a publicly traded company.

In making the decision to apply for listing of our shares, our directors will try to determine whether listing our shares or liquidating our assets will result in greater value for our stockholders. In making a determination of what type of liquidity event is in our best interests, our board of directors, including our independent directors, may consider a variety of criteria, including, but not limited to, market conditions, portfolio diversification, portfolio performance, our financial condition, potential access to capital as a listed company, market conditions for the sale of our assets or listing of our common stock, internal management requirements to become a perpetual life company and the potential for stockholder liquidity. If our shares are listed, we cannot assure you a public trading market will develop. Since a portion of the offering price from the sale of shares in this offering will be used to pay expenses and fees, the full offering price paid by stockholders will not be invested in portfolio companies. As a result, even if we do complete a liquidity event, you may not receive a return of all of your invested capital.

You should also be aware that shares of publicly traded closed-end investment companies frequently trade at a discount to their net asset value. If our shares are eventually listed on a national exchange, we would not be able to predict whether our common stock would trade above, at or below net asset value. This risk is separate and distinct from the risk that our net asset value per share may decline.

We established the offering price for our shares of common stock on an arbitrary basis, and the offering price may not accurately reflect the value of our assets.

The price of our common stock was established on an arbitrary basis and is not based on the amount or nature of our assets or our book value. Therefore, at any given time, the offering price may be higher than the value of our interests in portfolio companies.

Because the dealer manager is an affiliate of our Adviser you will not have the benefit of an independent review of the prospectus customarily performed in underwritten offerings.

The dealer manager, Hines Securities, Inc., is an affiliate of Hines and will not make an independent review of us or the offering. Accordingly, you will have to rely on your own broker-dealer to make an independent review of the terms of this offering. If your broker-dealer does not conduct such a review, you will not have the benefit of an independent review of the terms of this offering. Further, the due diligence investigation of us by the dealer manager cannot be considered to be an independent review and, therefore, may not be as meaningful as a review conducted by an unaffiliated broker-dealer or investment banker. You will not have the benefit of an independent review and investigation of this offering of the type normally performed by an unaffiliated, independent underwriter in an

underwritten public securities offering. In addition, we do not, and do not expect to, have research analysts reviewing our performance or our securities on an ongoing basis. Therefore, you will not have an independent review of our performance and the value of our common stock relative to publicly traded companies.

The dealer manager in this offering has no experience selling shares on behalf of a BDC and may be unable to sell a sufficient number of shares of common stock for us to achieve our investment objective.

The success of this offering, and correspondingly our ability to implement our business strategy, is dependent upon the ability of our dealer manager to establish and maintain a network of licensed securities brokers-dealers and other agents. Hines Securities, Inc., the dealer manager in this offering, has no experience selling shares on behalf of a BDC. There is therefore no assurance that it will be able to sell a sufficient number of shares to allow us to have adequate funds to purchase a diversified portfolio of investments. If the dealer manager fails to perform, we may not be able to raise adequate proceeds through this offering to implement our investment strategy. As a result, we may be unable to achieve our investment objective, and you could lose some or all of the value of your investment.

We intend to offer to repurchase your shares on a quarterly basis, subject to certain restrictions and limitations. As a result, you will have limited opportunities to sell your shares and, to the extent you are able to sell your shares under the program, you may not be able to recover the amount of your investment in our shares.

Beginning 12 months after we hold our initial closing, we intend to commence share repurchases, on approximately 10% of our weighted average number of outstanding shares in any 12-month period, to allow you to sell back your shares to us on a quarterly basis at a price equal to the net asset value per share, as determined within 48 hours prior to the Repurchase Date. The share repurchase program will include numerous restrictions that will limit your ability to sell your shares. Unless our board of directors determines otherwise, we will limit the number of shares to be repurchased during any calendar year to the number of shares we can repurchase with the proceeds we receive from the issuance of shares of our common stock under our distribution reinvestment plan. At the discretion of our board of directors, we may also use cash on hand, cash available from borrowings and cash from the sale of our investments as of the end of the applicable period to repurchase shares. We will limit repurchases in each quarter to 2.5% of the weighted average number of shares of our common stock outstanding in the prior four calendar quarters. To the extent that the number of shares put to us for repurchase exceeds the number of shares that we are able to purchase, we will repurchase shares on a pro rata basis, not on a first-come, first-served basis. Further, we will have no obligation to repurchase shares if the repurchase would violate the restrictions on distributions under federal law or Maryland law, which prohibits distributions that would cause a corporation to fail to meet statutory tests of solvency. These limits may prevent us from accommodating all repurchase requests made in any year. In addition, our board of directors may suspend or terminate the share repurchase program. We will notify you of such developments: (i) in our quarterly reports or (ii) by means of a separate mailing to you. In addition, even if we implement a share repurchase program, we will have discretion to suspend or terminate the program, and to cease repurchases. Further, the program may have many limitations and should not be relied upon as a method to sell shares promptly and at a desired price.

The timing of our repurchase offers pursuant to our share repurchase program may be at a time that is disadvantageous to our stockholders.

When we make quarterly repurchase offers pursuant to the share repurchase program, we may offer to repurchase shares at a price that is lower than the price that investors paid for shares in our offering. As a result, to the extent investors paid an offering price that includes the related sales load and to the extent investors have the ability to sell their shares pursuant to our share repurchase program, then the price at which an investor may sell shares, which will be at the net asset value per share, as determined within 48 hours prior to the Repurchase Date, may be lower than what an investor paid in connection with the purchase of shares in our offering.

We may be unable to invest a significant portion of the net proceeds of this offering on acceptable terms in the timeframe contemplated by this prospectus.

Delays in investing the net proceeds of this offering may impair our performance. We cannot assure you that we will be able to identify any investments that meet our investment objective or that any investment that we make will produce a positive return. We may be unable to invest the net proceeds of this offering on acceptable terms within the time period that we anticipate or at all, which could harm our financial condition and operating results.

In addition, even if we are able to raise significant proceeds, we will not be permitted to use such proceeds to co-invest with certain entities affiliated with our Advisers in transactions originated by our Advisers unless we first obtain an exemptive order from the SEC. We have applied for an exemptive order to co-invest with our Sub-Adviser and/or its affiliates, and the SEC has granted exemptive relief for co-investments to BDCs in the past. However, there can be no assurance that we will obtain such relief.

We anticipate that, depending on market conditions, it may take us several months before we have raised sufficient funds to invest the proceeds of this offering in securities meeting our investment objective and providing sufficient diversification of our portfolio. During this period, we will invest the net proceeds of this offering primarily in cash, cash equivalents, U.S. government securities, repurchase agreements and high-quality debt instruments maturing in one year or less from the time of investment, which may produce returns that are significantly lower than the returns that we expect to achieve when our portfolio is fully invested in securities meeting our investment objective. As a result, any distributions that we pay during this period may be substantially lower than the distributions that we may be able to pay when our portfolio is fully invested in securities meeting our investment objective.

Under the terms of our charter, our board of directors is authorized to issue shares of preferred stock with rights and privileges superior to common stockholders without common stockholder approval.

Under the terms of our charter, our board of directors is authorized to issue shares of preferred stock in one or more classes or series without stockholder approval. The board has discretion to set the terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption for each class or series of preferred stock. Every issuance of preferred stock will be required to comply with the requirements of the 1940 Act. The 1940 Act requires, among other things, that (1) immediately after issuance and before any distribution is made with respect to our common stock and before any purchase of common stock is made, such preferred stock together with all other senior securities must not exceed an amount equal to 50% of our total assets after deducting the amount of such distribution or purchase price, as the case may be, and (2) the holders of shares of preferred stock, if any are issued, must be entitled as a class to elect two directors at all times and to elect a majority of the directors if distributions on such preferred stock are in arrears by two years or more. Certain matters under the 1940 Act require the separate vote of the holders of any issued and outstanding preferred stock.

Your interest in us will be diluted if we issue additional shares, which could reduce the overall value of your investment.

Potential investors in this offering do not have preemptive rights to any shares we issue in the future. Our charter authorizes us to issue shares of common stock. Pursuant to our charter, a majority of our entire board of directors may amend our charter from time to time to increase or decrease the aggregate number of authorized shares of stock or the number of authorized shares of stock of any class or series without stockholder approval. After your purchase in this offering, our board may elect to sell additional shares in this or future public offerings, issue equity interests in private offerings or issue share-based awards to our independent directors or employees of our Advisers. To the extent we issue additional equity interests after your purchase in this offering, your percentage ownership interest in us will be diluted. In addition, depending upon the terms and pricing of any additional offerings and the value of our investments, you may also experience dilution in the book value and fair value of your shares.

Certain provisions of our charter and bylaws as well as provisions of the Maryland General Corporation Law could deter takeover attempts and have an adverse impact on the value of our common stock.

Our charter and bylaws, as well as certain statutory and regulatory requirements, contain certain provisions that may have the effect of discouraging a third party from attempting to acquire us. Under the Maryland General Corporation Law, "control shares" acquired in a "control share acquisition" have no voting rights except to the extent approved by a vote of two-thirds of the votes entitled to be cast on the matter, excluding shares owned by the acquiror, by officers or by employees who are directors of the corporation. Our bylaws contain a provision exempting from the Control Share Acquisition Act under the Maryland General Corporation Law any and all acquisitions by any person of our shares of stock. There can be no assurance that such provision will not be amended or eliminated at some time in the future. The Control Share Acquisition Act (if we amend our bylaws to be subject to that Act) may discourage others from trying to acquire control of us and increase the difficulty of consummating any offer. However, we will amend our bylaws to be subject to the Control Share Acquisition Act only if our board of directors determines that it would be in our best interests and if the SEC staff does not object to our determination that our being subject to the Control Share Acquisition Act does not conflict with the 1940 Act. The SEC staff has issued informal guidance setting forth its position that certain provisions of the Control Share Acquisition Act, if implemented, would violate Section 18(i) of the 1940 Act. Under the Maryland General Corporation Law, specified "business combinations," including mergers, consolidations, share exchanges, or, in circumstances specified in the statute, asset transfers or issuances or reclassifications of equity securities, between a Maryland corporation and any person who owns 10% or more of the voting power of the corporation's outstanding voting stock, and certain other parties (each an "interested stockholder"), or an affiliate of the interested stockholder, are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. Thereafter any of the specified business combinations must be approved by two super majority votes of the stockholders unless, among other conditions, the corporation's common stockholders receive a minimum price for their shares. See "Description of Our Securities — Business Combinations."

Under the Maryland General Corporation Law, certain statutory provisions permit a corporation that is subject to the Exchange Act and that has at least three independent directors to be subject to certain corporate governance provisions notwithstanding any contrary provision in the corporation's charter and bylaws. Among other provisions, a board of directors may classify itself without the vote of stockholders. Further, the board of directors, by electing into certain statutory provisions and notwithstanding any contrary provision in the charter or bylaws, may (i) provide that a special meeting of stockholders will be called only at the request of stockholders entitled to cast at least a majority of the votes entitled to be cast at the meeting, (ii) reserve for itself the right to fix the number of directors, and (iii) retain for itself the exclusive power to fill vacancies created by the death, removal or resignation of a director. A corporation may be prohibited by its charter or by resolution of its board of directors from electing to be subject to any of the provisions of the statute. We are not prohibited from implementing any or all of the statute.

Additionally, our board of directors may, without stockholder action, authorize the issuance of shares of stock in one or more classes or series, including preferred stock; and our board of directors may, without stockholder action, amend our charter from time to time to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that we have authority to issue. These provisions may inhibit a change of control in circumstances that could give the holders of our common stock the opportunity to realize a premium over the value of our common stock.

We are not obligated to complete a liquidity event by a specified date; therefore, it will be difficult for you to sell your shares.

We intend to explore a potential liquidity event for our stockholders between four to six years following the completion of our offering period. We expect that our board of directors, in the exercise of the requisite standard of care applicable to directors under Maryland law, will determine to pursue a liquidity event when it believes that then-current market conditions are favorable for a liquidity event, and that such a transaction is in our best

interests. A liquidity event could include (1) the sale of all or substantially all of our assets either on a complete portfolio basis or individually followed by a liquidation, (2) a listing of our shares on a national securities exchange or (3) a merger or another transaction approved by our board in which our stockholders will receive cash or shares of a publicly traded company. However, there can be no assurance that we will complete a liquidity event within such time or at all. If we do not successfully complete a liquidity event, liquidity for your shares will be limited to our share repurchase program which we have no obligation to maintain.

Federal Income Tax Risks

We will be subject to corporate-level U.S. federal income tax if we are unable to satisfy the various RIC qualification requirements.

To obtain and maintain RIC tax treatment under the Code, we must meet the following annual distribution, income source and asset diversification requirements:

- In order to obtain RIC tax treatment, we must distribute to our stockholders, for each taxable year, at least 90% of our "investment company taxable income," which is generally our net ordinary income plus the excess, if any, of realized net short-term capital gain over realized net long-term capital loss. We will be subject to corporate-level U.S. federal income tax on any of our undistributed income or gain. Additionally, we will be subject to a 4% nondeductible federal excise tax, however, to the extent that we do not satisfy certain additional minimum distribution requirements on a calendar-year basis. Because we may use debt financing, we are subject to an asset coverage ratio requirement under the 1940 Act and may in the future become subject to certain financial covenants under loan and credit agreements that could, under certain circumstances, restrict us from making distributions necessary to satisfy the distribution requirement. If we are unable to obtain cash from other sources, we could fail to qualify for RIC tax treatment and thus become subject to corporate-level income tax.

- The income source requirement will be satisfied if we obtain at least 90% of our gross income for each year from dividends, interest, gains from the sale of stock or securities or similar sources.

- The asset diversification requirement will be satisfied if we meet certain asset diversification requirements at the end of each quarter of our taxable year. To satisfy this requirement, at least 50% of the value of our assets must consist of cash, cash equivalents, U.S. government securities, securities of other RICs, and other acceptable securities; and no more than 25% of the value of our assets can be invested in the securities (other than U.S. government securities or securities of other RICs) of one issuer, of two or more issuers that are controlled, as determined under applicable Code rules, by us and that are engaged in the same or similar or related trades or businesses or of certain "qualified publicly traded partnerships." Failure to meet these requirements may result in our having to dispose of certain investments quickly in order to prevent the loss of our RIC status. Because most of our investments will be in private companies, and therefore will be relatively illiquid, any such dispositions could be made at disadvantageous prices and could result in substantial economic losses.

If we fail to qualify for, or to maintain, RIC tax treatment for any reason, the resulting corporate income taxes could substantially reduce our net assets, the amount of income available for distribution and the amount of our distributions. We may also be subject to certain U.S. federal excise taxes, as well as state, local and foreign taxes. See "Material U.S. Federal Income Tax Considerations."

We may have difficulty paying our required distributions if we recognize taxable income before or without receiving a corresponding cash payment.

For federal income tax purposes, we may be required to recognize taxable income in circumstances in which we do not receive a corresponding payment in cash. For example, if we hold debt obligations that are treated

under applicable tax rules as having original issue discount (such as debt instruments with payment-in-kind, or PIK, interest or, in certain cases, increasing interest rates or debt instruments that were issued with warrants), we must include in income each year a portion of the original issue discount that accrues over the life of the obligation, regardless of whether cash representing such income is received by us in the same taxable year. We may also have to include in income other amounts that we have not yet received in cash, such as deferred loan origination fees that are paid after origination of the loan or are paid in non-cash compensation such as warrants or stock. We anticipate that a portion of our income may constitute original issue discount or other income required to be included in taxable income prior to receipt of cash. Further, we may elect to amortize market discount and include the amount of the market discount in our taxable income over the remaining term of the market discount instrument, instead of upon disposition, as failing to make such an election could limit our ability to deduct interest expenses for tax purposes.

Because any original issue discount or other amounts accrued will be included in our investment company taxable income for the year of the accrual, we may be required to make a distribution to our stockholders in order to satisfy the annual distribution requirement, even though we will not have received any corresponding cash amount. As a result, we may have difficulty meeting the annual distribution requirement necessary to obtain and maintain RIC tax treatment under the Code. We may have to sell some of our investments at times and/or at prices we would not consider advantageous, raise additional debt or equity capital or forgo new investment opportunities for this purpose. If we are not able to obtain cash from other sources, we may fail to qualify for RIC tax treatment and thus become subject to corporate-level income tax. For additional discussion regarding the tax implications of a RIC, see "Material U.S. Federal Income Tax Considerations — Taxation as a RIC."

You may have current tax liability on distributions you elect to reinvest in our common stock but would not receive cash from such distributions to pay such tax liability.

If you participate in our distribution reinvestment plan, you will be deemed to have received, and for U.S. federal income tax purposes will be taxed on, the amount reinvested in our common stock to the extent the amount reinvested was not a tax-free return of capital. As a result, unless you are a tax-exempt entity, you may have to use funds from other sources to pay your tax liability on the value of our common stock received from the distribution.

If we do not qualify as a "publicly offered regulated investment company," as defined in the Code, you will be taxed as though you received a distribution of some of our expenses.

A "publicly offered regulated investment company" is a RIC whose shares are either (i) continuously offered pursuant to a public offering, (ii) regularly traded on an established securities market or (iii) held by at least 500 persons at all times during the taxable year. If we are not a publicly offered RIC for any period, a non-corporate stockholder's allocable portion of our affected expenses, including our management fees, will be treated as an additional distribution to the stockholder and will be deductible by such stockholder only to the extent permitted under the limitations described below. For non-corporate stockholders, including individuals, trusts, and estates, significant limitations generally apply to the deductibility of certain expenses of a non-publicly offered RIC, including advisory fees. In particular, these expenses, referred to as miscellaneous itemized deductions, are deductible to an individual only to the extent they exceed 2% of such a stockholder's adjusted gross income, and are not deductible for alternative minimum tax purposes. While we anticipate that we will constitute a publicly offered RIC after our first tax year, there can be no assurance that we will in fact so qualify for any of our taxable years.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Some of the statements in this prospectus constitute forward-looking statements because they relate to future events or our future performance or financial condition. The forward-looking statements contained in this prospectus may include statements as to:

- our future operating results;
- our business prospects and the prospects of our portfolio companies;
- the impact of the investments that we expect to make;
- the ability of our portfolio companies to achieve their objectives;
- our expected financings and investments;
- the adequacy of our cash resources and working capital; and
- the timing of cash flows, if any, from the operations of our portfolio companies.

In addition, words such as “anticipate,” “believe,” “expect” and “intend” indicate a forward-looking statement, although not all forward-looking statements include these words. The forward-looking statements contained in this prospectus involve risks and uncertainties. Our actual results could differ materially from those implied or expressed in the forward-looking statements for any reason, including the factors set forth in “Risk Factors” and elsewhere in this prospectus. Other factors that could cause actual results to differ materially include:

- changes in the economy;
- risks associated with possible disruption in our operations or the economy generally due to terrorism or natural disasters; and
- future changes in laws or regulations and conditions in our operating areas.

We have based the forward-looking statements included in this prospectus on information available to us on the date of this prospectus, and we assume no obligation to update any such forward-looking statements. Except as required by the federal securities laws, we undertake no obligation to revise or update any forward-looking statements, whether as a result of new information, future events or otherwise. You are advised to consult any additional disclosures that we may make directly to you or through reports that we in the future may file with the SEC, including annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K. The forward-looking statements and projections contained in this prospectus are excluded from the safe harbor protection provided by Section 27A of the Securities Act.

ESTIMATED USE OF PROCEEDS

Use of Proceeds

We intend to use substantially all of the proceeds from this offering, net of expenses, to make debt and equity investments primarily in accordance with our investment objective and using the strategies described in this prospectus. There can be no assurance that we will be able to sell all of the shares we are presently offering. If we sell only a portion of the shares offered hereby, we may be unable to achieve our investment objective.

We expect initially to invest a significant portion of our net proceeds in over-the-counter debt securities. Over-the-counter debt securities generally produce lower yields than customized lower middle market securities. We expect a time lag, which could be up to 60 days, between each closing of the sale of shares and our investment of the net proceeds from such closing.

During our offering period, we intend to use net proceeds of the offering and proceeds from the sale or repayment or other liquidation of existing investments to invest in customized lower middle market securities, depending on the availability of appropriate investment opportunities consistent with our investment objective and market conditions. By the end of our offering period, we expect to have invested a significant portion of our net proceeds in customized lower middle market securities. We will view our offering period to have ended as of the termination date of our most recent public offering if we have not conducted a public equity offering in any continuous two year period. We cannot assure you we will achieve our targeted investment pace. See "Risk Factors — Risks Relating to this Offering and Our Common Stock — *We may be unable to invest a significant portion of the net proceeds of this offering on acceptable terms in the timeframe contemplated by this prospectus.*"

Pending such uses, we will invest the net proceeds primarily in cash, cash equivalents, U.S. government securities, repurchase agreements, and other short-term securities consistent with our status as a BDC and our election to be taxed as a RIC, which may produce returns that are significantly lower than the returns that we expect to achieve when our portfolio is fully invested in securities meeting our investment objective. As a result, any distributions that we pay during this period may be substantially lower than the distributions that we may be able to pay when our portfolio is fully invested in securities meeting our investment objective. During this time, we may employ a portion of the net proceeds to pay operating expenses, working capital requirements, including distributions payable, and for general corporate purposes. We have not established any limit on the extent to which we may use borrowings, if any, or proceeds from this offering to fund distributions (which may reduce the amount of capital we ultimately invest in assets). There can be no assurance that we will be able to sustain distributions at any particular level or at all. In addition, during this time we will pay management fees to our Advisers as described elsewhere in this prospectus.

The following table sets forth our estimates of how we intend to use the gross proceeds from this offering. Information is provided assuming that we sell the maximum number of shares registered in this offering, which is 150,000,000 shares. We intend to use substantially all of the proceeds from this offering, net of expenses, to make debt and equity investments in accordance with our investment objective. The remainder may be used for operating expenses, working capital requirements, including distributions payable, and for general corporate purposes. The amount of net proceeds may be more or less than the amount depicted in the table below depending on the public offering price of the common stock and the actual number of shares of common stock we sell in the offering.

The amounts in this table assume that the full fees and commissions are paid on all shares of our common stock offered to the public on a best efforts basis and that the maximum amount of organization and offering expenses that we are obligated to pay or reimburse to the Adviser pursuant to the Investment Advisory Agreement (1.5% of gross offering proceeds) are actually paid or reimbursed. All or a portion of the selling commission and dealer manager fee may be reduced or eliminated in connection with certain categories of sales such as sales for which a volume discount applies, sales through investment advisers or banks acting as trustees or fiduciaries and sales to our affiliates. The reduction in these fees will be accompanied by a corresponding reduction in the per share purchase price but will not affect the amounts available to us for investments.

Moreover, even if we sell the maximum number of shares in the offering, we may not be required to pay or reimburse the full amount (1.5% of gross offering proceeds) of organization and offering expenses permitted under the Investment Advisory Agreement.

Because amounts in the following table are estimates, they may not accurately reflect the actual receipt or use of the offering proceeds.

	Maximum Offering	
	Amount	%
Gross Proceeds	$ 1,500,000,000	100.0%
Less:		
Selling Commission	$ 105,000,000	7.0%
Dealer Manager Fee	$ 45,000,000	3.0%
Offering Expenses	$ 22,500,000	1.5%
Net Proceeds/Amount Available for Investments	$ 1,327,500,000	88.5%

DISTRIBUTIONS

We intend to declare distributions quarterly and pay distributions on a monthly basis beginning no later than the first full calendar month after the month in which we hold our initial closing. Subject to the board of directors' discretion and applicable legal restrictions, our board of directors intends to authorize us to declare a quarterly distribution amount per share of our common stock. We will then calculate each stockholder's specific distribution amount for the month using daily record dates, and your distributions will begin to accrue at a daily distribution rate on the date we accept your subscription for shares of our common stock. From time to time, we may also pay interim distributions at the discretion of our board. Each year a statement on IRS Form 1099-DIV (or such successor form) identifying the source of the distribution (i.e., paid from ordinary income, paid from net capital gain on the sale of securities, and/or a return of paid-in capital surplus which is a nontaxable distribution) will be mailed to our stockholders. Our distributions may exceed our earnings, especially during the period before we have substantially invested the proceeds from this offering. As a result, a portion of the distributions we make may represent a return of capital for U.S. federal income tax purposes. Stockholders will not recognize tax on a distribution consisting of a return of capital, however, the tax basis of shares must be reduced by the amount of any return of capital distributions. Any return of capital will result in an increase in the amount of any taxable gain (or a reduction in any deductible loss) on a subsequent disposition of such shares. Our Advisers have agreed to waive management and incentive fees for up to twelve months from the commencement of the offering to the extent required to avoid distributions that are estimated to represent a return of capital for U.S. federal income tax purposes during such period. See "Management's Discussion and Analysis of Financial Condition and Results of Operations and the Company's Expected Operating Plans—Management and Incentive Fee Waiver."

From time to time, but not less than quarterly, we will review our operating results, taxable income and cash flows to determine whether distributions to our stockholders are appropriate. We have not established any limit on the extent to which we may use borrowings, if any, or proceeds from this offering to fund distributions (which may reduce the amount of capital we ultimately invest in assets). There can be no assurance that we will be able to sustain distributions at any particular level.

To obtain and maintain RIC tax treatment, we must, among other things, distribute at least 90% of our net ordinary income and net short-term capital gain in excess of net long-term capital loss, if any. In order to avoid certain excise taxes imposed on RICs, we currently intend to distribute, or be deemed to distribute, during each calendar year an amount at least equal to the sum of (1) 98.0% of our net ordinary income for the calendar year, (2) 98.2% of our capital gain in excess of capital loss for the calendar year and (3) any net ordinary income and net capital gain for preceding years that were not distributed during such years and on which we paid no U.S. federal income tax. We can offer no assurance that we will achieve results that will permit the payment of any distributions and, if we issue senior securities, we will be prohibited from paying distributions if doing so causes us to fail to maintain the asset coverage ratios stipulated by the 1940 Act or if distributions are limited by the terms of any of our borrowings. See "Regulation" and "Material U.S. Federal Income Tax Considerations."

We have adopted an "opt in" distribution reinvestment plan for our common stockholders. As a result, if we make a distribution, the stockholders who have chosen to "opt in" to the distribution reinvestment plan will have their cash distributions reinvested in additional shares of our common stock. See "Distribution Reinvestment Plan."

Our charter provides that, distributions in-kind shall not be permitted, except for distributions of readily marketable securities, distributions of cash from a liquidating trust established for the dissolution of the Company and the liquidation of its assets in accordance with the terms of the charter, or in-kind distributions in which (i) the board of directors advises each stockholder of the risks associated with direct ownership of the property, (ii) the board of directors offers each stockholder the election of receiving such in-kind distributions, and (iii) in-kind distributions are made only to those stockholders that accept such offer.

FORMATION TRANSACTION

On December 12, 2011, the Hines Investor and an unaffiliated investor acquired in a private placement 1,111,111 units of membership interest (comprising 100% of the membership interests) in HMS Income LLC at a price of $9.00 per unit (based on our $10.00 per share initial offering price less the 10% sales load not incurred) for an aggregate purchase price of $10 million, $7.5 million of which was contributed by the Hines Investor and the remaining $2.5 million of which was contributed by the unaffiliated investor. The assets in the initial portfolio were purchased at the proportional face amount or par value for customized lower middle market securities and at Main Street's amortized cost for over-the-counter debt securities, which the parties agreed reasonably represented the fair value of the assets at the time of the transaction.

HMS Income LLC and HMS Income Fund, Inc. have agreed that immediately prior to the date of this prospectus and our election to be treated as a business development company, we will complete a merger whereby HMS Income LLC will be merged with and into HMS Income Fund, Inc. and HMS Income Fund, Inc. will be the surviving entity. The agreement and plan of merger provides that, within 48 hours prior to the consummation of the merger, the Company's board of directors will determine the net asset value of HMS Income LLC. The merger agreement further provides that the units of membership interest in HMS Income LLC will be converted by means of the merger into that number of shares of our common stock determined by dividing the net asset value of HMS Income LLC (as determined by the Company's board of directors) by $9.00 (based on the $10.00 per share initial offering price of our common stock less the $1.00 combined selling commission and dealer manager fee).

The entity issuing and selling shares of common stock to investors in this offering is HMS Income Fund, Inc.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS AND THE COMPANY'S EXPECTED OPERATING PLANS

The information in this section contains forward-looking statements that involve risks and uncertainties. Please see "Risk Factors" and "Special Note Regarding Forward-Looking Statements" for a discussion of the uncertainties, risks and assumptions associated with these statements. You should read the following discussion in conjunction with the financial statements and related notes and other financial information appearing elsewhere in this prospectus.

Overview

We are a Maryland corporation incorporated on November 28, 2011. We are a newly organized specialty finance company formed to make debt and equity investments in middle market companies. Upon commencement of this offering, we will be an externally managed, non-diversified closed-end investment company that intends to elect to be treated as a business development company, or BDC, under the Investment Company Act of 1940, or the 1940 Act, and that intends to elect to be treated for U.S. federal income tax purposes, and to qualify annually thereafter, as a RIC under the Code.

Our primary investment objective is to generate current income through debt and equity investments. A secondary objective is to generate long-term capital appreciation through such investments. We anticipate that during our offering period we will invest a majority of the net proceeds from the offering in senior secured and second lien debt securities, issued by middle market companies in private placements and negotiated transactions, which are traded in private over-the-counter markets for institutional investors. In this prospectus, we collectively refer to these securities as over-the-counter debt securities. We define middle market companies as those with annual revenues generally between $10 million and $3 billion that operate in diverse industries.

As we increase our capital base during our offering period, we will continue investing in, and ultimately intend to have a significant portion of our assets invested in, customized direct secured and unsecured loans to and equity securities of lower middle market companies, which we define as those companies with annual revenues generally between $10 million and $150 million. In this prospectus we refer to these securities as customized lower middle market securities. In most cases, companies that issue customized lower middle market securities to us will be privately held at the time we invest in them. While the structure of our investments in customized lower middle market securities is likely to vary, we may invest in senior secured debt, senior unsecured debt, subordinated secured debt, subordinated unsecured debt, mezzanine debt, convertible debt, convertible preferred equity, preferred equity, common equity, warrants and other instruments, many of which generate current yields. We will make other investments as allowed by the 1940 Act and consistent with our continued qualification as a RIC. For a discussion of the risks inherent in our portfolio investments, see "Risk Factors — Risks Relating to Our Business and Structure."

Our investments may include other equity investments, such as warrants, options to buy a minority interest in a portfolio company, or contractual payment rights or rights to receive a proportional interest in the operating cash flow or net income of such company. When determined by our Advisers to be in our best interest, we may acquire a controlling interest in a portfolio company. Any warrants we receive with our debt securities may require only a nominal cost to exercise, and thus, as a portfolio company appreciates in value, we may achieve additional investment return from this equity interest. We intend to structure such warrants to include provisions protecting our rights as a minority-interest or, if applicable, controlling-interest holder, as well as puts, or rights to sell such securities back to the company upon the occurrence of specified events. In addition, we may obtain demand or "piggyback" registration rights in connection with these equity interests.

We plan to hold many of our investments to maturity or repayment but will sell our investments earlier if a liquidity event takes place, such as the sale or recapitalization of a portfolio company, or if we determine a sale of one or more of our investments to be in our best interest.

Characteristics of and Risks Related to Investments in Private Companies

A core component of our strategy ultimately will be to invest in the debt and equity securities of middle market, predominately privately held companies. Investments in private companies pose certain incremental risks as compared to investments in public companies. First, private companies have reduced access to the capital markets, resulting in diminished capital resources and ability to withstand financial distress. Second, the investments themselves may often be illiquid. As such, we may have difficulty exiting an investment promptly or at a desired price prior to maturity or outside of a normal amortization schedule. In addition, less public information generally exists about private companies. Finally, these companies may often not have third-party debt ratings or audited financial statements. We must therefore rely on the ability of our Advisers to obtain adequate information through their due diligence efforts to evaluate the creditworthiness of and risks involved in investing in these companies. These companies and their financial information will also generally not be subject to the Sarbanes-Oxley Act and other rules that govern public companies that are designed to protect investors.

Operating and Regulatory Structure

Our investment activities will be co-managed by our Adviser and Sub-Adviser and supervised by our board of directors, a majority of whom are independent. Under our Investment Advisory Agreement, we will pay our Adviser a quarterly management fee based on our gross assets as well as incentive fees based on our performance. Under the terms of the Investment Advisory Agreement, our Adviser will oversee the management of our activities and will have responsibility for making investment decisions with respect to and providing day-to-day management and administration of our investment portfolio. Our Adviser has engaged the Sub-Adviser to act as the Sub-Adviser to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by our Adviser, monitor our investment portfolio and provide certain ongoing administrative services to the Adviser. Pursuant to the Sub-Advisory Agreement, the Sub-Adviser will receive 50% of all fees payable to our Adviser under the Investment Advisory Agreement. See “Investment Advisory and Administrative Services Agreement.”

At this time, we anticipate that our Advisers will provide the Administrative Services to us as part of the Investment Advisory Agreement and Sub-Advisory Agreement. In the future, however, we may decide to enter into a separate administration agreement with affiliates of the Advisers or with a third party administrator, pursuant to which we will reimburse the administrator for administrative expenses it incurs on our behalf. See “Administrative Services.”

Revenues

In the future, we plan to generate revenue in the form of dividends or interest payable on the debt securities that we hold and capital gains, if any, on convertible debt or other equity interests that we acquire in portfolio companies. In addition, we may generate revenue in the form of commitment, origination, structuring or diligence fees, monitoring fees, and possibly consulting fees and performance-based fees. Any such fees will be generated in connection with our investments and recognized as earned or as additional yield over the life of the debt investment.

Expenses

In the future, our primary operating expenses will be the payment of administrative expenses and payment of advisory fees under the Investment Advisory Agreement. The investment advisory fees paid to our Adviser (and the fees paid by our Adviser to our Sub-Adviser pursuant to the Sub-Advisory Agreement) will compensate our Advisers for their work in identifying, evaluating, negotiating, executing, monitoring and servicing our investments.

We will bear all other expenses of our operations and transactions, including (without limitation) fees and expenses relating to:

- corporate and organizational expenses relating to offerings of our common stock, subject to limitations included in the Investment Advisory Agreement;

- the cost of calculating our net asset value, including the cost of any third-party valuation services;
- the cost of effecting sales and repurchase of shares of our common stock and other securities;
- fees payable to third parties relating to, or associated with, monitoring our financial and legal affairs, making investments, and valuing investments, including fees and expenses associated with performing due diligence reviews of prospective investments;
- interest payable on debt, if any, incurred to finance our investments;
- investment advisory fees;
- transfer agent and custodial fees;
- fees and expenses associated with marketing efforts;
- federal and state registration fees;
- federal, state and local taxes;
- independent directors' fees and expenses, including travel expenses;
- costs of director and shareholder meetings, proxy statements, stockholders' reports and notices;
- cost of fidelity bond, directors and officers/errors and omissions liability insurance and other insurance premiums;
- direct costs such as printing of shareholder reports and advertising or sales materials, mailing, long distance telephone, and staff;
- fees and expenses associated with independent audits and outside legal costs, including compliance with the Sarbanes-Oxley Act, the 1940 Act, and applicable federal and state securities laws;
- costs associated with our reporting and compliance obligations under the 1940 Act and applicable federal and state securities laws;
- brokerage commissions for our investments;
- all other expenses incurred by our Advisers, in performing their obligations subject to the limitations included in the Investment Advisory Agreement and Sub-Advisory Agreement; and
- all other expenses incurred by us or any administrator in connection with administering our business, including payments under any administration agreement that will be based upon our allocable portion of overhead and other expenses incurred by any administrator in performing its obligations under any proposed administration agreement, including rent and our allocable portion of the costs of compensation and related expenses of our chief compliance officer and chief financial officer and their respective staffs.

We have had a limited operating history and, therefore, this statement concerning additional expenses is necessarily an estimate and may not match our actual results of operations in the future.

Management and Incentive Fee Waiver

Subject to a conditional fee waiver agreement, our Advisers have agreed to waive management and incentive fees for up to twelve months from the commencement of the offering to the extent required to avoid distributions that are estimated to represent a return of capital for U.S. federal income tax purposes during such period. In certain circumstances, we may determine that it is appropriate to reimburse the Advisers for fees waived under the conditional fee waiver agreement, as more fully described in the same. This management and incentive fee waiver arrangement is intended to support the reasonable alignment of our expenses with our income during the initial phase of our operations.

Financial Condition, Liquidity and Capital Resources

On December 12, 2011, the Hines Investor and an unaffiliated investor purchased 1,111,111 units of membership interest in HMS Income LLC for a price of $9.00 per unit (based on our $10.00 per share initial offering price less the 10% sales load not incurred) or an aggregate of $10 million. Simultaneous with that initial capitalization, HMS Income LLC entered into a senior secured single advance term loan credit facility with Main Street in the committed principal amount of $7.5 million, which loan has subsequently been repaid with borrowings from a credit facility the Company entered into on May 24, 2012. See below for further discussion regarding this credit facility. On December 12, 2011, HMS Income LLC fully drew the entire committed principal amount under the Main Street Facility and acquired from Main Street approximately $16.5 million of investments utilizing its initial equity investment and proceeds from the Main Street Facility. In the BDC Formation, we will acquire the initial portfolio through either a merger or interest exchange, in which the holders of membership interests of HMS Income LLC will receive the number of shares of our common stock determined by dividing the net asset value of HMS Income LLC, as determined by the board of directors of HMS Income Fund, Inc. within 48 hours prior to the merger, by $9.00 (based on the $10.00 per share initial offering price of our common stock less the $1.00 combined selling commissions and dealer manager fee). As of the date of this prospectus, we had $ of uninvested cash.

In the future, we will generate cash primarily from the net proceeds of this offering, and from cash flows from fees, interest and dividends earned from our investments and principal repayments and proceeds from sales of our investments. Our primary use of funds will be investments in portfolio companies, payments of our expenses and distributions to holders of our common stock. Subsequent to holding our initial closing, we will offer our shares on a continuous basis at an initial offering price of $10.00; however, to the extent our net asset value per share increases after commencement of the offering, we will sell our shares at a higher price as necessary to ensure that shares are not sold at a price per share, after deduction of selling commissions and dealer manager fees, that is below our net asset value per share. In the event of a material decline in our net asset value per share, which we consider to be a non-temporary 5% decrease below our then-current net offering price, and subject to certain conditions, we will reduce our offering price accordingly. In connection with each closing on the sale of shares of our common stock pursuant to this prospectus, our board of directors or a committee thereof is required to make the determination within 48 hours of the time that we price our shares for sale that we are not selling shares of our common stock at a price, after deduction of selling commissions and dealer manager fees, below our then current net asset value per share. Prior to each closing, to the extent required to disclose material information, including changes in the offering price per share, to prospective investors, we will update the information contained in this prospectus by filing a prospectus supplement with the SEC, and we will also post any updated information to our website.

As of May 31, 2012, we had $7 million in borrowings outstanding pursuant to a $15 million senior secured revolving credit facility with Capital One. The outstanding principal amount on this loan bears interest, which is payable monthly, at either the Base Rate plus 1.50% or LIBOR plus 2.75%, subject to our election. The Base Rate is equal to the greater of: a) the Prime Rate or b) Federal Funds Rate plus .50%. The loan matures on May 23, 2015. The loan agreement with Capital One contains affirmative and negative covenants usual and customary for leveraged financings, including covenants to provide information to Capital One on a regular basis, preserve our corporate existence, comply with applicable laws, including the 1940 Act, pay our obligations

when they become due, and invest the proceeds of this offering in accordance with the strategies and procedures described in this prospectus. Additionally, the loan agreement contains usual and customary default provisions including, without limitation: (i) a default in the payment of interest and principal; (ii) insolvency or bankruptcy of the borrower; (iii) a material adverse change in our business; or (iv) breach of any covenant, representation or warranty in the loan agreement or other credit documents and failure to cure such breach within defined periods.

In the future, we may borrow additional funds to make investments, including before we have fully invested the proceeds of this offering, to the extent we determine that additional capital would allow us to take advantage of additional investment opportunities, if the market for debt financing presents attractively priced debt financing opportunities, or if our board of directors determines that leveraging our portfolio would be in our best interests and the best interests of our stockholders. We have not, however, decided whether, and to what extent, we will finance portfolio investments using debt or the specific form that any such financing would take. Accordingly, we cannot predict with certainty what terms any such financing would have or the costs we would incur in connection with any such arrangement. We currently do not anticipate issuing any preferred stock.

As a business development company, we generally are required to meet a coverage ratio of total assets to total borrowings and other senior securities, which include all of our borrowings and any preferred stock that we may issue in the future, of at least 200%. If this ratio declines below 200%, we cannot incur additional debt and could be required to sell a portion of our investments to repay some debt when it is disadvantageous to do so. For more information regarding the risks related to our use of leverage, see "Risk Factors — Risks Relating to Business Development Companies — *Regulations governing our operation as a BDC and RIC will affect our ability to raise, and the way in which we raise, additional capital or borrow for investment purposes, which may have a negative effect on our growth*" and "Risk Factors — Risks Relating to Debt Financing — *If we borrow money, the potential for gain or loss on amounts invested in us will be magnified and may increase the risk of investing in us."*

Distribution Policy

We intend to declare distributions quarterly and pay distributions on a monthly basis beginning no later than the first full calendar month after the month in which we hold our initial closing. Subject to the board of directors' discretion and applicable legal restrictions, our board of directors intends to authorize us to declare a quarterly distribution amount per share of our common stock. We will then calculate each stockholder's specific distribution amount for the month using daily record dates, and your distributions will begin to accrue at the daily distribution rate on the date we accept your subscription for shares of our common stock. From time to time, we may also pay interim distributions at the discretion of our board. Each year a statement on IRS Form 1099-DIV (or successor form) identifying the source of the distribution (i.e., paid from ordinary income, paid from net capital gain on the sale of securities, and/or a return of paid-in capital surplus which is a nontaxable distribution) will be mailed to our stockholders. Our distributions may exceed our earnings, especially during the period before we have substantially invested the proceeds from this offering. As a result, a portion of the distributions we make may represent a return of capital for U.S. federal income tax purposes. Stockholders will not recognize tax on a distribution consisting of a return of capital, however, the tax basis of shares must be reduced by the amount of any return of capital distributions. Any return of capital will result in an increase in the amount of any taxable gain (or a reduction in any deductible loss) on a subsequent disposition of such shares. Our Advisers have agreed to waive management and incentive fees for up to twelve months from the commencement of the offering to the extent required to avoid distributions that are estimated to represent a return of capital for U.S. federal income tax purposes during such period.

We intend to elect to be treated, and intend to qualify annually thereafter, as a RIC under Subchapter M of the Code. To obtain and maintain RIC tax treatment, we must, among other things, distribute at least 90% of our ordinary income and net short-term capital gain in excess of net long-term capital loss, if any. In order to avoid certain excise taxes imposed on RICs, we currently intend to distribute, or be deemed to distribute, during each calendar year an amount at least equal to the sum of (1) 98.0% of our ordinary income for the calendar year,

(2) 98.2% of our capital gain in excess of capital loss for the one-year period ending on October 31 of the calendar year (or, if we so elect, for the calendar year) and (3) any ordinary income and net capital gain for preceding years that were not distributed during such years and on which we paid no U.S. federal income tax.

We have adopted an "opt in" distribution reinvestment plan for our common stockholders. As a result, if we make a distribution, the stockholders who have chosen to "opt in" to the distribution reinvestment plan will have their cash distributions reinvested in additional shares of our common stock. See "Distribution Reinvestment Plan." Any distributions reinvested under the plan will nevertheless remain taxable to the same extent as a cash distribution. If you hold shares in the name of a broker or financial intermediary, you should contact the broker or financial intermediary regarding your election to receive distributions in additional shares of our common stock.

Critical Accounting Policies

This discussion of our expected operating plans is based upon our expected financial statements, which will be prepared in accordance with accounting principles generally accepted in the U.S. The preparation of these financial statements will require management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses. Changes in the economic environment, financial markets and any other parameters used in determining such estimates could cause actual results to differ. In addition to the discussion below, we will describe our critical accounting policies in the notes to our future financial statements.

Valuation of Portfolio Investments

Our board of directors has established procedures for the valuation of our investment portfolio. These procedures are detailed below.

Investments for which market quotations are readily available will be valued at such market quotations.

With respect to investments for which market quotations are not readily available or when such market quotations are deemed not to represent fair value, our board of directors has approved a multi-step valuation process each quarter, as described below:

1. Each portfolio company or investment will initially be valued by our Advisers, potentially with assistance from one or more independent valuation firms engaged by our Advisers;

2. the independent valuation firm, if involved, will conduct independent reviews and make an independent assessment of the value of each investment;

3. the audit committee of our board of directors will review and discuss the preliminary valuation provided by our Advisers and that of the independent valuation firm, if any; and

4. the board of directors will discuss the valuations and determine the fair value of each investment in our portfolio in good faith based on the input of our Advisers, the independent valuation firm, if any, and the audit committee.

Investments will be valued utilizing a market approach, an income approach, or both approaches, as appropriate. The market approach uses prices and other relevant information generated by market transactions involving identical or comparable assets or liabilities (including a business). The income approach uses valuation techniques to convert future amounts (for example, cash flows or earnings) to a single present value amount (discounted) calculated based on an appropriate discount rate. The measurement is based on the net present value indicated by current market expectations about those future amounts. In following these approaches, the types of factors that we may take into account in fair value pricing our investments include, as relevant: available current market data, including relevant and applicable market trading and transaction comparables, applicable market yields and multiples, security covenants, call protection provisions, information rights, the nature and realizable value of any collateral, the portfolio company's ability to make payments, its earnings and discounted cash flows,

the markets in which the portfolio company does business, comparisons of financial ratios of peer companies that are public, M&A comparables, the principal market and enterprise values, among other factors.

We have adopted Financial Accounting Standards Board, or FASB, Accounting Standards Codification 820, *Fair Value Measurements and Disclosures*, or ASC 820, which defines fair value, establishes a framework for measuring fair value in accordance with generally accepted accounting principles and expands disclosures about fair value measurements.

ASC 820 clarifies that the exchange price is the price in an orderly transaction between market participants to sell an asset or transfer a liability in the market in which the reporting entity would transact for the asset or liability, that is, the principal or most advantageous market for the asset or liability. The transaction to sell the asset or transfer the liability is a hypothetical transaction at the measurement date, considered from the perspective of a market participant that holds the asset or owes the liability. ASC 820 provides a consistent definition of fair value which focuses on exit price and prioritizes, within a measurement of fair value, the use of market-based inputs over entity-specific inputs. In addition, ASC 820 provides a framework for measuring fair value and establishes a three-level hierarchy for fair value measurements based upon the transparency of inputs to the valuation of an asset or liability as of the measurement date. The three levels of valuation hierarchy established by ASC 820 are defined as follows:

Level 1: Quoted prices in active markets for identical assets or liabilities, accessible by the Company at the measurement date.

Level 2: Quoted prices for similar assets or liabilities in active markets, or quoted prices for identical or similar assets or liabilities in markets that are not active, or other observable inputs other than quoted prices.

Level 3: Unobservable inputs for the asset or liability.

In all cases, the level in the fair value hierarchy within which the fair value measurement in its entirety falls has been determined based on the lowest level of input that is significant to the fair value measurement.

Our assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to each investment.

In accordance with ASC 820, the fair value of our investments is defined as the price that we would receive upon selling an investment in an orderly transaction to an independent buyer in the principal or most advantageous market in which that investment is transacted.

Revenue Recognition

Interest and Dividend Income

We record interest and dividend income on the accrual basis to the extent amounts are expected to be collected. Dividend income is recorded as dividends are declared or at the point an obligation exists for the portfolio company to make a distribution. In accordance with our valuation policy, we evaluate accrued interest and dividend income periodically for collectability. When a loan or debt security becomes 90 days or more past due, and if we otherwise do not expect the debtor to be able to service all of its debt or other obligations, we will generally place the loan or debt security on non-accrual status and cease recognizing interest income on that loan or debt security until the borrower has demonstrated the ability and intent to pay contractual amounts due. If a loan or debt security's status significantly improves regarding the debtor's ability to service the debt or other obligations, or if a loan or debt security is fully impaired, sold or written off, we will remove it from non-accrual status.

Fee Income

We may periodically provide services, including structuring and advisory services, to our portfolio companies. For services that are separately identifiable and evidence exists to substantiate fair value, income is recognized as earned, which is generally when the investment or other applicable transaction closes. Fees received in connection with debt financing transactions for services that do not meet these criteria are treated as debt origination fees and are accreted into interest income over the life of the financing.

Payment-in-Kind Interest and Cumulative Dividends

We expect to hold debt and preferred equity instruments in our investment portfolio that contain PIK interest and cumulative dividend provisions. The PIK interest, computed at the contractual rate specified in each debt agreement, is periodically added to the principal balance of the debt and is recorded as interest income. Thus, the actual collection of this interest may be deferred until the time of debt principal repayment. If the debt principal is not repaid in full, then PIK interest will likewise be partially or wholly uncollectible. If our Adviser has collected a fee on an investment that provides for PIK interest, and such investment fails, our Adviser would not be required to re-pay the fee that it received with respect to that investment. Cumulative dividends are recorded as dividend income, and any dividends in arrears are added to the balance of the preferred equity investment. The actual collection of dividends in arrears may be deferred until such time as the preferred equity is redeemed. To maintain RIC tax treatment (see, "Material U.S. Federal Income Tax Considerations — Taxation as a RIC"), these non-cash sources of income may need to be paid out to stockholders in the form of distributions, even though we may not have collected the PIK interest and cumulative dividends in cash. We will stop accruing PIK interest and cumulative dividends and will write off any accrued and uncollected interest and dividends in arrears when it is determined that such PIK interest and dividends in arrears are no longer collectible.

Organizational and Offering Costs

We will reimburse the Advisers for any organizational and offering costs that they pay on our behalf, including reimbursement for any bona fide out-of-pocket, itemized and detailed due diligence expenses not reimbursed from amounts paid or reallowed as a marketing contribution provided that they do not exceed 1.5% of gross proceeds from the offering of our common stock during our offering period. Organizational costs, such as expenses associated with our formation and the formation of our board of directors will be expensed as incurred, and offering costs will be recorded as an offset to additional paid-in capital. Organizational and offering costs in excess of 1.5% of gross proceeds will not be recorded in our financial statements since we are not obligated for their reimbursement.

Taxation

We intend to elect to be treated for U.S. federal income tax purposes, and intend to qualify annually thereafter, as a RIC under Subchapter M of the Code. As a RIC, we generally will not have to pay corporate-level U.S. federal income taxes on any ordinary income or capital gain that we distribute to our stockholders from our taxable earnings and profits. Even if we qualify as a RIC, we generally will be subject to corporate-level U.S. federal income tax on our undistributed taxable income and could be subject to U.S. federal excise, state, local and foreign taxes. To obtain and maintain our RIC tax treatment, we must meet specified source-of-income and asset diversification requirements and distribute annually at least 90% of our ordinary income and net short-term capital gain in excess of net long-term capital loss, if any. Depending on the level of taxable income earned in a tax year, we may choose to carry forward taxable income in excess of current year distributions into the next tax year and pay a 4% excise tax on such income. Any such carryover taxable income must be distributed through a dividend declared prior to filing the final tax return related to the year which generated such taxable income. See "Material U.S. Federal Income Tax Considerations."

Contractual Obligations

We will enter into the Investment Advisory Agreement, pursuant to which we will have material future commitments. Payments to our Adviser for investment advisory services under the Investment Advisory Agreement in future periods will be equal to (a) a management fee calculated at an annual rate of 2.0% of the

value of our gross assets and (b) an incentive fee based on our performance. Additionally, our Adviser will enter into the Sub-Advisory Agreement with the Sub-Adviser. For more information, see "Investment Advisory and Administrative Services Agreement."

At this time, we anticipate that our Advisers will provide the Administrative Services to us under the Investment Advisory Agreement and Sub-Advisory Agreement. We will reimburse the Advisers for the actual cost of Administrative Services they provide. We will reimburse the actual expenses incurred by our Advisers or their affiliates, or any third-party administrator in connection with the provision of Administrative Services to us, including the personnel and related employment direct costs and overhead of our Advisers or their affiliates, or any third-party administrator for provision of Administrative Services (as opposed to investment advisory services). We will not reimburse for personnel costs in connection with services for which our Advisers or their affiliates, or any third-party administrator receives a separate fee. See "Administrative Services."

If either of the Investment Advisory Agreement or the Sub-Advisory Agreement is terminated, our costs may increase under any new agreement that we, or the Sub-Adviser, enter into as a replacement. We would also likely incur expenses in locating alternative parties to provide the services we expect to receive under the Investment Advisory Agreement, the Sub-Advisory Agreement, or any administration agreement we may enter into in the future. Any new investment advisory or sub-advisory agreement would also be subject to approval by our stockholders.

Off-Balance Sheet Arrangements

We currently have no off-balance sheet arrangements, including any risk management of commodity pricing or other hedging practices.

Recently Issued Accounting Pronouncements

We intend to adopt all authoritative accounting standards relevant to the Company's financial statements, except for recently issued pronouncements that are not required to be adopted until dates subsequent to March 31, 2012.

Quantitative and Qualitative Disclosures About Market Risk

We are subject to financial market risks, including changes in interest rates. To the extent that we borrow money to make investments, our net investment income will be dependent upon the difference between the rate at which we borrow funds and the rate at which we invest these funds. As a result, we would be subject to risks relating to changes in market interest rates. In periods of rising interest rates when we have debt outstanding, our cost of funds would increase, which could reduce our net investment income, especially to the extent we hold fixed rate debt investments or floating rate debt investments, to the extent of the contractual floor rate.

A rise in the general level of interest rates can be expected to lead to higher interest rates applicable to our debt investments, especially to the extent that we hold variable rate investments, and to declines in the value of any fixed rate investments we hold. To the extent that a majority of our investments may be in variable rate investments, an increase in interest rates could make it easier for us to meet or exceed our incentive fee preferred return, as defined in the Investment Advisory Agreement, and may result in a substantial increase in our net investment income, and also to the amount of incentive fees payable to the Adviser with respect to our increasing pre-incentive fee net investment income.

In addition, any investments we make that are denominated in a foreign currency will be subject to risks associated with changes in currency exchange rates. These risks include the possibility of significant fluctuations in the foreign currency markets, the imposition or modification of foreign exchange controls and potential illiquidity in the secondary market. These risks will vary depending upon the currency or currencies involved.

We may hedge against interest rate and currency exchange rate fluctuations by using standard hedging instruments such as futures, options and forward contracts subject to the requirements of the 1940 Act. While hedging activities may insulate us against adverse changes in interest rates, they may also limit our ability to participate in benefits of lower interest rates with respect to our portfolio of investments with fixed interest rates.

WHAT YOU SHOULD EXPECT WHEN INVESTING IN A BDC

Overview

A BDC is a category of investment company, regulated under the 1940 Act, created by legislation in 1980 designed to promote investment in small businesses. Congress authorized investment companies to elect BDC status in order to facilitate the flow of capital to private companies and smaller public companies that do not have access to public capital markets or other conventional forms of financing. The 1940 Act provides a body of regulation for investment companies whose shares are offered to the public. BDCs are subject to regulatory requirements under the 1940 Act that are designed to facilitate their investment in the types of companies whose need to raise capital was the impetus behind Congress' action in adding the BDC as a category of investment company.

Most BDCs are operated so as to qualify as a RIC for U.S. federal income tax purposes because a RIC generally is not subject to corporate-level U.S. federal income tax on any of its income and gain that it distributes to its stockholders so long as it distributes at least 90% of its "investment company taxable income" to its stockholders in a timely manner and satisfies the other RIC qualification requirements.

We believe that the BDC industry should continue to experience growth principally because BDCs provide the following benefits to individual investors:

- Access to investments that have historically been accessible outside the BDC model only by high-net-worth and institutional investors, such as pension funds and endowments, primarily due to high minimum investment requirements and necessary specialized investment expertise;
- Investments managed by professionals with specialized expertise and experience necessary to fully understand and evaluate investment opportunities and manage investment holdings;
- Potential to reduce risk by diversifying an individual's investment over a portfolio of assets without requiring a large investment; and
- Investor protection under the 1940 Act, a substantive regulatory and disclosure regime designed to, among other things, limit opportunities for overreaching by affiliates.

Transaction Types

The companies in which BDCs typically invest require capital for a number of different purposes, including management buyouts, leveraged buyouts, recapitalizations and growth and acquisition financing.

- *Management Buyouts*. Management buyouts often occur when business owners, often for estate planning reasons, seek to transition out of an investment, while existing management believes that the potential for significant value creation remains in the company. In such transactions, company management will often seek a financial sponsor to aid in the purchase of its company through a combination of equity and debt.
- *Leveraged Buyouts.* Leveraged buyouts occur when financial investors such as private equity firms purchase companies with balance sheets and cash flows that can sustain additional leverage, which amplifies the potential for an equity holder's gain. This leverage can include several layers, including senior secured, second lien and mezzanine debt.
- *Recapitalizations*. Recapitalizations occur when firms can benefit by changing their capital structures to enhance equity returns and/or allow existing investors to realize value through a significant, one-time distribution. In some instances, firms may be able to support additional debt due to growth in profitability and in other cases may seek external investment to partially or fully replace existing investors. Recapitalizations are also a key means of exit for institutional investors which are required to return capital at the end of their funds' lives.

- *Growth and Acquisition Financings.* Growth and acquisition financings occur when private firms need capital to fund growth opportunities. Private firms represent a significant portion of the growth segment of the U.S. economy and these firms often do not have adequate internally generated cash flow to fund growth organically or through acquisitions. These firms usually seek capital from external sources, including banks, private equity firms and venture capital firms.

Investment Types

Investments by BDCs may take a number of different forms, depending on the portfolio company's needs and capital structure. Typically investors determine the appropriate type of investment based upon their risk and return requirements. Senior debt is situated at the top of the capital structure, and typically has the first claim on some or all of the assets and cash flows of the company, followed by second lien debt, mezzanine debt, preferred equity and finally common equity. Due to this priority of cash flows and claims on assets, an investment's risk increases as it moves further down the capital structure. Investors are usually compensated for this risk associated with junior status in the form of higher returns, either through higher interest payments or potentially higher capital appreciation. We intend to focus primarily on investments in debt securities, including senior secured loans, second lien loans and mezzanine loans, as well as equity investments. Pursuant to the North American Securities Administrators Association, or NASAA, Omnibus Guidelines, we may not acquire interests in any portfolio companies or other assets in exchange for our common stock or any other ownership interest in the Company.

INVESTMENT OBJECTIVE AND STRATEGIES

Our Company

We are a newly organized specialty finance company incorporated in Maryland on November 28, 2011. Upon the commencement of this offering, we will be an externally managed, non-diversified, closed-end management investment company that intends to file an election to be treated as a business development company under the 1940 Act. We are managed by HMS Adviser, a recently formed private investment firm that is registered as an investment adviser under the Advisers Act. Our Adviser will oversee the management of our activities and will have responsibility for making investment decisions with respect to and providing day-to-day management and administration of our investment portfolio. Our Adviser is controlled by Hines. Our Adviser has engaged a wholly owned subsidiary of Main Street, a New York Stock Exchange-listed BDC and a registered investment adviser under the Advisers Act, to act as our Sub-Adviser to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by our Adviser, monitor our investment portfolio and provide certain ongoing administrative services to our Adviser.

Our primary investment objective is to generate current income through debt and equity investments. A secondary objective is to generate long-term capital appreciation through such investments. We anticipate that during our offering period we will invest a majority of the net proceeds from the offering in senior secured and second lien debt securities, issued by middle market companies in private placements and negotiated transactions, which are traded in private over-the-counter markets for institutional investors. In this prospectus, we collectively refer to these securities as over-the-counter debt securities. We define middle market companies as those with annual revenues generally between $10 million and $3 billion that operate in diverse industries.

As we increase our capital base during our offering period, we will continue investing in, and ultimately intend to have a significant portion of our assets invested in, customized direct secured and unsecured loans to and equity securities of lower middle market companies. In this prospectus we refer to these securities as customized lower middle market securities. In most cases, companies that issue customized lower middle market securities to us will be privately held at the time we invest in them. While the structure of our investments in customized lower middle market securities is likely to vary, we may invest in senior secured debt, senior unsecured debt, subordinated secured debt, subordinated unsecured debt, mezzanine debt, convertible debt, convertible preferred equity, preferred equity, common equity, warrants and other instruments, many of which generate current yields. We will make other investments as allowed by the 1940 Act and consistent with our continued qualification as a RIC. For a discussion of the risks inherent in our portfolio investments, see “Risk Factors — Risks Relating to Our Business and Structure.”

Our investments may include other equity investments, such as warrants, options to buy a minority interest in a portfolio company, or contractual payment rights or rights to receive a proportional interest in the operating cash flow or net income of such company. When determined by our Advisers to be in our best interest, we may acquire a controlling interest in a portfolio company. Any warrants we receive with our debt securities may require only a nominal cost to exercise, and thus, as a portfolio company appreciates in value, we may achieve additional investment return from this equity interest. We intend to structure such warrants to include provisions protecting our rights as a minority-interest or, if applicable, controlling-interest holder, as well as puts, or rights to sell such securities back to the company upon the occurrence of specified events. In addition, we may obtain demand or “piggyback” registration rights in connection with these equity interests.

We plan to hold many of our investments to maturity or repayment, but will sell our investments earlier if a liquidity event takes place, such as the sale or recapitalization of a portfolio company, or if we determine a sale of one or more of our investments to be in our best interest. Although we cannot accurately predict our annual portfolio turnover rate, it is not expected to exceed 20% under normal circumstances. However, we do not consider our portfolio turnover rate to be a limiting factor in the execution of investment decisions for us.

As a BDC, we are subject to certain regulatory restrictions in making our investments. For example, we will not be permitted to co-invest with our Advisers or their affiliates in certain transactions originated by our

Advisers or their affiliates unless we obtain an exemptive order from the SEC. We have applied for such an exemptive order, although, there can be no assurance that we will obtain such relief.

If granted, the exemptive relief would allow us, and/or any future entity that is managed, advised or controlled by us or the Adviser on one hand, and Main Street and/or any future entity that is managed, advised or controlled by Main Street on the other hand, to co-invest in the same investment opportunities where such investment would otherwise be prohibited under Section 57(a)(4) of the 1940 Act. If the application for exemptive relief is granted, each co-investment transaction would be allocated between us and the Main Street entities based upon an agreed upon allocation. This relative allocation would be approved at the onset of each quarter or, as necessary or appropriate, between quarters by a required majority of the independent directors eligible of both the Company and Main Street to vote under Section 57(o) of the 1940 Act. The allocations could be adjusted by the approval of a required majority of the independent directors of both the Company and Main Street for any reason, including, among other things, in the case of a specific investment, if our or Main Street's participation at a certain level could cause either one of us to fail to meet the diversification or other requirements necessary for either one of us to qualify as a RIC under the Code. Unless adjusted in the manner described above, once agreed upon, the relative allocation plan would apply prospectively for the following quarter. Additional information regarding the operation of the co-investment program is set forth in the application for exemptive relief, which has been filed with the SEC.

Prior to obtaining exemptive relief, we intend to co-invest alongside our Sub-Adviser and/or its affiliates only in accordance with existing regulatory guidance. For example, at any time, we may co-invest in syndicated deals and secondary loan market transactions where price is the only negotiated point. While we desire to receive exemptive relief from the SEC, given the latitude permitted within existing regulatory guidance and our current universe of investment opportunities, we do not feel that the absence of exemptive relief materially affects our ability to achieve our investment objective.

To enhance our opportunity for gain, we intend to employ leverage as market conditions permit and at the discretion of our Adviser, but in no event will leverage employed exceed 50% of the value of our assets, as required by the 1940 Act.

Our Investment Process

Pursuant to the Investment Advisory Agreement, HMS Adviser will oversee the management of our activities and will have responsibility for making investment decisions with respect to and providing day-to-day management and administration of our investment portfolio. Our Adviser has engaged the Sub-Adviser pursuant to the Sub-Advisory Agreement, to act as our Sub-Adviser to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by our Adviser, monitor our investment portfolio and provide certain ongoing administrative services to our Adviser. Collectively, we believe that the network of relationships between the Sub-Adviser's investment team and the middle market, including lower middle market, investment community, and HMS Adviser's senior management team and the business communities in which their affiliated REITs operate, will be key channels through which we will access significant investment opportunities.

We expect a substantial majority of our investment opportunities to be identified and originated by the Sub-Adviser. Each investment opportunity will first be evaluated by the Sub-Adviser for suitability for our portfolio, and the Sub-Adviser will perform or cause to be performed due diligence procedures, and provide to our Adviser due diligence information with respect to the investment. The Sub-Adviser will recommend investments to our Adviser, whose investment committee will independently evaluate the investment considering, among other things, the analysis, due diligence information and recommendation provided by the Sub-Adviser. In addition, the Sub-Adviser will monitor our investment portfolio on an ongoing basis and make recommendations regarding ongoing portfolio management. The Adviser will make all investment decisions for us except those decisions reserved for our Board.

As noted elsewhere in prospectus, we and Main Street have filed an order for exemptive relief allowing us to co-invest with Main Street pursuant to a specific co-investment program. Under the proposed co-investment program, each potential co-investment transaction would be allocated between the Company and Main Street based upon an agreed upon allocation approved each quarter or, as necessary or appropriate, between quarters by a required majority of the independent directors of both the Company and Main Street eligible to vote under Section 57(o) of the 1940 Act. The allocation could be adjusted by the approval of a required majority of the independent directors of both the Company and Main Street for any reason, including, among other things, in the case of a specific investment, if either the Company's or Main Street's participation at a certain level could cause the such company to fail to meet the diversification or other requirements necessary for it to qualify as a RIC under the Code.

Unless adjusted in the manner described above, once agreed upon, the relative allocation plan would apply prospectively for the following quarter. In determining the relative allocation plan, the eligible independent directors of the Company and Main Street would consider such factors as the Company's and Main Street's respective investment objective and strategies, all applicable investment restrictions and policies adopted by the board of directors of the Company and Main Street, our Sub-Adviser's recommendation to the Company with respect to the allocation of the Company's investment portfolio among various types of securities, the amount of capital each of the Company and Main Street has to invest, the composition of the Company's and Main Street's existing investment portfolios (including the diversification thereof), market conditions, regulatory, tax or legal considerations and other pertinent factors deemed relevant by the board of directors of the Company and Main Street. To the extent, for any reason, the required majority of each of the Company and Main Street could not agree as to the relative allocation plan at any time, no co-investment transactions between the Company and Main Street would be completed until such agreement was made. Under this co-investment program, neither the Company nor Main Street would deviate from its co-investment policies except as might be required by applicable law, which any such requirement we are not aware of at this time. No independent director of the Company or Main Street would have a direct or indirect financial interest in any co-investment transaction or any portfolio company other than through such independent director's interest (if any) in equity securities of either the Company or Main Street.

If the order for exemptive relief is granted, our Sub-Adviser would recommend all co-investments for the Company to our Adviser and, upon approval by our Adviser, our Adviser would execute the co-investment transaction on behalf of the Company in accordance with the relative allocation plan described above, or such other amount as determined by a required majority of the independent directors of both the Company and Main Street. If our Adviser were to reject a co-investment transaction recommended by the Sub-Adviser, or if a deviation from the agreed upon relative allocation plan did not receive the approval of a required majority of the independent directors of both the Company and Main Street, the Company would not participate in such co-investment transaction, but Main Street could consummate the proposed co-investment transaction to the fullest extent (including any proposed allocation to the Company). Further, if upon receiving a recommendation from our Sub-Adviser, our Adviser determined that the amount of such co-investment transaction allocated to the Company pursuant to the current relative allocation plan was not appropriate for such particular investment, our Adviser would be able to request that a deviation from the relative allocation plan be used, and such deviation would then be required to be approved by a required majority of the independent directors of each of the Company and Main Street.

Additionally, the directors of the Company and Main Street would review information on all investment activity on a quarterly basis to ensure that the relative allocation plan is being adhered to, and to give them the opportunity to re-evaluate the co-investment program and, to the extent they deem necessary or appropriate, to change the relative allocation plan.

About Our Adviser

Our Adviser, HMS Adviser, is a Texas limited partnership formed on April 13, 2012 that is registered as an investment adviser under the Advisers Act. Our Adviser has no operating history and no experience managing a

business development company. Our Adviser is wholly-owned by Hines. Hines is majority owned by Gerald D. Hines and Jeffrey C. Hines.

Hines has sponsored two publicly offered and non-traded REITs: Hines REIT and Hines Global REIT, which collectively have investments in aggregate gross real estate assets of approximately $9.0 billion. Messrs. Hazen and Sims, our Chief Executive Officer and Chief Financial officer, respectively, joined Hines in 1989 and 2003, respectively, and have substantial experience in acquisitions and dispositions, public company management and administration and finance and have served as executive officers and directors of companies in the REIT and real estate development industries. For more information on these principals, see "Management."

About Our Sub-Adviser

The Sub-Adviser is a wholly owned subsidiary of Main Street, a New York Stock Exchange-listed BDC primarily focused on providing customized debt and equity financing to lower middle market companies and debt capital to middle market companies. Main Street invests primarily in secured debt instruments, equity investments, warrants and other securities of lower middle market companies based in the United States and in secured debt instruments of middle market companies generally headquartered in the United States. Main Street's principal investment objective is to maximize its portfolio's total return by generating current income from debt investments and capital appreciation from equity and equity related investments, including warrants, convertible securities and other rights to acquire equity securities in a portfolio company. Main Street's lower middle market companies generally have annual revenues between $10 million and $150 million. Main Street's middle market investments are made in businesses that are generally larger in size than its lower middle market portfolio companies.

At March 31, 2012, Main Street had debt and equity investments with an aggregate fair value of $639.1 million in 115 portfolio companies, including investments in over-the-counter debt securities with an aggregate fair value of approximately $251.0 million in 62 separate issuers.

About Our Sponsor

Hines is our Sponsor. Hines is a fully integrated real estate investment and management firm which, with its predecessor, has been investing in real estate assets and providing acquisition, development, financing, property management, leasing and disposition services for over 50 years. The predecessor to Hines was founded by Gerald D. Hines in 1957 and Hines is currently owned by Gerald D. Hines and his son Jeffrey C. Hines. Hines' investment partners have primarily consisted of large domestic and foreign institutional investors and high net worth individuals. Hines has worked with notable architects such as Philip Johnson; Cesar Pelli; I. M. Pei; Skidmore, Owings and Merrill and Frank Gehry, in the history of its operations.

Hines is headquartered in Houston and currently has regional offices located in New York, Chicago, Atlanta, Houston, San Francisco, London, Mexico City, São Paulo, and Beijing. Each regional office operates as an independent business unit headed by an executive vice president who manages the day-to-day business of such region and participates in its financial results. All ten of these executive vice presidents have individual tenures of between 24 and 38 years, with an average tenure within the organization of 31 years. They serve on the Hines Executive Committee, which directs the strategy and management of Hines.

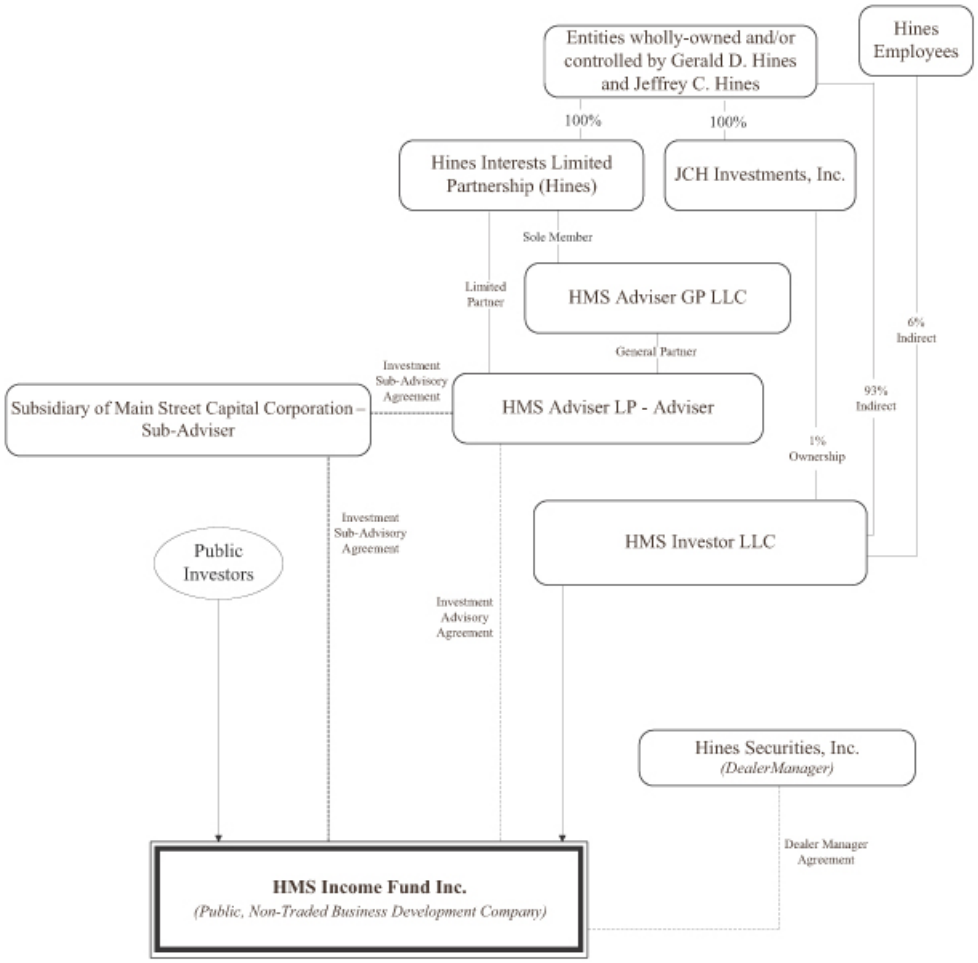
Hines' central resources are located in Houston and these resources support the acquisition, development, financing, property management, leasing and disposition activities of all of the Hines regional offices. Hines' central resources include employees with experience in capital markets and finance, accounting and audit, marketing, human resources, risk management, property management, leasing, asset management, project design and construction, operations and engineering. These resource groups are an important control point for maintaining performance standards and operating consistency for the entire firm.

From inception through December 31, 2011, Hines, its predecessor and their respective affiliates have acquired or developed 950 real estate projects representing more than 302 million square feet. These projects consisted of a variety of asset types including: office properties (69.4%), industrial properties (13.3%), retail and residential properties (10.6%), hospitality (2.5%) and a variety of other properties. In connection with these projects, Hines has employed many real estate investment strategies, including acquisitions, development, redevelopment and repositioning in the U.S. and internationally.

As of December 31, 2011, the portfolio of Hines and its affiliates consisted of over 210 projects valued at approximately $22.9 billion. This portfolio is owned by Hines, its affiliates and numerous third-party investors, including pension plans, domestic and foreign institutional investors, high net worth individuals and retail investors. Included in this portfolio are 214 properties managed by Hines, representing approximately 68.5 million square feet. In addition to managing properties in its own portfolio, Hines manages a portfolio of approximately 148 properties with about 66.8 million square feet owned by third parties in which Hines has no ownership interest. The total square feet Hines manages is approximately 135.3 million square feet located throughout the U.S. and internationally.

As required by the NASAA Omnibus Guidelines, our Sponsor has an aggregate net worth in excess of $15.8 million. No portion of such net worth will be available to us to satisfy any of our liabilities or other obligations.

The following chart shows the ownership structure and various entities affiliated with us, our Advisers and our Sponsor:



Market Opportunity

We believe the environment for investing in middle market companies is attractive for several reasons, including:

- ***There is a large pool of uninvested private equity capital likely to seek additional capital to support private investments.*** We believe there remains a large pool of uninvested private equity capital available to middle market companies. We expect that private equity firms will be active investors in middle market companies and that these private equity firms will seek to supplement their investments with senior secured and junior loans and equity co-investments from other sources, such as us.

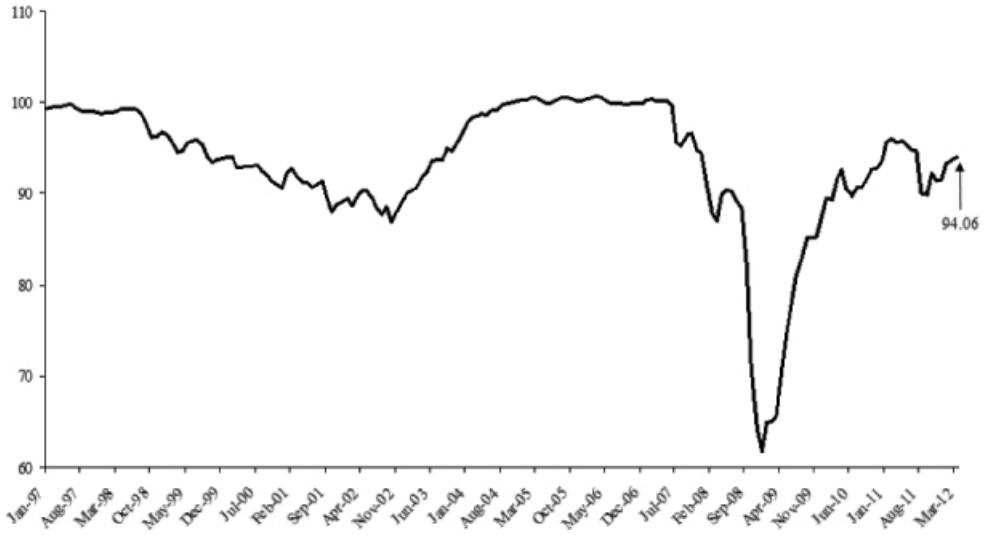
- ***The credit crisis and consolidation among commercial banks has reduced the focus on middle market business.*** The commercial banks in the U.S., which have traditionally been the primary source of capital to middle market companies, have experienced consolidation, unprecedented loan losses, capital impairments, increased capital requirements and stricter regulatory scrutiny, which have led to a significant tightening of credit standards and substantially reduced loan volume to the middle market. Many financial institutions that have historically loaned to middle market companies have failed or been acquired, and we believe that larger financial institutions are now more focused on syndicated lending to larger corporations and are allocating capital to business lines that generate fee income and involve less balance sheet risk. We believe this market dynamic will provide us with numerous opportunities to originate new debt and equity investments primarily in middle market companies. While we believe the credit crisis and the resultant market dynamic have created an opportunity for us, we also note that the credit crisis and current tenuous economic environment also present certain risks to our success. Unfavorable economic conditions or other factors could increase our funding costs, limit our access to the capital markets or result in a decision by lenders not to extend credit to us. An inability to successfully access the capital markets could limit our ability to grow our business and fully execute our business strategy and could decrease our earnings, if any.

- ***There is currently a limited market for CDOs or CLOs, which are securities backed by pools of loans.*** Prior to the credit crisis, these asset-backed vehicles were used by many funds and BDCs to provide inexpensive capital to fund additional investments. We also believe that some specialty finance companies that heavily utilized this funding vehicle may be forced to liquidate assets to meet obligations under these vehicles and may have limited access to equity capital due to their shrinking balance sheets, potentially providing us with opportunities to purchase loans at attractive values and reducing competition for future middle market investments.

- ***There exists currently a favorable pricing environment in the secondary loan market.*** Lower valuation levels, combined with reduced liquidity in the secondary loan market, have created opportunities to acquire relatively high yielding middle market senior and subordinated loans, both secured and unsecured, at potentially attractive prices.

- ***There are attractive opportunities in senior secured and second lien secured loans.*** Since the beginning of 2009, global credit and other financial market conditions have improved as stability has increased throughout the international financial system. Concentrated policy initiatives undertaken by central banks and governments appear to have curtailed the incidence of large-scale failures within the global financial system. Concurrently, investor confidence, financial indicators, capital markets activity and asset prices have improved markedly. While financial conditions have improved, economic activity continues to be somewhat subdued as unemployment rates remain high. Corporate interest rate risk premiums, otherwise known as credit spreads, have declined significantly, but remain above historical averages. Given current market conditions, it is our view that, at this time, there are and will continue to be significant investment opportunities in senior secured and second lien secured loans and debt investments of small and middle market companies.

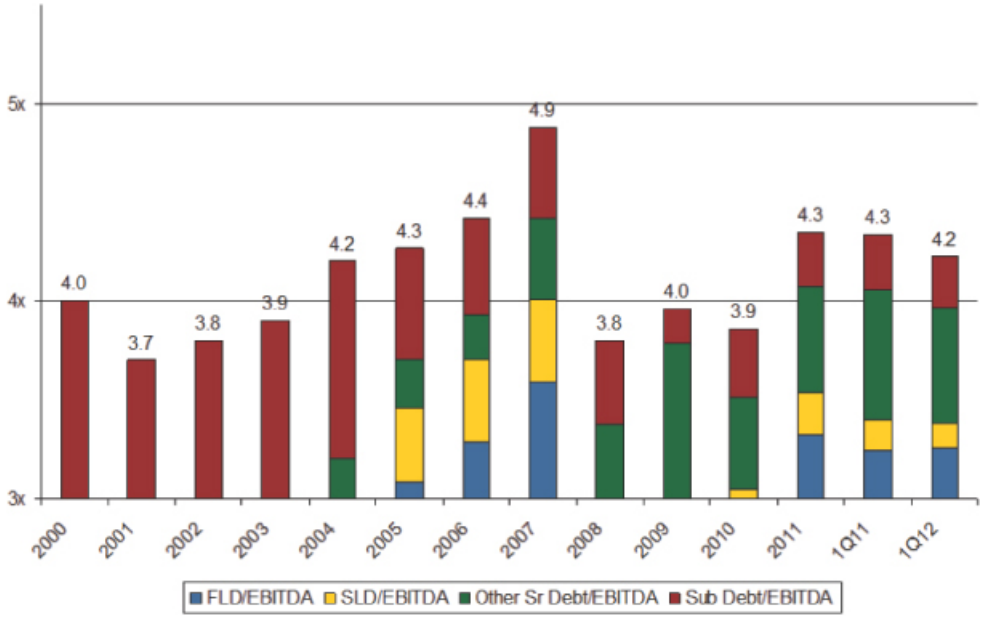
The chart below illustrates the sharp decline and subsequent recovery in the average prices of senior secured loans, including first and second lien loans, tracked by the S&P/LSTA Leveraged Loan Index.



Source: S&P Leveraged Commentary & Data

We feel that opportunities in senior secured and second lien secured loans are significant not only because of the potential returns available, but also because of the strong defensive characteristics of this investment class. Because these loans have priority in payment among an issuer's security holders (i.e., they are due to receive payment before unsecured bondholders and equityholders), they carry the least potential risk among investments in the issuer's capital structure. Further, these investments are secured by the issuer's assets, which may be seized in the event of a default if necessary, and generally carry restrictive covenants aimed at ensuring repayment before unsecured creditors, such as most types of public bondholders, and other security holders and preserving collateral to protect against credit deterioration. In addition, most senior secured debt issues carry variable interest rate structures, meaning the securities are generally less susceptible to declines in value experienced by fixed-rate securities in a rising interest rate environment. However, in declining interest rate environments, variable interest rate structures decrease the income we would otherwise receive from our debt securities. Although, in many cases, the loan documents governing these securities provide for an interest rate floor.

Further, as a result of the dislocation in the credit markets and the reduction in competition for loans, lenders have recalibrated their concepts of risk and are now in a position to demand improved pricing, reduced issuer leverage and more stringent covenant structures before committing to new debt issues. As an example, the chart below depicts the reduced leverage permitted of issuers in the current marketplace. In contrast to the recent peak of the credit cycle, which was characterized by loose lending practices, we believe that the current environment for newly-issued loans presents an opportunity for investors to receive stronger risk-adjusted returns.



Source: S&P Leveraged Commentary & Data

Business Strategy

Our primary investment objective is to generate current income through debt and equity investments. A secondary objective is to generate long-term capital appreciation through such investments. We anticipate that during our offering period we will invest largely in over-the-counter debt securities and customized debt and equity investments in lower middle market companies. We have adopted the following business strategy to achieve our investment objective:

- ***Utilize the experience and expertise of the principals of our Sub-Adviser and Adviser.*** Our Sub-Adviser employs all of Main Street's investment professionals and is subject to Main Street's supervision and control. Main Street is a BDC whose shares are listed on the New York Stock Exchange. Main Street's primary investment focus is providing customized debt and equity financing to lower middle market companies and debt capital to middle market companies that operate in diverse industry sectors. At March 31, 2012, Main Street had debt and equity investments with an aggregate fair value of $639.1 million in 115 portfolio companies, including investments in over-the-counter debt securities with an aggregate fair value of approximately $251.0 million in 62 separate issuers. Our Adviser's senior management team, through affiliates of Hines, has participated in the management of two publicly offered and non-traded REITS and has extensive experience in evaluating and underwriting the credit of tenants, many of which are lower middle market companies, of its commercial real estate properties. The principals of our Adviser, namely Messrs. Hazen and Sims, have access to a broad network of relationships with financial sponsors, commercial and investment banks, lower middle market companies and leaders within a number of industries that we believe will produce significant investment opportunities.

- ***Focus on middle market companies with stable cash flow.*** We believe that there are relatively few finance companies focused on transactions involving middle market companies, and this is one factor that allows us to negotiate favorable investment terms. Such favorable terms include higher debt yields and lower leverage levels, more significant covenant protection and greater equity participation than typical of transactions involving larger companies. We generally will invest in established companies with positive cash flow. We believe that these companies possess better risk-adjusted return profiles than newer companies that are building management or in early stages of building a revenue base. These middle market companies represent a significant portion of the U.S. economy and often require substantial capital investment to grow their businesses.

- ***Employ disciplined underwriting policies and rigorous portfolio management.*** We expect to employ an extensive underwriting process that includes a review of the prospects, competitive position, financial performance and industry dynamics of each potential portfolio company. In addition, we will perform substantial due diligence on potential investments and seek to invest with management teams and/or private equity sponsors who have proven capabilities in building value. We will offer managerial assistance to our portfolio companies, giving them access to our investment experience, direct industry expertise and contacts, and allowing us to continually monitor their progress. As part of the monitoring process, our Advisers will analyze monthly and quarterly financial statements versus the previous periods and year, review financial projections, meet with management, attend board meetings and review all compliance certificates and covenants.

- ***Focus on long-term credit performance and principal protection.*** We will structure our customized loan investments on a conservative basis with high cash yields, first and/or second lien security interests where possible, cash origination fees, and lower relative leverage levels. We will seek strong deal protections for our customized debt investments, including default penalties, information rights, board observation rights, and affirmative, negative and financial covenants, such as lien protection and prohibitions against change of control. We believe these protections will reduce our risk of capital loss.

- ***Diversification.*** We will seek to diversify our portfolio broadly among companies in a multitude of different industries and end markets, thereby reducing the concentration of credit risk in any one company or sector of the economy. We can not guarantee that we will be successful in this effort.

Deal Origination

Over the years, we believe the principals of Main Street, that controls our Sub-Adviser, and the affiliates of Hines have developed and maintained a strong reputation as principal investors and an extensive network of relationships. Main Street sources investments of the type we expect to make on a day-to-day basis as part of operating a New York Stock Exchange-listed BDC. Main Street has business development professionals dedicated to sourcing investments through relationships with numerous loan syndication and trading desks, investment banks, business brokers, merger and acquisition advisors, finance companies, commercial banks, law firms and accountants. Moreover, through its over 50 years of experience in leasing commercial real estate on a global basis, Hines has developed relationships with a large number of middle market companies that are a potential source of middle market investment opportunities. We expect our Adviser to have continuous access to Main Street's professional team due to their relationship with our Sub-Adviser.

We believe that our industry relationships are a significant source for new investment opportunities. We generally source our investments in ways other than going to auctions, which include capitalizing on long-standing relationships with companies and financial sponsors to participate in proprietary investment opportunities.

From time to time, we may receive referrals for new prospective investments from our portfolio companies as well as other participants in the capital markets. We may pay referral fees to those who refer transactions to us that we consummate.

Investment Selection

Our investment philosophy and portfolio construction will involve:

- An assessment of the overall macroeconomic environment and financial markets;
- Company-specific research and analysis; and
- An emphasis on capital preservation, low volatility and minimization of downside risk.

The foundation of our investment philosophy is intensive credit investment analysis based on fundamental value-oriented research and diversification. We will follow a rigorous selection process based on:

- A comprehensive analysis of issuer creditworthiness, including a quantitative and qualitative assessment of the issuer's business;
- An evaluation of the management team;
- An analysis of business strategy and long-term industry trends; and
- An in-depth examination of capital structure, financial results and financial projections.

We will seek to identify those issuers exhibiting superior fundamental risk-return profiles with a particular focus on investments with the following characteristics:

- *Established companies with a history of positive and stable operating cash flows.* We seek to invest in established companies with sound historical financial performance. We typically focus on companies with a history of profitability. We do not intend to invest in start-up companies or companies with speculative business plans.
- *Ability to exert meaningful influence.* We target investment opportunities in which we will be the lead investor where we can add value through active participation.
- *Experienced management team.* We generally will require that our portfolio companies have an experienced management team. We also seek to invest in companies that have a strong equity incentive program in place that properly aligns the interests of management with a Company's investors.
- *Strong franchises and sustainable competitive advantages.* We seek to invest in companies with proven products and/or services and strong regional or national operations.
- *Industries with positive long-term dynamics.* We seek to invest in companies in industries with positive long-term dynamics.

Except as restricted by the 1940 Act or the Code, we deem all of our investment policies to be non-fundamental, which means that they may be changed by our board of directors without shareholder approval.

Intensive Credit Analysis / Due Diligence

The process through which we will make an investment decision with respect to a customized financing transaction involves extensive research into the target company, its industry, its growth prospects and its ability to withstand adverse conditions. If the senior investment professional responsible for the transaction determines

that an investment opportunity should be pursued, we will engage in an intensive due diligence process. Though each transaction will involve a somewhat different approach, the regular due diligence steps generally to be undertaken include:

- Meeting with senior management to understand the business more fully and evaluate the ability of the senior management team;
- Checking management backgrounds and references;
- Performing a detailed review of financial performance and earnings;
- Visiting headquarters and other company locations and meeting with management;
- Contacting customers and vendors to assess both business prospects and industry wide practices;
- Conducting a competitive analysis, and comparing the issuer to its main competitors;
- Researching industry and financial publications to understand industry wide growth trends;
- Assessing asset value and the ability of physical infrastructure and information systems to handle anticipated growth; and
- Investigating legal risks and financial and accounting systems.

For the majority of over-the-counter debt securities available on the secondary market, a comprehensive credit analysis will be conducted and continuously maintained, the results of which are available for the transaction team to review. Our due diligence process with respect to over-the-counter debt securities is necessarily less intensive than that followed for customized financings. The issuers in these private debt placements tend to be rated and have placement agents who accumulate a certain level of due diligence information prior to placing the securities. Moreover, these private placements generally have much shorter timetables for making investment decisions.

Investments

We anticipate that during our offering period we will invest predominately in senior secured and second lien debt securities issued by middle market companies and other larger companies in private placements and negotiated transactions that are traded in private over-the-counter markets for institutional investors, which we refer to as over-the-counter debt securities. We define middle market companies generally as those with annual revenues between $10 million and $3 billion. As we increase our capital base during our offering period, we will continue investing in, and ultimately intend to have a significant portion of our assets invested in, customized direct loans to and equity securities of lower middle market companies. In most cases, companies that issue customized lower middle market securities to us will be privately held at the time we invest in them.

While the structure of our investments is likely to vary, we may invest in senior secured debt, senior unsecured debt, subordinated secured debt, subordinated unsecured debt, mezzanine debt, convertible debt, convertible preferred equity, preferred equity, common equity, warrants and other instruments, many of which generate current yields. We will make other investments as allowed by the 1940 Act and consistent with our continued qualification as a RIC. For a discussion of the risks inherent in our portfolio investments, see “Risk Factors — Risks Relating to Our Business and Structure.”

We will strive to structure our debt investments with the maximum seniority and collateral that we can reasonably obtain while seeking to achieve our total return target. Our debt investment will often be collateralized by a first or second lien on the assets of the portfolio company. We will tailor the terms of our debt investments to the facts and circumstances of the transaction and prospective portfolio company, negotiating a structure that seeks

to protect our rights and manage our risk while creating incentives for the portfolio company to achieve its business plan. A substantial source of our return will be cash interest that we will collect on our debt investments.

We expect that the debt we invest in will generally have stated terms of three to seven years. However, we are in no way limited with regard to the maturity or duration of any debt investment we may make. We anticipate that substantially all of the debt investments held in our portfolio will have either a sub-investment grade rating by a rating agency such as Moody's Investors Service and/or Standard & Poor's or will not be rated by any rating agency.

Portfolio Monitoring

Our Advisers will employ several methods of evaluating and monitoring the performance and value of our investments, which may include, but are not limited to, the following:

- Assessment of success in adhering to the portfolio company's business plan and compliance with covenants;
- Regular contact with portfolio company management and, if appropriate, the financial or strategic sponsor, to discuss financial position, requirements and accomplishments;
- Attendance at and participation in board meetings of the portfolio company; and
- Review of monthly and quarterly financial statements and financial projections for the portfolio company.

As a business development company, we are required to offer and provide managerial assistance to our portfolio companies. This assistance could involve monitoring the operations of our portfolio companies, participating in board and management meetings, consulting with and advising officers of portfolio companies and providing other organizational and financial guidance. Our Advisers or any third-party administrator will make available such managerial assistance, on our behalf, to our portfolio companies, whether or not they request this assistance. Our Advisers' business experience makes them qualified to provide such managerial assistance. We may receive fees for these services and will reimburse our Advisers, or any third-party administrator, for their allocated costs in providing such assistance, subject to review and approval by our board of directors.

Competition

Our primary competition in providing financing for acquisitions, buyouts and recapitalizations of middle market companies will include public and private buyout and other private equity funds, commercial and investment banks, commercial financing companies, and, to the extent they provide an alternative form of financing, hedge funds. Many of our competitors are substantially larger and have considerably greater financial, technical, and marketing resources than we do. For example, some competitors may have a lower cost of funds as well as access to funding sources that are not available to us. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more relationships than us. Furthermore, many of our competitors are not subject to the regulatory restrictions that the 1940 Act will impose on us as a business development company. We expect to use the industry information of our investment professionals, to which we will have access, to assess investment risks and determine appropriate pricing for our investments in portfolio companies. In addition, we expect that our relationships will enable us to discover, and compete effectively for, financing opportunities with attractive middle market, including lower middle market, companies in the industries in which we seek to invest.

Properties

Our executive offices are located at 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118. We believe that our current office facilities are adequate for our business as we intend to conduct it.

Legal Proceedings

Neither we nor our Advisers are currently subject to any material legal proceedings.

DETERMINATION OF NET ASSET VALUE

We will determine the net asset value of our investment portfolio each quarter. Securities that are publicly traded will be valued at the reported closing price on the valuation date. Securities that are not publicly traded will be valued at fair value as determined in good faith by our board of directors. In connection with that determination, we anticipate that valuations will be prepared using relevant inputs, including but not limited to indicative dealer quotes, values of like securities, the most recent portfolio company financial statements and forecasts.

In September 2006, FASB issued ASC 820, which clarifies the definition of fair value and requires companies to expand their disclosure about the use of fair value to measure assets and liabilities in interim and annual periods subsequent to initial recognition. ASC 820 defines fair value as the price that would be received from the sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. ASC 820 also establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include: Level 1, defined as observable inputs such as quoted prices in active markets; Level 2, which includes inputs such as quoted prices for similar securities in active markets and quoted prices for identical securities where there is little or no activity in the market; and Level 3, defined as unobservable inputs for which little or no market data exists, therefore requiring an entity to develop its own assumptions.

With respect to investments for which market quotations are not readily available, we expect to undertake a multi-step valuation process each quarter, as described below:

- our quarterly valuation process will begin with each portfolio company or investment being initially valued by our Sub-Adviser, potentially taking into account information received from an independent valuation firm, if applicable;
- preliminary valuation conclusions will then be documented and discussed with our audit committee;
- our audit committee will review the preliminary valuation and our Adviser's and Sub-Adviser's management team, together with our independent valuation firm, if applicable, will supplement the preliminary valuation to reflect any comments provided by the audit committee; and
- our board of directors will discuss valuations and determine the fair value of each investment in our portfolio in good faith based on various statistical and other factors, including the input and recommendation of our Advisers, the audit committee and any third-party valuation firm, if applicable.

Determination of fair values involves subjective judgments and estimates. Accordingly, the notes to our financial statements refer to the uncertainty with respect to the possible effect of such valuations, and any change in such valuations on our financial statements. Below is a description of factors that our board of directors may consider when valuing our equity and debt investments.

Valuation of fixed income investments, such as loans and debt securities, depends upon a number of factors, including prevailing interest rates for like securities, expected volatility in future interest rates, call features, put features and other relevant terms of the debt. For investments without readily available market prices, we will incorporate these factors into discounted cash flow models to arrive at fair value. Other factors that our board will consider include the borrower's ability to adequately service its debt, the fair market value of the portfolio company in relation to the face amount of its outstanding debt and the quality of collateral securing our debt investments.

Our equity interests in portfolio companies for which there is no liquid public market are valued at fair value. The board of directors, in its analysis of fair value, may consider various factors, such as multiples of

earnings before interest, taxes, depreciation and amortization, or EBITDA, cash flows, net income, revenues or in limited instances book value or liquidation value. All of these factors may be subject to adjustments based upon the particular circumstances of a portfolio company or our actual investment position. For example, adjustments to EBITDA may take into account compensation to previous owners or acquisition, recapitalization, restructuring or other related items.

We may also look to private merger and acquisition statistics, public trading multiples discounted for illiquidity and other factors, valuations implied by third-party investments in the portfolio companies or industry practices in determining fair value. We may also consider the size and scope of a portfolio company and its specific strengths and weaknesses, as well as any other factors we deem relevant in assessing the value. Generally, the value of our equity interests in public companies for which market quotations are readily available is based upon the most recent closing public market price. Portfolio securities that carry certain restrictions on sale are typically valued at a discount from the public market value of the security.

Determinations in Connection With Offerings

After holding our initial closing, we will then sell our shares on a continuous basis at an initial offering price of $10 per share; however, to the extent that our net asset value increases, we will sell at a price necessary to ensure that shares are not sold at a price per share, after deduction of selling commissions and dealer manager fees, that is below our net asset value per share. To the extent that the net asset value per share increases subsequent to the last closing, the price per share may increase. In the event of a material decline in our net asset value per share, which we consider to be a non-temporary 5% decrease below our then-current net offering price, and subject to certain conditions, we will reduce our offering price accordingly. Therefore, persons who subscribe for shares of our common stock in this offering must submit subscriptions for a certain dollar amount, rather than a number of shares of common stock and, as a result, may receive fractional shares of our common stock. In connection with each closing date of shares of our common stock offered pursuant to this prospectus, the board of directors or a committee thereof is required within 48 hours of the time that each closing and sale is made to make the determination that we are not selling shares of our common stock at a price per share, after deducting selling commissions and dealer manager fees, that is below our then current net asset value per share. The board of directors or a committee thereof will consider the following factors, among others, in making such determination:

- the net asset value of our common stock disclosed in the most recent periodic report we filed with the SEC;
- assessment by our Advisers of whether any material change in the net asset value has occurred (including through the realization of net gains on the sale of our portfolio investments) from the period beginning on the date of the most recently disclosed net asset value to the period ending two days prior to the date of the closing on and sale of our common stock; and
- the magnitude of the difference between the net asset value disclosed in the most recent periodic report we filed with the SEC and our management's assessment of any material change in the net asset value since the date of the most recently disclosed net asset value, and the offering price of the shares of our common stock at the date of closing.

Importantly, this determination does not require that we calculate net asset value in connection with each closing and sale of shares of our common stock, but instead involves the determination by the board of directors or a committee thereof that we are not selling shares of our common stock at a price per share, after deducting selling commissions and dealer manager fees, that is below the then current net asset value at the time at which the closing and sale is made. We expect to periodically adjust the offering price per share in this offering to insure that we do not sell shares of our common stock at a price per share, after deduction of selling commissions and dealer manager fees, that is below our net asset value per share. From time to time our offering price per share, after deduction of selling commissions and dealer manager fees, could exceed our net asset value per share.

Moreover, to the extent that there is even a remote possibility that we may (i) issue shares of our common stock at a price per share, after deducting selling commissions and dealer manager fees, that is below the then current net asset value of our common stock at the time at which the closing and sale is made or (ii) trigger the undertaking (which we provided to the SEC in the registration statement of which this prospectus is a part) to suspend the offering of shares of our common stock pursuant to this prospectus if the net asset value fluctuates by certain amounts in certain circumstances until the prospectus is amended, the board of directors or a committee thereof will elect, in the case of clause (i) above, either to postpone the closing until such time that there is no longer the possibility of the occurrence of such event or to undertake to determine the net asset value within two days prior to any such sale to ensure that such sale will not be at a price per share, after deducting selling commissions and dealer manager fees, that is below our then current net asset value, and, in the case of clause (ii) above, to comply with such undertaking or to undertake to determine net asset value to ensure that such undertaking has not been triggered.

In addition, a decline in our net asset value per share to an amount more than 5% below our current offering price, net of selling commissions and dealer manager fees, creates a rebuttable presumption that there has been a material change in the value of our assets such that a reduction in the offering price per share is warranted. This presumption may only be rebutted if our board of directors, in consultation with our management, reasonably and in good faith determines that the decline in net asset value per share is the result of a temporary movement in the credit markets or the value of our assets, rather than a more fundamental shift in the valuation of our portfolio. In the event that (i) net asset value per share decreases to more than 5% below our current net offering price and (ii) our board of directors believes that such decrease in the net asset value per share is the result of a non-temporary movement in the credit markets or the value of our assets, our board of directors will undertake to establish a new net offering price that is not more than 5% above our net asset value per share. If our board of directors determines that the decline in our net asset value per share is the result of a temporary movement in the credit markets, investors will purchase shares at an offering price per share, net of selling commissions and dealer manager fees, which represents a premium to the net asset value per share of greater than 5%.

These processes and procedures are part of our compliance policies and procedures. Records will be made contemporaneously with all determinations described in this section and these records will be maintained with other records we are required to maintain under the 1940 Act. Promptly following any adjustment to the offering price per share of our common stock offered pursuant to this prospectus, we will update this prospectus by filing a prospectus supplement with the SEC. We will also make updated information available via our website.

PORTFOLIO COMPANIES

The following table sets forth certain information as of May 31, 2012, for each portfolio company in which we had a debt investment. Other than these investments, our only formal relationships with our portfolio companies are the managerial assistance ancillary to our investments and any board observation or participation rights we may receive.

Name and Address of Portfolio Company	Nature of Principal Business	Title of Securities Held by Us	Percentage of Class Held[1]	Cost of Investment[2][3]	Fair Value of Investment	Maturity Date
Academy, Ltd. 1800 North Mason Rd. Katy, TX 77449	Sporting Goods Retailer	LIBOR Plus 4.50%, current coupon 6.0% *Senior Secured Debt*	–	$1,987,305	$2,002,471	August 3, 2018
Ameritech College Operations, LLC 12257 S. Business Park Drive Suite 108 Draper, UT 84020	Education Services	*18% Senior Secured Debt*	–	$750,000	$750,000	March 9, 2017
California Healthcare Medical Billing, Inc. 700 La Terraza Blvd. Suite 200 Escondido, CA 92025	Healthcare Services	*12% Senior Secured Debt*	–	$750,000	$750,000	October 17, 2015
Ipreo Holdings LLC 1359 Broadway 2nd Floor New York, NY 10018	Software Solutions	LIBOR Plus 6.5%, current coupon 8.0% *Senior Secured Debt*	–	$732,049	$742,519	August 5, 2017
IRTH Holdings, LLC 5009 Horizons Drive Columbus, OH 43220	Utility Technology Services	*12% Senior Secured Debt*	–	$750,000	$750,000	December 29, 2015
Metropolitan Health Networks, Inc. 777 Yamato Rd. Suite 510 Boca Raton, FL 33431	Primary Care Network	LIBOR Plus 11.75%, current coupon 13.5% *Subordinated Debt*	–	$735,264	$731,250	October 4, 2017
MultiPlan, Inc. 115 Fifth Avenue New York, NY 10003	Healthcare Preferred Provider Organization	LIBOR Plus 3.25%, current coupon 4.75% *Senior Secured Debt*	–	$735,895	$706,735	August 26, 2017
NAPCO Precast, LLC 6949 Low Bid Lane San Antonio, TX 78250	Precast Concrete Manufacturing	*18% Senior Secured Debt*	–	$750,000	$750,000	February 1, 2013
National Healing Corporation 4850 T-Rex Avenue Suite 300 Boca Raton, FL 33431	Wound Care Services	LIBOR Plus 6.75%, current coupon 8.25% *Senior Secured Debt*	–	$710,625	$744,384	November 30, 2017
NRI Clinical Research, LLC 2049 Century Park East Suite 350 Los Angeles, CA 90067	Clinical Research	*14% Senior Secured Debt*	–	$717,977	$717,977	September 8, 2016

Name and Address of Portfolio Company	Nature of Principal Business	Title of Securities Held by Us	Percentage of Class Held[1]	Cost of Investment[2][3]	Fair Value of Investment	Maturity Date
Pacific Architects and Engineers Incorporated 1525 Wilson Blvd. Suite 900 Arlington, VA 22209	Architecture and Engineering Services	LIBOR Plus 6%, current coupon 7.5% *Senior Secured Debt*	–	$691,147	$699,713	April 4, 2017
Phillips Plastics Corporation 1201 Hanley Road Hudson, WI 54016	Custom Plastic and Metal Services	LIBOR Plus 5%, current coupon 6.5% *Senior Secured Debt*	–	$739,087	$742,519	February 12, 2017
Principle Environmental, LLC 201 W. Ranch Court Weatherford, TX 76088	Noise Abatement Products/Services	*12% Senior Secured Debt*	–	$750,000	$750,000	February 1, 2016
Ulterra Drilling Technologies, L.P. 420 Throckmorton Street Suite 1110 Fort Worth, TX 76102	Oilfield Services	LIBOR Plus 7.5%, current coupon 9.5% *Senior Secured Debt*	–	$717,167	$738,323	June 9, 2016
UniTek Global Services, Inc. 1777 Sentry Parkway W. Gwynedd Hall, Suite 302 Blue Bell, PA 19422	Telecommunications	LIBOR Plus 7.5%, current coupon 9% *Senior Secured Debt*	–	$3,384,571	$3,430,176	April 15, 2018
VFH Parent LLC 645 Madison Avenue 16th Floor New York, NY 10022	Electronic Trading and Market Making	LIBOR Plus 6.0%, current coupon 7.5% *Senior Secured Debt*	–	$683,900	$701,082	July 8, 2016
Visant Corporation 357 Main Street Armonk, NY 10504	School Affinity Products	LIBOR Plus 4.0%, current coupon 5.25% *Senior Secured Debt*	–	$711,748	$744,384	December 22, 2016
Total				$16,296,735	$16,399,680	

(1) All of the investments in the initial portfolio are debt investments, therefore, we do not hold an equity interest in any of the portfolio companies listed.

(2) The assets in the initial portfolio were purchased at the proportional face amount or par value for customized lower middle market securities and at Main Street's amortized cost for over-the-counter debt securities, which the parties agreed reasonably represented the fair value of the assets at the time of the transaction.

(3) The cost of investment is net of principal payments received through May 31, 2012 in the aggregate amount of $232,444.

Set forth below is a brief description of each portfolio company in which we have made an investment that represents greater than 5.0% of our total assets:

Academy, Ltd.: Academy, Ltd., doing business as Academy Sports, operates a chain of sporting goods retail stores in the southeastern U.S. The company's stores offer equipment, apparel, and footwear for sports and outdoor enthusiasts. Its products include apparel, footwear, and accessories for men, women, boys, and girls; and hunting, fishing, fitness, recreation, camping, boating/marine, and golf equipment, as well as gift cards. The company also provides accessories, beds, carriers, food, kennels, toys, and training products for pets.

UniTek Global Services, Inc.: UniTek Global Services, Inc. is a premier provider of permanently outsourced infrastructure services to the wireless and wireline telecommunications, public safety, broadband cable and satellite television industries in the U.S. and Canada. Its services include network engineering and design, construction and project management, comprehensive installation and fulfillment, and wireless telecommunication infrastructure services.

MANAGEMENT

Our business and affairs are managed under the direction of our board of directors. The responsibilities of the board of directors include, among other things, the oversight of our investment activities, the quarterly valuation of our assets, oversight of our financing arrangements and corporate governance activities. The board of directors currently has a pricing committee, an audit committee, a nominating and corporate governance committee and a conflicts committee, and may establish additional committees from time to time as necessary. Each director will serve until the next annual meeting of stockholders and until his or her successor is duly elected and qualifies. Although the number of directors may be increased or decreased, a decrease will not have the effect of shortening the term of any incumbent director. Any director may resign at any time and may be removed only for cause by the stockholders upon the affirmative vote of at least two-thirds of all the votes entitled to be cast generally in the election of directors. The notice of any special meeting called for the purpose of removing a director shall indicate that the purpose, or one of the purposes, of the meeting is to determine if the director shall be removed.

A vacancy created by an increase in the number of directors or the death, resignation, removal, adjudicated incompetence or other incapacity of a director may be filled only by a vote of a majority of the remaining directors.

Board of Directors and Officers

Our board of directors consists of five members, a majority of whom are not "interested persons" as defined in Section 2(a)(19) of the 1940 Act. We refer to these individuals as our independent directors. Members of our board of directors will be elected annually at our annual meeting of stockholders. We are prohibited from making loans or extending credit, directly or indirectly, to our directors or officers under section 402 of the Sarbanes-Oxley Act of 2002.

Directors

Information regarding our board of directors is set forth below. We have divided the directors into two groups — independent directors and interested directors.

Name	Age	Director Since	Expiration of Current Term
Interested Directors			
Charles N. Hazen	51	2011	2013
Vincent D. Foster[1]	55	2011	2013
Independent Directors			
Peter Shaper	45	2012	2013
Phil D. Wedemeyer	62	2012	2013
John O. Niemann, Jr.	55	2012	2013

(1) Pursuant to the terms of the Sub-Advisory Agreement, and for so long as the Sub-Adviser acts as our Sub-Adviser, whether pursuant to the Sub-Advisory Agreement or otherwise, Vincent D. Foster or another nominee selected by the Sub-Adviser shall be nominated to serve as a member of our board of directors.

Officers

The following persons serve as our officers in the following capacities:

Name	Age	Position(s) Held with the Company	Officer Since
Charles N. Hazen	51	Chairman and Chief Executive Officer	2011
Ryan T. Sims	40	Chief Financial Officer and Secretary	2011
Susan Dudley	42	Chief Compliance Officer	2011
Jeremy T. Davis	36	Controller	2012

The address for each director and officer of the Company is c/o HMS Income Fund, Inc., 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118.

Biographical Information

Interested Directors:

Charles N. Hazen. Mr. Hazen joined Hines in 1989. Mr. Hazen serves as the Chairman of our board of directors and is our Chief Executive Officer. Mr. Hazen is responsible for overall management of our business strategy and operations. Mr. Hazen has served as President and Chief Executive Officer for Hines Global REIT and the general partner of its adviser since December 2008 and served as President and Chief Executive Officer for Hines REIT and the general partner of its adviser since April 2008. In these roles, he is responsible for overall management of the business strategy and operations of each entity in the U.S. and internationally. Mr. Hazen has also been the President of Hines REIT and the general partner of its adviser from August 2003 through March 2008. He also served as Chief Operating Officer for Hines REIT and the general partner of its adviser from August 2003 through March 2008 when he became Chief Executive Officer. He has also been a Senior Managing Director and the Chief Executive Officer, or similar position, of the general partner of Hines since July 2000, the President and a member of the management board of the Hines US Core Office Fund LP (the "Core Fund") and has served as a director of Hines Securities, Inc. since August 2003. During his tenure at Hines he has participated in more than $10.0 billion of office, retail and industrial investments in the U.S. and internationally including Hines Corporate Properties, a fund that developed and acquired single-tenant office buildings in the U.S. Prior to joining Hines, Mr. Hazen practiced law in the Houston office of Baker Botts L.L.P. from June of 1985 to August of 1989. Mr. Hazen graduated from the University of Kentucky with a B.S. in Finance and received his J.D. from the University of Kentucky. We believe Mr. Hazen is qualified to serve on our board of directors because of his business experience as President and Chief Executive Officer of Hines Global REIT and Hines REIT, along with his substantial experience in private equity, real estate acquisitions and dispositions and finance.

Vincent D. Foster. Mr. Foster has served as the chairman of Main Street's board of directors, chief executive officer, as a member of Main Street's investment committee since 2007 and as a member of Main Street's credit committee since 2011. Mr. Foster is also a manager and a senior managing director of the Sub-Adviser. Mr. Foster also currently serves as a founding director of Quanta Services, Inc. (NYSE: PWR), which provides specialty contracting services to the power, natural gas and telecommunications industries, and Team, Inc. (NASDAQ: TISI), which provides specialty contracting services to the petrochemical, refining, electric power and other heavy industries. He also served as a director of U.S. Concrete, Inc. (NASDAQ-CM: USCR) from 1999 until 2010 and Carriage Services, Inc. (NYSE: CSV) from 1999 to November 2011. In addition, Mr. Foster served as a founding director of the Texas TriCities Chapter of the National Association of Corporate Directors from 2004 to 2011. Following his graduation from Michigan State University, Mr. Foster, a C.P.A., had a 19-year career with Arthur Andersen, where he was a partner from 1988-1997. Mr. Foster was the director of Andersen's Corporate Finance and Mergers and Acquisitions practice for the Southwest United States and specialized in working with companies involved in consolidating their respective industries. From 1997, Mr. Foster co-founded and has acted as co-managing partner or chief executive of several Main Street predecessor funds and entities, which are now subsidiaries of Main Street. Mr. Foster received his J.D. from Wayne State University Law School and also attended the University of Houston Law Center. Mr. Foster received the Ernst & Young Entrepreneur of the Year 2008 Award in the financial services category in the Houston & Gulf Coast Area. The program honors entrepreneurs who have demonstrated exceptionality in innovation, financial performance and personal commitment to their businesses and communities. We believe Mr. Foster is qualified to serve on our board of directors because of his intimate knowledge of BDCs gained through his day-to-day leadership as chief executive officer of Main Street, along with his comprehensive experience on other public boards of directors and his extensive experience in tax, accounting, mergers and acquisitions, corporate governance and finance.

Independent Directors:

Peter Shaper. Mr. Shaper, an independent director since May 30, 2012, has been a director of Hines Global REIT since June 2009 and the Chief Executive Officer of CapRock Communications, Inc., a global provider of broadband communications to remote locations via satellite with revenues of over $300 million since 2002.

Mr. Shaper also is a founding partner of Genesis Park LP, a Houston-based private equity firm which was founded in 2000 and primarily focuses its investment strategy on the software, telecommunications, media, finance and niche energy business sectors. From 1998 to 2000, Mr. Shaper was the president of Donnelley Marketing, a Division of First Data Corporation, where he was directly responsible for the turnaround and eventual sale of the $100 million revenue database marketing company to a strategic buyer. In 1996, Mr. Shaper helped found the Information Management Group, or IMG, as its Executive Vice President of Operations and Chief Financial Officer. IMG grew to over $600 million in revenue during Mr. Shaper's tenure. Prior to joining IMG, Mr. Shaper was with a Dallas-based private equity firm where he was responsible for investments in numerous technology-oriented companies, as well as assisting those companies with developing long-term strategies and financial structures. Mr. Shaper also has several years experience with the international consulting firm McKinsey & Company. Mr. Shaper graduated from Stanford University with a B.S. in industrial engineering and received his M.B.A. from Harvard Business School.

We believe Mr. Shaper's significant experience as a senior executive officer of sophisticated companies such as Hines Global REIT, CapRock Communications, Genesis Park and Donnelley Marketing/First Data, as well as his experience founding and leading IMG, make him well qualified to serve on our board of directors.

Phil D. Wedemeyer. Mr. Wedemeyer, an independent director since May 30, 2012 has served on the Board of Directors of Atwood Oceanics since October 2011. In July 2011, Mr. Wedemeyer retired as a partner from Grant Thornton LLP, an international accounting firm, where he had served since August 2007. From May 2003 to July 2007, Mr. Wedemeyer served in various capacities with the Public Company Accounting Oversight Board ("PCAOB"), including serving as the Director, Office of Research and Analysis, from August 2005 to July 2007 and Deputy Director, Division of Registration and Inspection, from March 2004 to August 2005. Prior to his service with the PCAOB, Mr. Wedemeyer spent more than 31 years at Arthur Andersen, SC, an international accounting firm, including 21 years as a partner. Mr. Wedemeyer is a licensed Certified Public Accountant.

We believe Mr. Wedemyer's significant experience of over 35 years of service in the public accounting industry makes him well qualified to serve as one of our directors. Additionally, Mr. Wedemyer's service in multiple capacities on the Public Company Accounting Oversight Board enable him to provide valuable insight to our board of directors and our Audit Committee, for which he serves as chairman. In addition, through his experience serving on the board of directors of another public company, Mr. Wedemeyer has previous experience in the requirements of serving on a public company board.

John O. Niemann, Jr. Mr. Niemann, an independent director since May 30, 2012, has served as a director and Chairman of the Audit Committee of Gateway Energy Corporation since June 2010. He is the president and chief operating officer of Arthur Andersen LLP, and has been since 2003. He previously served on the administrative board of Arthur Andersen LLP and on the board of partners of Andersen Worldwide. He began his career at Arthur Andersen in 1978 and has served in increasing responsibilities in senior management positions, since 1992. Mr. Niemann has served on the board of directors of many Houston area non-profit organizations, including Strake Jesuit College Preparatory School (past chair of the board), The Regis School of the Sacred Heart (past chair of the board), The Houston Symphony, The Alley Theatre and Taping for the Blind, Inc. He graduated with a bachelor of arts in managerial studies (magna cum laude) and a masters in accounting from Rice University and received a juris doctor (summa cum laude) from the South Texas College of Law.

We believe Mr. Niemann's significant experience in the public accounting industry including 34 years in various capacities at Arthur Andersen makes him well qualified to serve as one of our directors. Drawing on this experience, Mr. Niemann is able to provide valuable insights regarding our investment strategies, internal controls, and financial reporting. In addition, through his experience serving on the board of directors of another public company, Mr. Niemann has previous experience in the requirements of serving on a public company board.

Officers (who are not directors):

Ryan T. Sims. Mr. Sims joined Hines in August 2003. Mr. Sims serves as our Chief Financial Officer and Secretary. Mr. Sims is also the Chief Financial Officer and Secretary of HMS Adviser GP LLC, the general partner of HMS Adviser LP. Mr. Sims has also served as the Chief Financial Officer and Secretary for Hines Global REIT and the general partner of its adviser since November 2011 and as the Chief Financial Officer and Secretary of Hines REIT, the general partner of its adviser and the Core Fund since November 2011. In these positions, Mr. Sims is responsible for the oversight of financial operations, equity and debt financing activities, investor relations, accounting, financial reporting, tax, legal, compliance and administrative functions in the U.S. and internationally. Prior to this time, Mr. Sims served as the Chief Accounting Officer for Hines Global REIT and the general partner of its adviser since their inception in December 2008. Mr. Sims also served as the Chief Accounting Officer for Hines REIT, the general partner of its adviser and the Core Fund since April 2008. In these roles, he was responsible for the oversight of the accounting, financial reporting and SEC reporting functions, as well as the Sarbanes-Oxley compliance program in the U.S. and internationally. He was also responsible for establishing the companies' accounting policies and ensuring compliance with those policies in the U.S. and internationally. He has also previously served as a Senior Controller for Hines REIT and the general partner of its adviser from August 2003 to April 2008 and the Core Fund from July 2004 to April 2008. Prior to joining Hines, Mr. Sims was a manager in the audit practice of Arthur Andersen LLP and Deloitte & Touche LLP, serving clients primarily in the real estate industry. He holds a Bachelor of Business Administration degree in Accounting from Baylor University and is a certified public accountant.

Susan Dudley. Ms. Dudley joined Hines in 2005. Ms. Dudley serves as Chief Compliance Officer for Hines Securities, Inc. In this role, she is responsible for overseeing the day-to-day compliance activities, including developing, maintaining and testing supervisory policies and procedures, monitoring new regulatory mandates and requirements, and developing training and education programs. Ms. Dudley also served as Controller and Financial Operations Principal for Hines Securities, Inc. from April 2005 to November 2008. Prior to joining Hines Securities, Inc., she was the chief financial officer for Btek Group, LP from June 2002 to December 2004. Prior to that, Ms. Dudley served as the controller for California Tan, Inc. and Diamond Geophysical Service Corp. Ms. Dudley also spent four years at Arthur Andersen in the audit department. She graduated from Pepperdine University with a B.S. in Accounting and is a certified public accountant. Ms. Dudley holds her Series 7, 24, 28 and 79 securities licenses and the Certified Regulatory Compliance Professional designation from the FINRA Institute at Wharton.

Jeremy Davis. Mr. Davis, 36, joined Hines in March 2001. Mr. Davis serves as our Controller and is currently the Controller of HMS Adviser LP, Hines Advisers LP and Hines Global REIT Advisers LP. In these roles, Mr. Davis is responsible for the oversight of the accounting and financial reporting functions of these entities. Prior to this time, Mr. Davis served as a Controller for the Hines Core Fund. In this role, he was responsible for fair value accounting and reporting and also investor reporting. Prior to this time, Mr. Davis served as a senior accountant for Hines Corporate Properties, the Hines 1997 U.S Office Development Fund, and the Hines 1999 U.S. Office Development Fund. In these roles, he was responsible for the fund accounting and investor reporting initiatives. Prior to joining Hines, Mr. Davis was a senior accountant in the audit practice of KPMG LLP, serving clients in a variety of industries. He holds a Bachelor of Business Administration degree and a Masters in Public Accountancy from the University of Texas at Austin and is a certified public accountant.

Corporate Leadership Structure

Since our inception, Mr. Hazen has served as chairman of our board of directors and our chief executive officer. Mr. Hazen is an interested director. Our board of directors believes that our chief executive officer is best situated to serve as chairman because he is the director most capable of effectively identifying strategic priorities and leading the discussion and execution of strategy. We do not intend to designate an independent lead director at this time. Our board of directors believes that its leadership structure is the optimal structure for the Company at this time because it enables the board of directors to exercise its oversight of the Company. Our board of directors will review its leadership structure periodically to ensure that the leadership structure remains appropriate and will make changes if and when it determines such changes are necessary or proper.

Committees of the Board of Directors

Pricing Committee

We are prohibited from selling our common stock at a price below current net asset value, exclusive of any distributing commission or discount. The pricing committee is responsible for assisting the Board in ensuring that the shares sold in our continuous offering that are affected at semi-monthly closings do not contravene this restriction. The Pricing Committee will consider various factors, including, but not limited to, the valuations of our investment portfolio provided by our Advisers in determining whether the standard has been met. Messrs. Hazen and Foster will serve as the members of our pricing committee.

Audit Committee

Our audit committee is composed entirely of independent directors. The audit committee is responsible for approving our independent accountants, reviewing with our independent accountants the plans and results of the audit engagement, approving professional services provided by our independent accountants, reviewing the independence of our independent accountants and reviewing the adequacy of our internal accounting controls. The audit committee is also be responsible for aiding our board of directors in fair value pricing of debt and equity securities that are not publicly traded or for which current market values are not readily available. The board of directors and audit committee may utilize the services of a nationally recognized independent valuation firm to help them determine the fair value of these securities. Messrs. Wedemeyer (Chairman), Shaper and Niemann will serve as the members of our audit committee.

Nominating and Corporate Governance Committee

Our nominating and corporate governance committee is composed entirely of independent directors. The nominating and corporate governance committee is responsible for selecting, researching and nominating directors for election by our stockholders, selecting nominees to fill vacancies on the board or a committee of the board, developing and recommending to the board a set of corporate governance principles and overseeing the evaluation of the board and our management. Our nominating and corporate governance committee will consider stockholders' proposed nominations for director; however, please see "Description of our Securities" for more information on certain requirements that must be met in connection therewith. Messrs. Shaper (Chairman), Wedemeyer and Niemann will serve as the members of our nominating and corporate governance committee.

Conflicts Committee

Members of the conflicts committee are appointed by our board of directors to serve until their successors are duly elected and qualify or until their earlier death, resignation, retirement or removal. The primary purpose of the conflicts committee is to review specific matters that the board believes may involve conflicts of interest between us on the one hand and our Advisers, any director or Hines on the other hand, and to determine if the resolution of the conflict of interest is fair and reasonable to us and our stockholders. However, we cannot assure you that this committee will successfully eliminate the conflicts of interest that will exist between us, on the one hand, and our Advisers, any director or Hines on the other hand, or reduce the risks related thereto. Messrs. Niemann (Chairman), Wedemeyer and Shaper will serve as the members of the conflicts committee.

Compensation of Directors

Prior to holding our initial closing, our directors are not entitled to compensation. Subsequent to holding our initial closing, independent directors will receive an annual fee of $30,000, plus $2,500 per each Board meeting attended in person, $1,000 for all committee meetings attended in person held during any regular Board meeting, $2,500 for any committee meeting held in person on a day when no Board meeting is held and $500 for any telephonic meeting of the Board or committee. We will not pay compensation to our interested directors. Additionally, our independent directors are entitled to reimbursement of any reasonable out-of pocket expenses incurred in connection with their service on the Board. In addition, the chairman of the audit committee will receive an annual fee of $10,000, the chairman of the nominating and corporate governance committee will receive an annual fee of $5,000 and the chairman of the conflicts committee will receive an annual fee of $5,000

for their additional services, if any, in these capacities. In addition, we purchase directors' and officers' liability insurance on behalf of our directors and officers.

Compensation of Officers

None of our officers will receive direct compensation from us. We do not currently have any employees and do not expect to have any employees in the foreseeable future. The services necessary for the operation of our business will be provided to us by our officers and the employees of our Adviser pursuant to the terms of the Investment Advisory Agreement and any administration agreement we may enter into in the future.

Oversight of Risk Management

Our board of directors, in its entirety, will play an active role in overseeing management of our risks. Our board of directors will regularly review information regarding our credit, liquidity and operations, as well as the risks associated with each. Each committee of our board of directors will play a distinct role with respect to overseeing management of our risks:

- *Pricing Committee.* Our pricing committee will manage risks associated with the 1940 Act restriction that prevents us from selling our common stock at a price below current net asset value. Our pricing committee will consider various factors, including, but not limited to, the valuations of our investment portfolio provided by our Advisers, in an effort to help ensure that our common stock is not sold below net asset value.
- *Audit Committee:* Our audit committee will oversee the management of enterprise risks. To this end, our audit committee will meet at least annually (i) to discuss our risk management guidelines, policies and exposures and (ii) with our independent registered public accounting firm to review our internal control environment and other risk exposures.
- *Conflicts Committee.* Our conflicts committee will manage risks associated with conflicts of interest that may arise between us on the one hand and our Advisers, any director or Hines on the other hand.
- *Nominating and Corporate Governance Committee:* Our nominating and corporate governance committee will manage risks associated with the independence of our board of directors and potential conflicts of interest.

While each committee will be responsible for evaluating certain risks and overseeing the management of such risks, the committees will each report to our board of directors on a regular basis to apprise our board of directors regarding the status of remediation efforts of known risks and of any new risks that may have arisen since the previous report.

PORTFOLIO MANAGEMENT

HMS Adviser will be responsible for the overall management of our activities and have responsibility responsible for making investment decisions with respect to and providing day-to-day management and administration of our investment portfolio. HMS Adviser has engaged the Sub-Adviser to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by our Adviser, monitor our investment portfolio and provide certain ongoing administrative services to the Adviser. All new investments will be required to be approved by the investment committee of our Adviser, which will be led by Sherri W. Schugart, who is a Senior Managing Director of the general partner of Hines. For more information regarding the business experience of Mr. Hazen see "Management — Board of Directors and Officers." For more information regarding the business experience of Ms. Schugart see "Portfolio Management — Our Investment Adviser." The members of the investment committee will receive no direct compensation from us. Such members may be employees or partners of our Adviser and may receive compensation or profit distributions from our Adviser.

Our Investment Adviser

Our Adviser, HMS Adviser, is a Texas limited partnership formed on April 13, 2012 that is registered as an investment adviser under the Advisers Act. Our Adviser has no operating history and no experience managing a business development company. Our Adviser is wholly-owned by Hines. Hines is majority owned by Gerald D. Hines and Jeffrey C. Hines. The principal executive offices of HMS Adviser are located at 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118. See "Investment Objective and Strategies — About Our Sponsor" for additional information regarding the operating history of Hines.

Our Adviser will have an investment committee consisting of Ms. Schugart and Mr. Sims. Upon the request of the Company, a representative of Main Street will be present at the meetings of the investment committee. Below is a brief description of the background and experience of the principals of HMS Adviser and the senior investment professionals employed or retained by HMS Adviser and its affiliates. The backgrounds of Messrs. Hazen and Sims are described in the "Management — Board of Directors and Officers" section of this prospectus.

Sherri W. Schugart. Ms. Schugart, age 46, joined Hines in 1995. Ms. Schugart has served as the Chief Operating Officer for Hines Global REIT, Hines REIT, the Core Fund and the general partner of the advisers of Hines Global REIT and Hines REIT since November 2011. Prior to that time, Ms. Schugart served as the Chief Financial Officer of Hines Global REIT and the general partner of its adviser since December 2008 and as the Chief Financial Officer for Hines REIT and the general partner of its adviser since August 2003. In addition, Ms. Schugart served as the Chief Financial Officer of the Core Fund since July 2004. In these roles, her responsibilities included oversight of financial and portfolio management, equity and debt financing activities, investor relations, accounting, financial reporting, compliance and administrative functions in the U.S. and internationally. She has also been a Senior Managing Director, or similar position, of the general partner of Hines since October 2007 and has served as a director of Hines Securities, Inc. since August 2003. Prior to holding these positions she was a Vice President in Hines Capital Markets Group raising equity and debt financing for various Hines investment vehicles in the U.S. and internationally. Ms. Schugart has been responsible for arranging more than $8.0 billion in equity and debt for Hines' public and private investment funds. She was also previously the controller for several of Hines' investment funds and portfolios. Prior to joining Hines, Ms. Schugart spent eight years with Arthur Andersen, where she managed both public and private clients in the real estate, construction, finance and banking industries. She graduated from Southwest Texas State University with a B.B.A. in Accounting.

The table below shows the dollar range of shares of common stock beneficially owned as of the date of this prospectus by each member of the Adviser's investment committee, whom we consider to be our portfolio managers.

Name of Portfolio Manager	Dollar Range of Equity Securities Beneficially Owned[1][2][3]
Ryan T. Sims	None
Sherri W. Schugart	None

(1) Beneficial ownership has been determined in accordance with Rule 16a-1(a)(2) of the Exchange Act.
(2) The dollar range of equity securities beneficially owned by our portfolio managers is based on our initial public offering price of $10.00 per share.
(3) The dollar range of equity securities beneficially owned is: none, $1-$10,000, $10,001-$50,000, $50,001-$100,000, $100,001-$500,000, $500,001-$1,000,000, or over $1,000,000.

Our Investment Sub-Adviser

The Sub-Adviser is a wholly owned subsidiary of Main Street, an internally managed BDC organized on March 9, 2007. At March 31, 2012, Main Street had debt and equity investments with an aggregate fair value of $639.1 million in 115 portfolio companies, including investments in over-the-counter debt securities with an aggregate fair value of approximately $251.0 million in 62 separate issuers. Main Street's common stock trades on the New York Stock Exchange under the ticker symbol "MAIN." The principal executive offices of our Sub-Adviser are located at 1300 Post Oak Boulevard, Suite 800, Houston, Texas 77056.

The following graph compares the stockholder return on Main Street's common stock from October 5, 2007 to December 31, 2011 with the Russell 2000 Index and the Main Street Peer Group index. This comparison assumes $100.00 was invested on October 5, 2007 (the date Main Street's common stock began to trade in connection with its initial public offering) in Main Street's common stock and in the comparison groups and assumes the reinvestment of all cash dividends prior to any tax effect. The comparisons in the graph below are based on historical data and are not intended to forecast the possible future performance of Main Street's common stock.

COMPARISON OF STOCKHOLDER RETURN[1]
Among Main Street Capital Corporation, the Russell 2000 Index and Main Street Peer Group[2]
(For the Period October 5, 2007 to December 31, 2011)

(1) Total return includes reinvestment of dividends through December 31, 2011.

(2) The Main Street Peer Group index is composed of American Capital Strategies, Ltd., Apollo Investment Corporation, Ares Capital Corporation, Gladstone Capital Corporation, Gladstone Investment Corporation, Hercules Technology Growth Capital, Inc., MCG Capital Corporation, NGP Capital Resources Company, Prospect Capital Corporation, Solar Capital Ltd., Medallion Financial Corp., Triangle Capital Corporation, THL Credit, Inc., and TICC Capital Corp.

Persons who purchase shares of our common stock will not acquire any ownership interest in Main Street's common stock, as to which this table relates. It should not be assumed that investors who acquire shares of our common stock in this offering will experience results comparable to those experienced by investors in Main Street. Furthermore, the differences with respect to the allocation of the Company's investment portfolio and Main Street's investment portfolio may cause an investment in the Company to result in a total return performance rate substantially different than what is set forth above.

Below is a brief description of the background and experience of the principals of our Sub-Adviser and the senior investment professionals retained or employed by our Sub-Adviser. The background of Mr. Foster is described in the "Management — Board of Directors and Officers" section of this prospectus.

Todd A. Reppert, age 42, has served as Main Street's president and as a member of its investment committee since 2007 and as a member of its credit committee since 2011. Mr. Reppert also serves as a director and member

of the audit committee for Consolidated Graphics, Inc. (NYSE: CGX), which is one of North America's leading commercial general printing companies. Mr. Reppert is also a manager and a senior managing director of the Sub-Adviser. Mr. Reppert also served as Main Street's Chief Financial Officer from 2007 until 2011. From 2000, Mr. Reppert co-founded and has acted as co-managing partner or in other executive roles of several Main Street predecessor funds and entities, which are now subsidiaries of Main Street. Prior to that, he was a principal of Sterling City Capital, LLC, a private investment group focused on small to middle-market companies. Prior to joining Sterling City Capital in 1997, Mr. Reppert was with Arthur Andersen LLP since 1991. At Arthur Andersen LLP, he assisted in several industry consolidation initiatives, as well as numerous corporate finance and merger/acquisition initiatives.

Rodger A. Stout, age 60, has served as Main Street's chief compliance officer, senior vice president — finance and administration and treasurer since 2007. From 2006, Mr. Stout has served as the chief financial officer and in other executive positions of several Main Street predecessor funds and entities, which are now subsidiaries of Main Street. From 2000 to 2006, Mr. Stout was senior vice president and chief financial officer for FabTech Industries, Inc., one of the largest domestic structural steel fabricating companies. From 1985 to 2000, he was a senior financial executive for Jerold B. Katz Interests. He held numerous positions over his 15-year tenure with this national scope financial services conglomerate. Those positions included director, executive vice president, senior financial officer and investment officer. Prior to 1985, Mr. Stout was an international tax executive in the oil and gas service industry.

Curtis L. Hartman, age 39, has served as Main Street's chief credit officer and a senior managing director since 2011. Mr. Hartman is also the chairman of Main Street's credit committee. Previously, Mr. Hartman served as one of Main Street's senior vice presidents since 2007. Mr. Hartman is also a senior managing director of the Sub-Adviser. From 2000, Mr. Hartman has served as a managing director and in other executive positions of several Main Street predecessor funds and entities, which are now subsidiaries of Main Street. From 1999 to 2000, Mr. Hartman was an investment adviser for Sterling City Capital, LLC. Concurrently with joining Sterling City Capital, he joined United Glass Corporation, a Sterling City Capital portfolio company, as director of corporate development. Prior to joining Sterling City Capital, Mr. Hartman was a manager with PricewaterhouseCoopers LLP, in its M&A/Transaction Services group. Prior to that, he was employed as a senior auditor by Deloitte & Touche LLP.

Dwayne L. Hyzak, age 39, has served as Main Street's chief financial officer and a senior managing director since 2011. Previously, Mr. Hyzak served as one of Main Street's senior vice presidents since 2007 and as senior vice president-finance since 2011. Mr. Hyzak is also a senior managing director of the Sub-Adviser. From 2002, Mr. Hyzak has served as a managing director and in other executive positions of several Main Street predecessor funds and entities, which are now subsidiaries of Main Street. From 2000 to 2002, Mr. Hyzak was a director of integration with Quanta Services, Inc. (NYSE: PWR), which provides specialty contracting services to the power, natural gas and telecommunications industries, where he was principally focused on the company's mergers and acquisitions and corporate finance activities. Prior to joining Quanta Services, Inc., he was a manager with Arthur Andersen LLP in its Transaction Advisory Services group.

David L. Magdol, age 42, has served as Main Street's chief investment officer and a senior managing director since 2011. Mr. Magdol is also the chairman of Main Street's investment committee. Previously, Mr. Magdol served as one of Main Street's senior vice presidents since 2007. Mr. Magdol is also a senior managing director of the Sub-Adviser. From 2002, Mr. Magdol has served as a managing director and in other executive positions of several Main Street predecessor funds and entities, which are now subsidiaries of Main Street. Mr. Magdol joined Main Street from the investment banking group at Lazard Freres & Co. Prior to Lazard, he managed a portfolio of private equity investments for the McMullen Group, a private investment firm/family office capitalized by Dr. John J. McMullen, the former owner of the New Jersey Devils and the Houston Astros. Mr. Magdol began his career in the structured finance services group of JP Morgan Chase.

INVESTMENT ADVISORY AND ADMINISTRATIVE SERVICES AGREEMENT

Investment Adviser Services

Our investment process utilizes the combined business and investment expertise, credit underwriting experience, transaction expertise and deal-sourcing capabilities of our Advisers. The Adviser provides its services under the Investment Advisory Agreement with us, while the Sub-Adviser provides its services under the Sub-Advisory Agreement with our Adviser, to which the Company and Main Street are also a party. The activities of both of our Advisers are subject to the supervision and oversight of our board of directors.

Under the terms of our Investment Advisory Agreement, our Adviser is obligated to, among other things:

- Determine the composition and allocation of our investment portfolio, the nature and timing of the changes therein and the manner of implementing such changes;
- Identify, evaluate and negotiate the structure of the investments we make;
- Execute and close the acquisition of, and monitor and service, our investments;
- Determine the securities and other assets that we will purchase, retain, or sell;
- Perform due diligence on prospective investments and portfolio companies;
- Provide us with such other investment advisory, research and related services as we may, from time to time, reasonably request or require for the investment of our funds; and
- To the extent permitted under the 1940 Act and the Advisers Act, on our behalf provide significant managerial assistance to those portfolio companies to which we are required as a BDC to provide such assistance under the 1940 Act, including utilizing appropriate personnel of the Adviser to, among other things, monitor the operations of our portfolio companies, participate in board and management meetings, consult with and advise officers of portfolio companies and provide other organizational and financial consultation.

Under the terms of our Sub-Advisory Agreement, as permitted by the Advisory Agreement, our Adviser has delegated certain of its responsibilities to the Sub-Adviser including, among others, the following :

- Make recommendations to the Adviser as to the allocation of our investment portfolio among various types of securities, the nature and timing of the changes therein and the manner of implementing such changes;
- Identify, evaluate, recommend to the Adviser, and, if approved by the Adviser, negotiate the structure and terms of the investments we make;
- Assist the Adviser in executing and closing the acquisition and disposition of our investments;
- Make recommendations to the Adviser with respect to the securities and other assets that we will purchase, retain, or sell;
- Monitor the Company’s investment portfolio and make recommendations regarding ongoing portfolio management; and
- Perform, or cause to be performed, due diligence procedures and provide due diligence information on prospective investments.

The Sub-Adviser will be primarily responsible for initially identifying, evaluating, negotiating and structuring our prospective investments. Our Adviser will have exclusive responsibility for approving the acquisition and disposition of investments.

Our advisory services under the Investment Advisory Agreement and Sub-Advisory Agreement are not exclusive, and the Advisers are free to furnish similar services to other entities so long as their services to us are not impaired, provided that during the terms of the Investment Advisory Agreement and the Sub-Advisory Agreement, except as otherwise agreed, neither our Adviser nor Sub-Adviser may act as the investment adviser or sub-adviser to, or sponsor of, another public, non-traded BDC (except this restriction will not apply to the Adviser and Sub-Adviser working together on another fund sponsored by the Adviser or the Sub-Adviser).

As a business development company, we are required to offer and provide managerial assistance to our portfolio companies. This assistance could involve monitoring the operations of our portfolio companies, participating in board and management meetings, consulting with and advising officers of portfolio companies and providing other organizational and financial guidance. Our Advisers or any third-party administrator will make available such managerial assistance, on our behalf, to our portfolio companies, whether or not they request this assistance. Our Advisers' business experience makes them qualified to provide such managerial assistance. We may receive fees for these services and will reimburse our Advisers, or any third-party administrator, for their allocated costs in providing such assistance, subject to review and approval by our board of directors.

Advisory Fees

Pursuant to the Investment Advisory Agreement, we will pay our Adviser a fee for investment advisory and management services consisting of two components — a management fee and an incentive fee. Pursuant to the Sub-Advisory Agreement, the Sub-Adviser will receive 50% of all fees payable to the Adviser under the Investment Advisory Agreement.

Management Fees

The management fee will be calculated at an annual rate of 2.0% of our average gross assets. The management fee will be payable quarterly in arrears, and shall be calculated based on the average value of our gross assets at the end of the two most recently completed calendar quarters. All or any part of the management fee not taken as to any quarter shall be deferred without interest and may be taken in such other quarter as the Adviser will determine. The management fee for any partial month or quarter will be appropriately pro rated.

Incentive Fees

The incentive fee shall consist of two parts. The first part, referred to as the subordinated incentive fee on income, will be calculated and payable quarterly in arrears based on our pre-incentive fee net investment income for the immediately preceding quarter. The payment of the subordinated incentive fee on income will be equal to 20% of our pre-incentive fee net investment income for the previous quarter, expressed as a quarterly rate of return on adjusted capital at the beginning of the most recently completed calendar quarter, exceeding 1.875% (or 7.5% annualized), subject to a "catch up" feature (as described below).

For this purpose, pre-incentive fee net investment income means interest income, dividend income and any other income (including any other fees such as commitment, origination, structuring, diligence and consulting fees or other fees that we receive from portfolio companies) accrued during the calendar quarter, minus our operating expenses for the quarter (including the management fee, expenses payable under any administration agreement and any interest expense and dividends paid on any issued and outstanding preferred stock, but excluding the incentive fee). Pre-incentive fee net investment income includes, in the case of investments with a deferred interest feature (such as original issue discount debt instruments and payment-in-kind interest and zero coupon securities), accrued income that we have not yet received in cash. Pre-incentive fee net investment income does not include any realized capital gains, realized capital losses or unrealized capital appreciation or depreciation. For purposes of this fee, adjusted capital means cumulative gross proceeds generated from sales of our common stock (including proceeds from our distribution reinvestment plan) reduced for non-liquidating distributions, other than distributions of profits, paid to our stockholders and amounts paid for share repurchases pursuant to our share repurchase program.

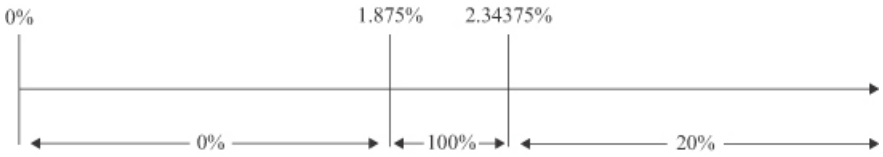
The calculation of the subordinated incentive fee on income for each quarter is as follows:

- No subordinated incentive fee on income shall be payable to the Adviser in any calendar quarter in which our pre-incentive fee net investment income does not exceed the hurdle rate of 1.875% (or 7.5% annualized) on adjusted capital;
- 100% of our pre-incentive fee net investment income, if any, that exceeds the hurdle rate but is less than or equal to 2.34375% (or 9.375% annualized) of adjusted capital in any calendar quarter shall be payable to the Adviser. This portion of the subordinated incentive fee on income is referred to as the "catch up" and is intended to provide the Adviser with an incentive fee of 20.0% on all of our pre-incentive fee net investment income as if the hurdle rate did not apply when the pre-incentive fee net investment income exceeds 2.34375% (or 9.375% annualized) in any calendar quarter; and
- For any quarter in which our pre-incentive fee net investment income exceeds 2.34375% (or 9.375% annualized) of adjusted capital, the subordinated incentive fee on income shall equal 20.0% of the amount of our pre-incentive fee net investment income, as the hurdle rate and catch-up will have been achieved.

The following is a graphical representation of the calculation of the quarterly subordinated incentive fee on income:

Quarterly Subordinated Incentive Fee on Income

Pre-Incentive Fee Net Investment Income
(expressed as a percentage of average adjusted capital)



Percentage of Pre-Incentive Fee Net Investment Income Allocated to Quarterly Incentive Fee

The second part of the incentive fee, referred to as the incentive fee on capital gains, shall be an incentive fee on realized capital gains earned from the portfolio of the Company and shall be determined and payable in arrears as of the end of each calendar year (or upon termination of the Investment Advisory Agreement). This fee shall equal 20.0% of our incentive fee capital gains, which shall equal our realized capital gains on a cumulative basis from inception, calculated as of the end of each calendar year, computed net of all realized capital losses and unrealized capital depreciation on a cumulative basis, less the aggregate amount of any previously paid capital gain incentive fees. In order to provide an incentive for our Adviser to successfully execute a merger transaction involving us that is financially accretive and/or otherwise beneficial to our stockholders even if our Adviser will not act as an investment adviser to the surviving entity in the merger, we may seek exemptive relief from the SEC to allow us to pay our Adviser an incentive fee on capital gains in connection with our merger with and into another entity. Absent the receipt of such relief, our Adviser will not be entitled to an incentive fee on capital gains or any other incentive fee in connection with any such merger transaction.

Examples of Incentive Fee Calculation

Example 1: Income Related Portion of Incentive Fee (*):

Alternative 1 — Assumptions

- Investment income (including interest, dividends, fees, etc.) = 1.25%
- Hurdle rate (1) = 1.875%
- Base management fee (2) = 0.50%
- Other expenses (legal, accounting, custodian, transfer agent, etc.) (3) = 0.20%
- Pre-incentive fee net investment income (investment income – (base management fee + other expenses)) = 0.55%

Pre-incentive fee net investment income does not exceed hurdle rate, therefore there is no incentive fee.

Alternative 2 — Assumptions

- Investment income (including interest, dividends, fees, etc.) = 2.70%
- Hurdle rate (1) = 1.875%
- Base management fee (2) = 0.50%
- Other expenses (legal, accounting, custodian, transfer agent, etc.) (3) = 0.20%
- Pre-incentive fee net investment income (investment income – (base management fee + other expenses)) = 2.00%

Pre-incentive net investment income exceeds hurdle rate, therefore there is an income incentive fee payable by us to our Adviser.

Incentive fee = 100% x pre-incentive fee net investment income in excess of the hurdle rate, based on the "catch-up" provision (4)

= 100% x (2.00% – 1.875%)

= 0.125%

Alternative 3 — Assumptions

- Investment income (including interest, dividends, fees, etc.) = 3.20%
- Hurdle rate (1) = 1.875%
- Base management fee (2) = 0.50%
- Other expenses (legal, accounting, custodian, transfer agent, etc.) (3) = 0.20%
- Pre-incentive fee net investment income (investment income – (base management fee + other expenses)) = 2.50%

Pre-incentive net investment income exceeds hurdle rate, therefore there is an income incentive fee payable by us to our Adviser.

- Incentive fee = 20% x pre-incentive fee net investment income, subject to "catch-up" (4)
- Incentive fee = 100% x "catch-up" + (20% x (pre-incentive fee net investment income – 2.34375%))

- Catch-up = 2.34375% – 1.875%

  = 0.46875%

- Incentive fee = (100% x 0.46875%) + (20% x (2.50% – 2.34375%))

  = 0.46875% + (20% x 0.15625%)

  = 0.46875% + 0.03125%

  = 0.50% (or 20% of 2.50%)

(1) Represents 7.5% annualized hurdle rate.

(2) Represents 2.0% annualized base management fee.

(3) Excludes organizational and offering expenses.

(4) The "catch-up" provision is intended to provide our Adviser with an incentive fee of 20% on all of our pre-incentive fee net investment income as if a hurdle rate did not apply when our net investment income exceeds 2.34375% in any calendar quarter.

(*) The hypothetical amount of pre-incentive fee net investment income shown is based on a percentage of total net assets.

Example 2: Capital Gains Portion of Incentive Fee:

Alternative 1: Assumptions

Year 1: $20 million investment made in company A ("Investment A") and $30 million investment made in company B ("Investment B")

Year 2: Investment A sold for $50 million and fair market value, or FMV, of Investment B determined to be $32 million

Year 3: FMV of Investment B determined to be $25 million

Year 4: Investment B sold for $31 million

The capital gains portion of the incentive fee would be:

Year 1: None

Year 2: Capital gains incentive fee of $6 million ($30 million realized capital gains on sale of Investment A multiplied by 20%; no unrealized capital depreciation)

Year 3: None

Year 4: Capital gains incentive fee of $200,000 ($6.2 million ($31 million cumulative realized capital gains multiplied by 20%) less $6 million (capital gains fee paid in Year 2))

Alternative 2 — Assumptions

Year 1: $20 million investment made in company A ("Investment A"), $30 million investment made in company B ("Investment B") and $25 million investment made in company C ("Investment C")

Year 2: Investment A sold for $50 million, FMV of Investment B determined to be $25 million and FMV of Investment C determined to be $25 million

Year 3: FMV of Investment B determined to be $27 million and Investment C sold for $30 million

Year 4: FMV of Investment B determined to be $35 million

Year 5: Investment B sold for $20 million

The capital gains incentive fee, if any, would be:

Year 1: None

Year 2: $5 million capital gains incentive fee (20% multiplied by $25 million ($30 million realized capital gains on Investment A less $5 million unrealized capital depreciation on Investment B)

Year 3: $1.4 million capital gains incentive fee ($6.4 million (20% multiplied by $32 million ($35 million cumulative realized capital gains on Investment A and Investment C less $3 million unrealized capital depreciation on Investment B)) less $5 million capital gains fee paid in Year 2)

Year 4: Capital gains incentive fee of $600,000 ($7 million ($35 million cumulative realized capital gains multiplied by 20%) less $6.4 million (cumulative capital gain incentive fees paid in Year 2 and Year 3))

Year 5: None. ($5 million (20% multiplied by $25 million (cumulative realized capital gains of $35 million less realized capital losses of $10 million)) less $7.0 million cumulative capital gain incentive fees paid in Year 2, Year 3, and Year 4)

The returns shown are for illustrative purposes only and are all based on quarterly calculations. There is no guarantee that positive returns will be realized and actual returns may vary from those shown in the examples above.

Payment of Our Expenses

Our primary operating expenses will be the payment of fees and other expenses under our Investment Advisory Agreement and any administration agreement. The investment advisory fees will compensate our Adviser for its work in identifying, evaluating, negotiating, executing, monitoring and servicing our investments. Our Adviser will pay our Sub-Adviser 50% of all investment advisory fees it receives. Additionally, we will reimburse the actual expenses incurred by our Advisers or their affiliates, or any third-party administrator in connection with the provision of Administrative Services (as opposed to investment advisory services) to us, including the personnel and related employment direct costs and overhead of our Advisers or their affiliates, or any third-party administrator. We will not reimburse for personnel costs in connection with services for which our Advisers or their affiliates, or any third-party administrator, receive a separate fee.

Subject to the limitations included in the Investment Advisory and Sub-Advisory Agreements, we will bear all other expenses of our operations and transactions, including (without limitation) fees and expenses relating to:

- corporate and organizational expenses relating to offerings of our common stock, subject to limitations included in the Investment Advisory and Sub-Advisory Agreements;
- the actual cost of the persons performing the functions of chief financial officer and chief compliance officer and other personnel engaged to provide such administrative services (including, without limitation, direct compensation costs including salaries, bonuses, benefits and other direct costs associated therewith) and related overhead costs allocated by the Adviser to the Company in a reasonable manner, without markup;
- any amounts paid to third parties for Administrative Services;
- the cost associated with the investigation and monitoring of our investments;
- the cost of calculating our net asset value, including third-party valuation firms;
- the cost of effecting sales and repurchases of shares of our common stock and other securities;

- management and incentive fees payable pursuant to the Investment Advisory Agreement;
- fees payable to third parties relating to, or associated with, making investments and valuing investments (including third-party valuation firms);
- transfer agent and custodial fees, fees and expenses associated with marketing efforts (including attendance at investment conferences and similar events);
- federal and state registration fees;
- any exchange listing fees;
- federal, state and local taxes;
- independent directors' fees and expenses;
- brokerage commissions;
- costs of proxy statements;
- stockholders' reports and notices;
- costs of preparing government filings, including periodic and current reports with the SEC;
- fidelity bond, liability insurance and other insurance premiums;
- printing, mailing, long distance telephone and staff costs associated with the Company's reporting and compliance obligations under the 1940 Act and applicable federal and state securities laws;
- fees and expenses associated with accounting, independent audits and outside legal costs; and
- all other expenses incurred by our Advisers in performing their obligations subject to the limitations included in the Investment Advisory and Sub-Advisory Agreements.

Management and Incentive Fee Waiver

Subject to a conditional fee waiver agreement, our Advisers have agreed to waive management and incentive fees for up to twelve months from the commencement of the offering to the extent required to avoid distributions that are estimated to represent a return of capital for U.S. federal income tax purposes during such period. In certain circumstances, we may determine that it is appropriate to reimburse the Advisers for fees waived under the conditional fee waiver agreement, as more fully described in the same. This management and incentive fee waiver arrangement is intended to support the reasonable alignment of our expenses with our income during the initial phase of our operations.

Duration and Termination

Unless earlier terminated as described below, the Investment Advisory and Sub-Advisory Agreements will remain in effect for a period of two years from the date they were approved by the board of directors and will remain in effect from year to year thereafter if approved annually by (i) the vote of our board of directors, or the affirmative vote of stockholders entitled to cast at least a majority of the votes entitled to be cast on the matter, and (ii) the vote of a majority of our directors who are not interested persons. The Investment Advisory and Sub-Advisory Agreements will automatically terminate in the event of its assignment (as such term is defined in the 1940 Act). As required by the 1940 Act, the Investment Advisory and Sub-Advisory Agreements provide that we may terminate the agreement without penalty upon 60 days written notice to the Adviser or Sub-Adviser, as applicable. Our Adviser may voluntarily terminate the Investment Advisory Agreement upon 120 days notice prior to termination and must pay all expenses associated with its termination. Our Sub-Adviser may voluntarily terminate the Sub-Advisory Agreement upon 60 days notice prior to termination and must pay all expenses associated with its termination.

Under the terms of the Sub-Advisory and Investment Advisory and Sub-Advisory Agreements, if either of the Investment Advisory Agreement or Sub-Advisory Agreement is terminated or not renewed, then the other agreement will also terminate on the effective date of such termination or non-renewal. In addition, under the terms of the Sub-Advisory Agreement and the Investment Advisory Agreement, in the event either the Investment Advisory Agreement or the Sub-Advisory Agreement terminates because we terminate or fail to renew either agreement, neither the Adviser, the Sub-Adviser nor any of their affiliates may, except in certain limited circumstances, be re-engaged as Adviser or Sub-Adviser for a period of three years following the date of such termination without the consent of the party not seeking to be re-engaged.

Indemnification

The Investment Advisory Agreement and Sub-Advisory Agreement provide that our Adviser and Sub-Adviser and their respective officers, directors, controlling persons and any other person or entity affiliated with them acting as our agent shall not be entitled to indemnification for any liability or loss suffered by such indemnitee, nor shall such indemnitee be held harmless for any loss or liability suffered by us, unless (i) the indemnitee has determined, in good faith, that the course of conduct which caused the loss or liability was in the best interests of the Company; (ii) the indemnitee was acting on behalf of or performing services for the Company; (iii) such liability or loss was not the result of negligence or misconduct by the indemnitee; and (iv) such indemnification or agreement to hold harmless is recoverable only out of the Company's net assets and not from stockholders. In addition, the indemnitee shall not be indemnified for any losses, liabilities or expenses arising from or out of an alleged violation of federal or state securities laws unless one or more of the following conditions are met: (i) there has been a successful adjudication on the merits of each count involving alleged securities law violations as to the particular indemnitee; (ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee; or (iii) a court of competent jurisdiction approves a settlement of the claims against a particular indemnitee and finds that indemnification of the settlement and related costs should be made, and the court of law considering the request for indemnification has been advised of the position of the SEC and the published position of any state securities regulatory authority in which securities of the Company were offered or sold as to indemnification for violations of securities laws.

Fiduciary Duty of Investment Adviser

Under the terms of our Investment Advisory Agreement, our Adviser will have a fiduciary responsibility for the safekeeping and use of all funds and assets of the Company, whether or not in our Adviser's immediate possession or control. Our Adviser may not employ, or permit another to employ, such funds or assets in any manner except for the exclusive benefit of the Company. In addition, our Adviser may not, by entry into an agreement with any stockholder of the Company or otherwise, contract away the fiduciary obligation owed to the Company and the Company stockholders under common law.

No Exclusive Agreement

Under the terms of the Investment Advisory Agreement, our Adviser may not be granted an exclusive right to sell or exclusive employment to sell assets for the Company.

Rebates, Kickbacks and Reciprocal Arrangements

Under the terms of the Investment Advisory Agreement, our Adviser may not (A) receive or accept any rebate, give-up or similar arrangement that is prohibited under applicable federal or state securities laws, (B) participate in any reciprocal business arrangement that would circumvent provisions of applicable federal or state securities laws governing conflicts of interest or investment restrictions, or (C) enter into any agreement, arrangement or understanding that would circumvent the restrictions against dealing with affiliates or promoters under applicable federal or state securities laws. In addition, our Adviser may not directly or indirectly pay or award any fees or commissions or other compensation to any person or entity engaged to sell the Company's stock or give investment advice to a potential stockholder; provided, however, that our Adviser may pay a registered broker-dealer or other properly licensed agent from sales commissions for selling or distributing the Company's common stock.

Commingled Funds

Under the terms of the Investment Advisory Agreement, our Adviser may not permit or cause to be permitted the Company's funds to be commingled with the funds of any other entity. Nothing, however, shall prohibit our Adviser from establishing a master fiduciary account pursuant to which separate sub-trust accounts may be established for the benefit of affiliated programs, provided that the Company's funds are protected from the claims of other programs and creditors of such programs.

Limitations on Reimbursement of Expenses

Our charter provides that the Company may reimburse the Adviser for the cost of Administrative Services performed by it on behalf of the Company; provided, however, the reimbursement shall be an amount equal to the lower of the Adviser's actual cost or the amount the Company would be required to pay third parties for the provision of comparable administrative services in the same geographic location; and provided, further, that such costs are reasonably allocated to the Company on the basis of assets, revenues, time records or other methods conforming with generally accepted accounting principles. No reimbursement shall be permitted for services for which the Adviser is entitled to compensation by way of a separate fee. At this time, the Company is unable to predict the amount, if any, of such reimbursable expenses for the next fiscal year.

ADMINISTRATIVE SERVICES

At this time, we anticipate that our Advisers will provide Administrative Services to us under the Investment Advisory Agreement and Sub-Advisory Agreement. We will reimburse our Advisers for the cost of the Administrative Services as well as personnel and related employment direct costs and overhead of our Advisers, that they deliver on our behalf. In the future, however, we may decide to enter into a separate administration agreement with affiliates of the Advisers or a third party administrator, pursuant to which we would pay our administrator for administrative expenses it incurs on our behalf. Such administration agreement would provide that the administrator is responsible for furnishing us with office facilities, equipment, clerical, bookkeeping and record keeping services at such facilities. We anticipate that, under any administration agreement, the administrator would perform, or oversee the performance of, our required Administrative Services, which would include, among other things, being responsible for the financial records which we are required to maintain and preparing reports to our stockholders. In addition, we expect that our administrator would assist us in determining and publishing our net asset value, overseeing the preparation and filing of our tax returns and the printing and dissemination of reports to our stockholders, and generally overseeing the payment of our expenses and the performance of administrative and professional services rendered to us by others. We expect that payments under the administration agreement would be equal to an amount based upon our allocable portion of our administrator's overhead in performing its obligations under the administration agreement, including rent and our allocable portion of the cost of our chief compliance officer and chief financial officer and their respective staffs. We anticipate that, under the administration agreement, the administrator would also provide on our behalf managerial assistance to those portfolio companies to which we are required to provide such assistance. We anticipate that the administration agreement would be able to be terminated by either party without penalty upon 60 days' written notice to the other party.

We expect that the administration agreement would provide that, absent willful misfeasance, bad faith or negligence in the performance of its duties or by reason of the reckless disregard of its duties and obligations, our administrator and its officers, manager, partners, agents, employees, controlling persons, members and any other person or entity affiliated with it would be entitled to indemnification from the Company for any damages, liabilities, costs and expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) arising from the rendering of administrator's services under the administration agreement or otherwise as administrator for the Company.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

Our Adviser, HMS Adviser, is a Texas limited partnership formed on April 13, 2012 that is registered as an investment adviser under the Advisers Act. Our Adviser is wholly-owned by Hines. Hines is majority owned by Gerald D. Hines and Jeffrey C. Hines. Our chief financial officer and chief compliance officer and the other investment professionals may also serve as principals of other investment managers affiliated with our Adviser or Hines that may in the future manage investment funds with an investment objective similar to ours.

On December 12, 2011, the Hines Investor and an unaffiliated investor purchased 1,111,111 units of membership interest in HMS Income LLC for a price of $9.00 per unit or an aggregate of $10 million, $7.5 million of which was contributed by the Hines Investor and the remaining $2.5 million of which was contributed by the unaffiliated investor. Simultaneous with that initial capitalization, HMS Income LLC entered into a senior secured single advance term loan credit facility with Main Street in the committed principal amount of $7.5 million, which loan has subsequently been repaid with borrowings from a credit facility the Company entered into on May 24, 2012. Additionally, pursuant to a letter agreement between the parties, Hines has the right to sell to Main Street up to one-third of its equity interest in the Company at a price per share equal to the then current price to the public in the offering (less the selling commissions and dealer manager fee of 10%) at the time of exercise of the right. The right may be exercised from time to time, in whole or in part, subject only to the condition that immediately following Main Street's purchase, Main Street's ownership in the Company would not exceed the limits on investment company ownership of other investment companies as set forth in the 1940 Act.

Any transaction with our affiliates must be fair and reasonable to us and on terms no less favorable than could be obtained from an unaffiliated third party and must be approved by a majority of the disinterested directors, including a majority of disinterested independent directors.

Affiliated Dealer Manager

We expect to engage Hines Securities, Inc., an affiliate of Hines, as our dealer manager and will pay fees to such entity pursuant to the proposed dealer management agreement. Under the terms of the proposed dealer manager agreement, Hines Securities, Inc. is expected to act as our exclusive dealer manager until the end of our initial public offering or until the dealer manager agreement is terminated by us or them.

Credit Facility with Main Street

On December 12, 2011 we entered into a loan agreement with Main Street, our Sub-Adviser, for a $7,500,000 senior secured single advance term loan credit facility. On December 12, 2011, HMS Income LLC fully drew the entire committed principal amount under the Main Street Facility in order to acquire from Main Street approximately $16.5 million of investments utilizing its initial equity investment and proceeds from the Main Street Facility. On May 24, 2012, we entered into a $15 million senior secured revolving credit facility with Capital One, and immediately borrowed $7 million under the facility, which proceeds were used in the repayment of the Main Street Facility. See "Management's Discussion and Analysis of Financial Condition and Results of Operations and the Company's Expected Operating Plans — Financial Condition, Liquidity and Capital Resources" above.

Management and Incentive Fee Waiver

Subject to a conditional fee waiver agreement, our Advisers have agreed to waive management and incentive fees for up to twelve months from the commencement of the offering to the extent required to avoid distributions that are estimated to represent a return of capital for U.S. federal income tax purposes during such period. In certain circumstances, we may determine that it is appropriate to reimburse the Advisers for fees waived under the conditional fee waiver agreement, as more fully described in the same. This management and incentive fee waiver arrangement is intended to support the reasonable alignment of our expenses with our income during the initial phase of our operations.

Allocation of HMS Adviser's Time

We rely, in part, on HMS Adviser to manage our day-to-day activities and to implement our investment strategy. Our Adviser and certain of its affiliates are presently, and plan in the future to continue to be, involved with activities which are unrelated to us. Additionally, except for certain restrictions on our Adviser set forth in the Sub-Advisory Agreement, our Adviser and its affiliates are not restricted from forming additional investment funds, from entering into other investment advisory relationships or from engaging in other business activities, even though such activities may be in competition with us and/or may involve substantial time and resources of our Adviser. As a result of these activities, our Adviser, its employees and certain of its affiliates will have conflicts of interest in allocating their time between us and other activities in which they are or may become involved. Therefore, our Adviser, its personnel, and certain affiliates may experience conflicts of interest in allocating management time, services, and functions among us and any other business ventures in which they or any of their key personnel, as applicable, are or may become involved. This could result in actions that are more favorable to other affiliated entities than to us. However, our Adviser believes that it and its affiliates have sufficient personnel to discharge fully their responsibilities to all activities in which they are involved.

Allocation of the Sub-Adviser Time

We rely on the Sub-Adviser to identify investment opportunities, perform, or cause to be performed, due diligence procedures and provide due diligence information to our Adviser, monitor our investment portfolio and make investment recommendations to our Adviser, as well as provide ongoing portfolio management services to the Adviser with respect to our investment portfolio. The Sub-Adviser, its affiliates and their respective members, partners, officers and employees will devote as much of their time to our activities as they deem necessary and appropriate. Except for certain restrictions on the Sub-Adviser set forth in the Sub-Advisory Agreement, the Sub-Adviser and its affiliates are not restricted from forming additional investment funds, from entering into other investment advisory relationships or from engaging in other business activities, even though such activities may be in competition with us and/or may involve substantial time and resources of the Sub-Adviser. These activities could be viewed as creating a conflict of interest in that the time and effort of the members of the Sub-Adviser, its affiliates and their officers and employees will not be devoted exclusively to our business but will be allocated between us and the management of Main Street's assets.

Competition/Co-Investment

As a BDC, we are subject to certain regulatory restrictions in making our investments. For example, we will not be permitted to co-invest with our Sub-Adviser or its affiliates in certain transactions originated by our Sub-Adviser or its affiliates unless we obtain an exemptive order from the SEC. We have applied for such an exemptive order. However, there can be no assurance that we will obtain such relief. Even if we receive exemptive relief, our Sub-Adviser and its affiliates are not obligated to offer to each other or to us the right to participate in any transactions originated by them.

If granted, the exemptive relief would allow us, and/or any future entity that is managed, advised or controlled by us or the Adviser on one hand, and Main Street and/or any future entity that is managed, advised or controlled by Main Street on the other hand, to co-invest in the same investment opportunities where such investment would otherwise be prohibited under Section 57(a)(4) of the 1940 Act. If the application for exemptive relief is granted, each co-investment transaction would be allocated between us and the Main Street entities based upon an agreed upon allocation. This relative allocation would be approved at the onset of each quarter or, as necessary or appropriate, between quarters by a required majority of the independent directors eligible of both the Company and Main Street to vote under Section 57(o) of the 1940 Act. The allocations could be adjusted by the approval of a required majority of the independent directors of both the Company and Main Street, for any reason, including, among other things, in the case of a specific investment, if our or Main Street's participation at a certain level could cause either one of us to fail to meet the diversification or other requirements necessary for either one of us to qualify as a RIC under the Code. Unless adjusted in the manner described above, once agreed upon, the relative allocation plan would apply prospectively for the following quarter. Additional

information regarding the operation of the co-investment program is set forth in the application for exemptive relief, which has been filed with the SEC.

Prior to obtaining exemptive relief, we intend to co-invest alongside our Sub-Adviser and/or its affiliates only in accordance with existing regulatory guidance. For example, at any time, we may co-invest in syndicated deals and secondary loan market transactions where price is the only negotiated point. While we desire to receive exemptive relief from the SEC, given the latitude permitted within existing regulatory guidance and our current universe of investment opportunities, we do not feel that the absence of exemptive relief materially affects our ability to achieve our investment objective.

Appraisal and Compensation

Our charter provides that, in connection with any transaction involving a merger, conversion or consolidation, either directly or indirectly, involving us and the issuance of securities of a surviving entity after the successful completion of such transaction, or "roll-up," an appraisal of all our assets will be obtained from a competent independent appraiser which will be filed as an exhibit to the registration statement registering the roll-up transaction. Such appraisal will be based on all relevant information and shall indicate the value of our assets as of a date immediately prior to the announcement of the proposed roll-up. The engagement of such independent appraiser shall be for the exclusive benefit of the Company and our stockholders. A summary of such appraisal shall be included in a report to our stockholders in connection with a proposed roll-up. All stockholders will be afforded the opportunity to vote to approve such proposed roll-up, and shall be permitted to (a) accept the securities of a roll-up entity offered in the proposed roll-up; or (b) one of the following: (i) remain as holders of common stock preserving their interests therein on the same terms and conditions as existed previously; or (ii) receive cash in an amount of such stockholder's pro rata share of the appraised value of our net assets.

Sales and Leases to Company

Our charter provides that the Company may not purchase or lease assets in which our Adviser or any of its affiliates has an interest unless all of the following conditions are met: (a) the transaction occurs at the formation of the Company and is fully disclosed to the stockholders in a prospectus or in a periodic report; and (b) the assets are sold or leased upon terms that are reasonable to the Company and at a price not to exceed the lesser of cost or fair market value as determined by an independent expert. However, our Adviser may purchase assets in its own name (and assume loans in connection therewith) and temporarily hold title thereto, for the purposes of facilitating the acquisition of the assets, the borrowing of money, obtaining financing for the Company, or the completion of construction of the assets, provided that all of the following conditions are met: (i) the assets are purchased by the Company at a price no greater than the cost of the assets to our Adviser; (ii) all income generated by, and the expenses associated with, the assets so acquired shall be treated as belonging to the Company; and (iii) there are no other benefits arising out of such transaction to our Adviser apart from compensation otherwise permitted by the NASAA Omnibus Guidelines.

Sales and Leases to the Adviser, Directors or Affiliates

Our charter provides that the Company may not sell assets to our Adviser or any affiliate thereof unless such sale is duly approved by the holders of shares of stock entitled to cast a majority of all the votes entitled to be cast on the matter. The Company may not lease assets to our Adviser or any affiliate thereof unless all of the following conditions are met: (a) the transaction is fully disclosed to the stockholders in a periodic report filed with the SEC or otherwise; and (b) the terms of the transaction are fair and reasonable to the Company.

Loans

Our charter provides that, except for the advancement of indemnification funds, no loans, credit facilities, credit agreements or otherwise may be made by the Company to our Adviser or any affiliate thereof.

Commissions on Financing, Refinancing or Reinvestment

Our charter provides that the Company generally may not pay, directly or indirectly, a commission or fee to our Adviser or any affiliate thereof in connection with the reinvestment of profits and available reserves or of the proceeds of the refinancing of assets.

Lending Practices

Our charter provides that, with respect to financing made available to the Company by any adviser, such adviser may not receive interest in excess of the lesser of such adviser's cost of funds or the amounts that would be charged by unrelated lending institutions on comparable loans for the same purpose. An adviser may not impose a prepayment charge or penalty in connection with such financing and such adviser may not receive points or other financing charges. In addition, an adviser will be prohibited from providing financing with a term in excess of 12 months for the Company.

CONTROL PERSONS AND PRINCIPAL STOCKHOLDERS

After this offering, no person will be deemed to control us, as such term is defined in the 1940 Act. The following table sets forth, as of the date of this prospectus, information with respect to the beneficial ownership of our common stock by:

- each person known to us to beneficially own more than 5% of the outstanding shares of our common stock;
- each of our directors and each officer; and
- all of our directors and officers as a group.

Beneficial ownership is determined in accordance with the rules of the SEC and includes voting or investment power with respect to the securities. There is no common stock subject to options that are currently exercisable or exercisable within 60 days of the offering.

Unless otherwise indicated, all shares of common stock are owned directly and the named person has sole voting and investment power. None of the shares of common stock beneficially owned by our officers or directors have been pledged as security for an obligation.

	Shares Beneficially Owned as of the date of this Prospectus		
Name and Address[1]	**Number**	**Percentage Assuming minimum amount is purchased**	**Percentage Assuming maximum amount is purchased**
5% Stockholders:			
Interested Directors:			
Charles N. Hazen	—	—	—
Vincent D. Foster[2]	—	—	—
Independent Directors:			
Peter Shaper	—	—	—
Phil D. Wedemeyer	—	—	—
John O. Niemann, Jr.	—	—	—
Officers (that are not directors)			
Ryan T. Sims	—	—	—
Susan Dudley	—	—	—
Jeremy T. Davis	—	—	—
All officers and directors as a group (eight persons)			

(1) Except for Vincent D. Foster, the address of each beneficial owner is c/o HMS Income Fund, Inc., 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118.

(2) Mr. Foster's address is c/o Main Street Capital Corporation, 1300 Post Oak Boulevard, Suite 800, Houston, Texas 77056-6118.

The following table sets forth, as of the date of this prospectus, the dollar range of our equity securities that is expected to be beneficially owned by each of our directors.

Name and Address[1]	Dollar Range of Equity Securities Beneficially Owned[2][3][4]
Interested Directors:	
Charles N. Hazen	—
Vincent D. Foster	—
Independent Directors:	
Peter Shaper	—
Phil D. Wedemeyer	—
John O. Niemann, Jr.	—

(1) Except for Vincent D. Foster, the address of each of our directors is c/o HMS Income Fund, Inc., 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118. Mr. Foster's address is c/o Main Street Capital Corporation, 1300 Post Oak Boulevard, Suite 800, Houston, Texas 77056-6118.

(2) Beneficial ownership has been determined in accordance with Rule 16a-1(a)(2) of the Exchange Act.

(3) The dollar range of equity securities beneficially owned by our directors is based on an assumed initial offering price of $10.00 per share.

(4) The dollar range of equity securities beneficially owned is: None, $1 — $10,000, $10,001 — $50,000, $50,001 — $100,000, or over $100,000.

DISTRIBUTION REINVESTMENT PLAN

Our board of directors intends to authorize and we intend to declare quarterly distributions that will be paid on a monthly basis beginning no later than the first full calendar month after the month in which we hold our initial closing. We have adopted an "opt in" distribution reinvestment plan pursuant to which you may elect to have the full amount of your cash distributions reinvested in additional shares of our stock. If you elect to "opt in" to the distribution reinvestment plan, we will apply all cash distributions, other than designated special distributions, including distributions paid with respect to any full or fractional shares of common stock acquired under the distribution reinvestment plan, to the purchase of the shares of common stock for you directly, if permitted under state securities laws and, if not, through the dealer manager or soliciting dealers registered in the your state of residence. Designated special distributions are cash or other distributions designated as designated special distributions by our board of directors. For example, if our board of directors authorizes, and we declare, a cash distribution, then if you have "opted in" to our distribution reinvestment plan you will have your cash distributions reinvested in additional shares of our common stock, rather than receiving the cash distributions. Shares issued pursuant to our distribution reinvestment plan will be issued on the same date that we hold the first closing of the month for the sale of shares in this offering. Your reinvested distributions will purchase shares at a price equal to the price that shares are sold in the offering on such closing date minus the sales load. In the event that this offering is suspended or terminated, then the reinvestment purchase price will be the net asset value per share. Shares issued pursuant to our distribution reinvestment plan will have the same voting rights as our shares of common stock offered pursuant to this prospectus.

If you own shares of our common stock and have received this prospectus, you may elect to become a participant in the distribution reinvestment plan by completing and executing a subscription agreement, an enrollment form or any other appropriate authorization form that we provide. If we receive a properly completed subscription agreement or other appropriate authorization form within 10 days prior to the next distribution date, your participation in the distribution reinvestment plan will begin with the next distribution payable after receipt of a your subscription, enrollment or authorization form. Otherwise, the Company reserves the right to commence your participation in the distribution reinvestment plan beginning with the following distribution payable. Shares of common stock will be purchased under the distribution reinvestment plan on the date that we pay distributions. If you elect to participate in the distribution reinvestment plan, you must agree that, if at any time you fail to meet the applicable income and net worth standards or are no longer able to make the other investor representations or warranties set forth in the then current prospectus, the subscription agreement or our charter relating to such investment, you will promptly notify us in writing of that fact.

We intend to use newly issued shares to implement the plan. The number of shares we will issue to you is determined by dividing the total dollar amount of the distribution payable to you by a price equal to the price that the shares are sold in the offering on such closing date minus the sales load. In the event that the offering is suspended or terminated, then the reinvestment purchase price will be the net asset value per share.

Pursuant to the NASAA Omnibus Guidelines, the Distribution Reinvestment Plan must be operated in accordance with federal and state securities laws. No sales commissions or fees may be deducted directly or indirectly from reinvested funds by the Company. The reinvestment funds must be invested into common stock of the Company. Where required by law, investors must receive a prospectus which is current as of the date of each reinvestment. The soliciting dealers will aid us in blue sky compliance and performance of due diligence responsibilities and will contact investors to ascertain whether the investors continue to meet the applicable states' suitability standards. However, we will remain responsible for blue sky matters with respect to the distribution reinvestment plan, including with regards to the registration or exemption of the shares under the distribution reinvestment plan.

There will be no selling commissions, dealer manager fees or other sales charges to you if you elect to participate in the distribution reinvestment plan. We will pay the plan administrator's fees under the plan.

If you receive distributions in the form of stock, you generally are subject to the same federal, state and local tax consequences as you would be had you elected to receive your distributions in cash. Your basis for

determining gain or loss upon the sale of stock received in a distribution from us will be equal to the total dollar amount of the distribution payable in cash. Any stock received in a distribution will have a holding period for tax purposes commencing on the day following the day on which the shares are credited to your account.

At least quarterly, we will provide each participant a confirmation showing the amount of the distribution reinvested in our shares during the covered period, the number of shares of common stock owned at the beginning of the covered period, and the total number of shares of common stock owned at the end of the covered period. We reserve the right to amend, suspend or terminate the distribution reinvestment plan. We may terminate the plan for any reason upon 10 days' prior notice to plan participants; provided, however, our board will not be permitted to amend the distribution reinvestment plan if such amendment would eliminate plan participants' ability to withdraw from the plan at least annually. If you have opted in to the distribution reinvestment plan, your participation in the plan will also be terminated to the extent that your participation would violate our charter. Otherwise, unless you terminate your participation in our distribution reinvestment plan in writing, your participation will continue. You may terminate your participation in the distribution reinvestment plan at any time by providing us with 10 days' written notice. A withdrawal from participation in the distribution reinvestment plan will be effective only with respect to distributions paid more than 30 days after receipt of written notice. You may contact Hines Investor Relations at 888-220-6121 if you would like more information regarding the method for terminating your account under the distribution reinvestment plan.

All correspondence concerning the plan should be directed to DST Systems Inc., the plan administrator, by mail at P.O. Box 219010, Kansas City, MO 64121-9010 (or 430 W. 7th St., Kansas City, MO 64105 for overnight delivery) or by contacting Hines Investor Relations at 888-220-6121.

We will file the complete form of our distribution reinvestment plan with the SEC as an exhibit to this registration statement of which this prospectus is a part. You may obtain a copy of the plan by request to the plan administrator by mail at P.O. Box 219010, Kansas City, MO 64121-9010 (or 430 W. 7th St., Kansas City, MO 64105 for overnight delivery), or by contacting Hines Investor Relations at 888-220-6121.

DESCRIPTION OF OUR SECURITIES

The following description is based on relevant portions of the Maryland General Corporation Law and on our charter and bylaws. This summary is not necessarily complete, and we refer you to the Maryland General Corporation Law and our charter and bylaws for a more detailed description of the provisions summarized below.

Stock

Our authorized stock consists of 500,000,000 shares of stock, par value $0.001 per share, of which 450,000,000 shares are classified as common stock and 50,000,000 shares are classified as preferred stock. There is currently no market for our common stock, and we do not expect that a market for our shares will develop in the future. No stock has been authorized for issuance under any equity compensation plans. Under Maryland law, our stockholders generally will not be personally liable for our debts or obligations.

Common Stock

Under the terms of our charter, all shares of our common stock have equal rights as to voting and, when they are issued, will be duly authorized, validly issued, fully paid and nonassessable. Distributions may be paid to the holders of our common stock if, as and when authorized by our board of directors and declared by us out of funds legally available therefor. Shares of our common stock have no preemptive, exchange, conversion or redemption rights, but are entitled to the limited repurchase rights described below relating to our share repurchase program and repurchases upon the death or disability of a stockholder. Shares of our common stock are freely transferable, except where their transfer is restricted by federal and state securities laws or by contract. In the event of our liquidation, dissolution or winding up, each share of our common stock would be entitled to share ratably in all of our assets that are legally available for distribution after we pay all debts and other liabilities and subject to any preferential rights of holders of our preferred stock, if any preferred stock is outstanding at such time. Except as may otherwise be specified in our charter, each share of our common stock is entitled to one vote on all matters submitted to a vote of stockholders, including the election of directors. Except as provided with respect to any other class or series of stock, the holders of our common stock possess exclusive voting power. There is no cumulative voting in the election of directors, which means that holders of a majority of the outstanding shares of common stock are able to elect all of our directors, and holders of less than a majority of such shares are not able to elect any director.

Preferred Stock

Under the terms of our charter, our board of directors is authorized to issue shares of preferred stock in one or more classes or series without stockholder approval. The board has discretion to set the terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption for each class or series of preferred stock. Every issuance of preferred stock will be required to comply with the requirements of the 1940 Act. The 1940 Act requires, among other things, that (1) immediately after issuance and before any distribution is made with respect to our common stock and before any purchase of common stock is made, such preferred stock together with all other senior securities must not exceed an amount equal to 50% of our total assets after deducting the amount of such distribution or purchase price, as the case may be, and (2) the holders of shares of preferred stock, if any are issued, must be entitled as a class to elect two directors at all times and to elect a majority of the directors if distributions on such preferred stock are in arrears by two years or more. Certain matters under the 1940 Act require the separate vote of the holders of any issued and outstanding preferred stock. We believe that the availability for issuance of preferred stock will provide us with increased flexibility in structuring future financings and acquisitions. Pursuant to the NASAA Omnibus Guidelines, before any preferred stock may be issued by the Company, a majority of the Company’s independent directors that do not have an interest in the transaction must (i) approve any such offering of preferred stock; and (ii) have access, at the Company’s expense, to the Company’s securities counsel or independent legal counsel.

The following are our outstanding classes of securities upon completion of the BDC Formation:

(1) Title of Class	(2) Amount Authorized	(3) Amount Held by us or for Our Account	(4) Amount Outstanding Exclusive of Amounts Shown Under (3)
Common Stock	450,000,000	—	
Preferred Stock	50,000,000	—	—

Limitation on Liability of Directors and Officers; Indemnification and Advance of Expenses

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty established by a final judgment and which is material to the cause of action.

Maryland law requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or threatened to be made a party by reason of their service in those or other capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that a personal benefit was improperly received, unless in either case a court orders indemnification, and then only for expenses. In addition, Maryland law permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of (a) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation and (b) a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

Our charter contains a provision that limits the liability of our directors and officers to us and our stockholders for money damages and our charter requires us to indemnify and advance expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) to (i) any present or former director or officer, (ii) any individual who, while a director or officer and, at our request, serves or has served another corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner, member, manager or trustee and (iii) our Adviser and its directors, executive officers and controlling persons, and any other person or entity affiliated with it. However, in accordance with the NASAA Omnibus Guidelines, our charter and the Investment Advisory Agreement provide that we may not indemnify an indemnitee for any liability or loss suffered by such indemnitee nor hold harmless such indemnitee for any loss or liability suffered by us unless (1) the indemnitee has determined, in good faith, that the course of conduct which caused the loss or liability was in the best interests of our Company, (2) the indemnitee was acting on behalf of or performing services for us, (3) the liability or loss suffered was not the result of negligence or misconduct by our Adviser, an affiliate of our Adviser or an interested director of the Company, or was not the result of gross negligence or misconduct by an independent director of the Company and (4) the indemnification or agreement to hold harmless is only recoverable out of our net assets and not from our stockholders. In addition, we expect that our Sub-Adviser and Main Street will indemnify us for losses or damages arising out of their respective misfeasance, bad faith, gross negligence in the performance of their respective duties or by reason of the reckless disregard of their respective duties and obligations under the Sub-Advisory Agreement or the violation of applicable law or the breach of any representation in the Sub-Advisory Agreement. In accordance

with the 1940 Act, we will not indemnify any person for any liability to which such person would be subject by reason of such person's misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office.

In addition, we will not provide indemnification to a person for any loss or liability arising from an alleged violation of federal or state securities laws unless one or more of the following conditions are met: (1) there has been a successful adjudication on the merits of each count involving alleged material securities law violations; (2) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction; or (3) a court of competent jurisdiction approves a settlement of the claims against the indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the SEC and of the published position of any state securities regulatory authority in which the securities were offered or sold as to indemnification for violations of securities laws. We may advance funds to an indemnitee for legal expenses and other costs incurred as a result of legal action for which indemnification is being sought only if all of the following conditions are met: (i) the legal action relates to acts or omissions with respect to the performance of duties or services on our behalf; (ii) the indemnitee has provided us with written affirmation of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification; (iii) the legal action is initiated by a third party who is not a stockholder or the legal action is initiated by a stockholder acting in his or her capacity as such and a court of competent jurisdiction specifically approves such advancement; and (iv) the indenmitee undertakes to repay the advanced funds to us, together with the applicable legal rate of interest thereon, in cases in which he or she is found not to be entitled to indemnification. We may not incur the cost of that portion of liability insurance which insures the indemnitee for any liability as to which the indenmitee is prohibited from being indemnified under our charter and bylaws.

We intend to enter into indemnification agreements with our directors and officers. The indemnification agreements will provide our directors and officers the maximum indemnification permitted under Maryland law and the 1940 Act.

Provisions of the Maryland General Corporation Law and Our Charter and Bylaws

The Maryland General Corporation Law and our charter and bylaws contain provisions that could make it more difficult for a potential acquirer to acquire us by means of a tender offer, proxy contest or otherwise. These provisions are expected to discourage certain coercive takeover practices and inadequate takeover bids and to encourage persons seeking to acquire control of us to negotiate first with the board of directors. We believe that the benefits of these provisions outweigh the potential disadvantages of discouraging any such acquisition proposals because, among other things, the negotiation of such proposals may improve their terms.

Limited Repurchase Rights

Our charter contains provisions governing our share repurchase program and our repurchase of shares upon the death or disability of a stockholder.

Share Repurchase Program

Our charter provides that commencing 12 months after we hold our initial closing, we will offer to repurchase up to 2.5% of the weighted average number of our outstanding shares in the prior four calendar quarters from our stockholders on the date that we hold the first closing of the month in January, April, July and October, or on such other date and time as determined by our board of directors and disclosed to our stockholders through any means reasonably designed to inform them thereof prior to the Repurchase Date at a price per share equal to the net asset value per share, as determined within 48 hours prior to the applicable Repurchase Date. However, the number of shares to be repurchased by us during any calendar year shall be limited to the number of shares that we can repurchase with the proceeds we receive from the sale of shares under our distribution reinvestment plan, unless our board of directors determines otherwise. We will repurchase shares under this provision of our charter on a pro rata basis in the event that we cannot satisfy all repurchase requests made by our stockholders because of any of the limitations described above.

Importantly, our board of directors will have the right to suspend or terminate any repurchase to be made pursuant to this provision of our charter to the extent that such repurchase would cause us to violate federal law or Maryland law or to the extent that our board of directors determines that it is in our best interest to do so. We are required to promptly notify our stockholders of any changes to this provision of our charter, including any suspension or termination of the provision, through any means reasonably designed to inform our stockholders of such changes.

All requests for redemption must be made in writing and received by us at least five business days prior to the applicable Repurchase Date. You may withdraw your request to have your shares redeemed by submitting a withdrawal request in writing at least five business days prior to the applicable Repurchase Date. We will redeem the shares and pay the redemption price associated therewith on the Repurchase Date. We are required to develop any other procedures necessary to implement this provision of our charter, including the form of repurchase requests stockholders are required to submit to us in connection with each repurchase through any means reasonably designed to inform our stockholders prior to the applicable Repurchase Date.

The requirements contained in this provision of our charter will terminate on the date that our shares are listed on a national securities exchange, are included for quotation in a national securities market or, in the sole determination of our board of directors, a secondary trading market for our shares otherwise develops.

All shares to be repurchased must be (i) fully transferable and not be subject to any liens or other encumbrances and (ii) free from any restrictions on transfer. If we determine that a lien or other encumbrance or restriction exists against the shares, we will not repurchase any such shares.

Repurchase Upon Death or Disability

Our charter provides that in the event of the death or disability of a stockholder, we will, upon request, repurchase such stockholder's shares, upon the stockholder or the stockholder's representatives, as applicable, presenting such shares for repurchase regardless of the period the deceased or disabled stockholder has owned such shares. However, we will not be obligated to repurchase such stockholder's shares if more than two years have elapsed from the date of the applicable death or disability and, in the case of a disability, if the stockholder fails to provide the opinion of the qualified independent physician referred to below. The repurchase price per share to be paid by us to the stockholder or stockholder's estate, as applicable, will be equal to the net asset value per share, as determined within 48 hours prior to the Repurchase Date. As defined in our charter, "disability" means such stockholder suffers a disability for a period of time, as may be determined by our board of directors, and the accuracy of such determination is confirmed by a qualified independent physician from whom such stockholder is required to receive an examination within 30 days following the board of directors' determination. If such stockholder fails to reasonably cooperate with our board of directors in obtaining the opinion of a qualified independent physician, then our board of directors may, in its reasonable discretion, decide to not make the repurchase.

Importantly, our board of directors will have the right to suspend or terminate any repurchase to be made pursuant to this provision of our charter to the extent that such repurchase would cause us to violate federal law or Maryland law or to the extent that our board of directors determines that it is in our best interest to do so. We are required to promptly notify our stockholders of any changes to this provision of our charter, including any suspension or termination of the provision, through any means reasonably designed to inform our stockholders of such changes.

The requirements contained in this provision of our charter will terminate on the date that our shares are listed on a national securities exchange or are included for quotation in a national securities market.

All shares to be repurchased must be (i) fully transferable and not be subject to any liens or other encumbrances and (ii) free from any restrictions on transfer. If we determine that a lien or other encumbrance or restriction exists against the shares, we will not repurchase any such shares.

Election of Directors, Number of Directors; Vacancies; Removal

As permitted by Maryland law, a plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present will be required to elect a director.

Our charter provides that a majority of our board of directors must be independent directors except for a period of up to 60 days after the death, removal or resignation of an independent director pending the election of such independent director's successor, and the 1940 Act requires that a majority of our board of directors be persons other than "interested persons" as defined in the 1940 Act.

Our charter provides that the number of directors will initially be five, which number may be increased or decreased by the board of directors in accordance with our bylaws. Our bylaws provide that a majority of our entire board of directors may at any time establish, increase or decrease the number of directors. However, the number of directors may never be less than one or more than fifteen. Except as may be provided by the board of directors in setting the terms of any class or series of preferred stock, any and all vacancies on the board of directors may be filled only by the affirmative vote of a majority of the remaining directors in office, even if the remaining directors do not constitute a quorum, and any director elected to fill a vacancy will serve for the remainder of the full term of the directorship in which the vacancy occurred and until a successor is elected and qualifies, subject to any applicable requirements of the 1940 Act.

Action by Stockholders

The Maryland General Corporation Law provides that stockholder action can be taken only at an annual or special meeting of stockholders or by unanimous consent in lieu of a meeting (unless the charter permits consent by the stockholders entitled to cast not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting, which our charter does not). These provisions, combined with the requirements of our bylaws regarding the calling of a stockholder-requested special meeting of stockholders discussed below, may have the effect of delaying consideration of a stockholder proposal until the next annual meeting.

Advance Notice Provisions for Stockholder Nominations and Stockholder Proposals

Our bylaws provide that with respect to an annual meeting of stockholders, nominations of individuals for election to the board of directors and the proposal of other business to be considered by stockholders may be made only (a) pursuant to our notice of the meeting, (b) by or at the direction of the board of directors or (c) by a stockholder who is a stockholder of record both at the time of giving notice required by our bylaws and at the time of the meeting, who is entitled to vote at the meeting in the election of each individual so nominated or on such other business and who has complied with the advance notice procedures of the bylaws. With respect to special meetings of stockholders, only the business specified in our notice of the meeting may be brought before the meeting. Nominations of individuals for election to the board of directors at a special meeting may be made only (i) by or at the direction of the board of directors or (ii) provided that has been called in accordance with our bylaws for the purpose of electing directors, by a stockholder who is a stockholder of record both at the time of giving notice required by our bylaws and at the time of the meeting, who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the advance notice provisions of the bylaws.

The purpose of requiring stockholders to give us advance notice of nominations and other business is to afford our board of directors a meaningful opportunity to consider the qualifications of the proposed nominees and the advisability of any other proposed business and, to the extent deemed necessary or desirable by our board of directors, to inform stockholders and make recommendations about such qualifications or business, as well as to provide a more orderly procedure for conducting meetings of stockholders. Although our bylaws do not give our board of directors any power to disapprove stockholder nominations for the election of directors or proposals recommending certain action, they may have the effect of precluding a contest for the election of directors or the consideration of stockholder proposals if proper procedures are not followed and of discouraging or deterring a third party from conducting a solicitation of proxies to elect its own slate of directors or to approve its own

proposal without regard to whether consideration of such nominees or proposals might be harmful or beneficial to us and our stockholders.

Calling of Special Meetings of Stockholders

Our bylaws provide that special meetings of stockholders may be called by our board of directors and certain of our officers. Additionally, our bylaws provide that, subject to the satisfaction of certain procedural and informational requirements by the stockholders requesting the meeting, a special meeting of stockholders will be called by our secretary to act on any matter that may properly be considered at a meeting of stockholders upon the written request of stockholders who are stockholders of record at the time of the request and are entitled to cast not less than 10% of all the votes entitled to be cast on such matter at such meeting.

Approval of Extraordinary Corporate Action; Amendment of Charter and Bylaws

Under Maryland law, a Maryland corporation generally cannot dissolve, amend its charter, merge, sell all or substantially all of its assets, engage in a share exchange or engage in similar transactions outside the ordinary course of business, unless approved by the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter. However, a Maryland corporation may provide in its charter for approval of these matters by a lesser percentage, but not less than a majority of all of the votes entitled to be cast on the matter.

Under our charter, provided that our directors then in office have approved and declared the action advisable and submitted such action to the stockholders, an amendment to our charter that requires stockholder approval, a merger, or a sale of all or substantially all of our assets or a similar transaction outside the ordinary course of business, must generally be approved by the affirmative vote of stockholders entitled to cast at least a majority of all the votes entitled to be cast on the matter. Notwithstanding the foregoing, (i) amendments to our charter to make our common stock a "redeemable security" or to convert the Company, whether by merger or otherwise, from a closed-end company to an open-end company, (ii) amendments to our charter relating to the vote required for certain actions and (iii) the dissolution of the Company each must be approved by the affirmative vote of stockholders entitled to cast at least two-thirds of all the votes entitled to be cast on the matter.

Our charter and bylaws provide that the board of directors will have the exclusive power to make, alter, amend or repeal any provision of our bylaws.

Our charter provides that the stockholders may, upon the affirmative vote of stockholders entitled to cast a majority of all the votes entitled to be cast on the matter,

- Amend the charter (other than as described above);
- Remove the Adviser and elect a new investment adviser; or
- Approve or disapprove the sale of all or substantially all of the Company's assets when such sale is to be made other than in the ordinary course of the Company's business.

Without the approval of stockholders entitled to cast a majority of all the votes entitled to be cast on the matter, our board of directors may not:

- Amend the charter in a manner that adversely affects the interests of our stockholders; or
- Except as permitted by our charter, permit our Adviser to voluntarily withdraw as our investment adviser unless such withdrawal would not affect our tax status and would not materially adversely affect our stockholders;
- Appoint a new investment adviser;
- Unless otherwise permitted by law, sell all or substantially all of our assets other than in the ordinary course of business; and
- Unless otherwise permitted by law, approve a merger or similar reorganization of our Company.

No Appraisal Rights

Except with respect to appraisal rights arising in connection with the Control Share Act defined and discussed below, as permitted by the Maryland General Corporation Law, our stockholders will not be entitled to exercise appraisal rights unless our board of directors determines that appraisal rights apply, with respect to all or any classes or series of stock, to one or more transactions occurring after the date of such determination in connection with which stockholders would otherwise be entitled to exercise appraisal rights.

Restrictions on Roll-Up Transactions

In connection with a proposed "roll-up transaction," which, in general terms, is any transaction involving the acquisition, merger, conversion or consolidation, directly or indirectly, of our Company and the issuance of securities of an entity that would be created or would survive after the successful completion of the roll-up transaction, we will obtain an appraisal of all of our assets from an independent expert. In order to qualify as an independent expert for this purpose, the person or entity must have no material current or prior business or personal relationship with our Adviser or any affiliate of our Adviser and must be engaged to a substantial extent in the business of rendering opinions regarding the value of assets of the type held by us. If the appraisal will be included in a prospectus used to offer the securities of the entity that would be created or would survive after the successful completion of the roll-up transaction, the appraisal will be filed with the SEC and the states in which the securities are being registered as an exhibit to the registration statement for the offering. Our assets will be appraised on a consistent basis, and the appraisal will be based on the evaluation of all relevant information and will indicate the value of our assets as of a date immediately prior to the announcement of the proposed roll-up transaction. The appraisal will assume an orderly liquidation of assets over a 12-month period. The terms of the engagement of such independent expert will clearly state that the engagement is for our benefit and the benefit of our stockholders. We will include a summary of the independent appraisal, indicating all material assumptions underlying the appraisal, in a report to the stockholders in connection with a proposed roll-up transaction.

In connection with a proposed roll-up transaction, the person sponsoring the roll-up transaction must offer to common stockholders who vote against the proposal a choice of: (1) accepting the securities of the entity that would be created or would survive after the successful completion of the roll-up transaction offered in the proposed roll-up transaction; or (2) one of the following: (i) remaining stockholders and preserving their interests in us on the same terms and conditions as existed previously; or (ii) receiving cash in an amount equal to their pro rata share of the appraised value of our net assets.

We are prohibited from participating in any proposed roll-up transaction: (a) which would result in common stockholders having voting rights in the entity that would be created or would survive after the successful completion of the roll-up transaction that are less than those provided in our charter, including rights with respect to the amendment of the charter and our merger or sale of all or substantially all of our assets; (b) which includes provisions that would operate as a material impediment to, or frustration of, the accumulation of shares by any purchaser of the securities of the entity that would be created or would survive after the successful completion of the roll-up transaction, except to the minimum extent necessary to preserve the tax status of such entity, or which would limit the ability of an investor to exercise the voting rights of its securities of the entity that would be created or would survive after the successful completion of the roll-up transaction on the basis of the number of shares held by that investor; (c) in which our common stockholders' rights to access of records of the entity that would be created or would survive after the successful completion of the roll-up transaction will be less than those provided in our charter; or (d) in which we would bear any of the costs of the roll-up transaction if our common stockholders reject the roll-up transaction.

Control Share Acquisitions

The Maryland General Corporation Law provides that control shares of a Maryland corporation acquired in a control share acquisition have no voting rights except to the extent approved by a vote of two-thirds of the votes entitled to be cast on the matter, which we refer to as the Control Share Act. Shares owned by the acquiror, by officers or by employees who are directors of the corporation are excluded from shares entitled to vote on the

matter. Control shares are voting shares of stock which, if aggregated with all other shares of stock owned by the acquirer or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise voting power in electing directors within one of the following ranges of voting power:

- one-tenth or more but less than one-third;
- one-third or more but less than a majority; or
- a majority or more of all voting power.

The requisite stockholder approval must be obtained each time an acquirer crosses one of the thresholds of voting power set forth above. Control shares do not include shares the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. A control share acquisition means the acquisition of issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition may compel the board of directors of the corporation to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. The right to compel the calling of a special meeting is subject to the satisfaction of certain conditions, including an undertaking to pay the expenses of the meeting. If no request for a meeting is made, the corporation may itself present the question at any stockholders meeting.

If voting rights are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by the statute, then the corporation may redeem for fair value any or all of the control shares, except those for which voting rights have previously been approved. The right of the corporation to redeem control shares is subject to certain conditions and limitations, including compliance with the 1940 Act. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquirer or of any meeting of stockholders at which the voting rights of the shares are considered and not approved. If voting rights for control shares are approved at a stockholders meeting and the acquirer becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition.

The Control Share Act does not apply (a) to shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction or (b) to acquisitions approved or exempted by the charter or bylaws of the corporation. Our bylaws contain a provision exempting from the Control Share Act any and all acquisitions by any person of our shares of stock. There can be no assurance that such provision will not be amended or eliminated at some time in the future. However, we will amend our bylaws to be subject to the Control Share Act only if the board of directors determines that it would be in our best interests and if the SEC staff does not object to our determination that our being subject to the Control Share Act does not conflict with the 1940 Act. The SEC staff has issued informal guidance setting forth its position that certain provisions of the Control Share Act, if implemented, would violate Section 18(i) of the 1940 Act.

Business Combinations

Under Maryland law, "business combinations" between a Maryland corporation and an interested stockholder or an affiliate of an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder (the "Business Combination Act"). These business combinations include a merger, consolidation, share exchange or, in circumstances specified in the statute, an asset transfer or issuance or reclassification of equity securities. An interested stockholder is defined as:

- any person who beneficially owns 10% or more of the voting power of the corporation's outstanding voting stock; or

- an affiliate or associate of the corporation who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then outstanding stock of the corporation.

A person is not an interested stockholder under this statute if the board of directors approved in advance the transaction by which he otherwise would have become an interested stockholder. However, in approving a transaction, the board of directors may provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by the board.

After the five-year prohibition, any business combination between the Maryland corporation and an interested stockholder generally must be recommended by the board of directors of the corporation and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation; and
- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested stockholder with whom or with whose affiliate the business combination is to be effected or held by an affiliate or associate of the interested stockholder.

These super-majority vote requirements do not apply if the corporation's common stockholders receive a minimum price, as defined under Maryland law, for their shares in the form of cash or other consideration in the same form as previously paid by the interested stockholder for its shares.

The statute permits various exemptions from its provisions, including business combinations that are exempted by the board of directors prior to the time that the interested stockholder becomes an interested stockholder. Our board of directors has adopted a resolution exempting any business combination between us and any other person from the provisions of the Business Combination Act, provided that the business combination is first approved by the board of directors, including a majority of the directors who are not interested persons as defined in the 1940 Act. This resolution, however, may be altered or repealed in whole or in part at any time. If this resolution is repealed, or the board of directors does not otherwise approve a business combination, the statute may discourage others from trying to acquire control of us and increase the difficulty of consummating any offer.

Additional Provisions of Maryland Law

Maryland law provides that a Maryland corporation that is subject to the Exchange Act and has at least three independent directors can elect by resolution of the board of directors to be subject to some corporate governance provisions notwithstanding any provision in the corporation's charter and bylaws. Under the applicable statute, a board of directors may classify itself without the vote of stockholders. Further, the board of directors may, by electing into applicable statutory provisions and notwithstanding any contrary provision in the charter or bylaws.

- provide that a special meeting of stockholders will be called only at the request of stockholders entitled to cast at least a majority of the votes entitled to be cast at the meeting;
- reserve for itself the exclusive power to fix the number of directors;
- provide that a director may be removed only by the vote of stockholders entitled to cast two-thirds of all the votes entitled to be cast generally in the election of directors; and
- provide that all vacancies on the board of directors may be filled only by the affirmative vote of a majority of the remaining directors in office, even if the remaining directors do not constitute a quorum, and that any director elected to fill a vacancy will serve for the remainder of the full term of the directorship and until his or her successor is elected and qualifies.

Pursuant to our charter, we have elected to provide that all vacancies on the board of directors resulting from an increase in the size of the board or the death, resignation or removal of a director may be filled only by the affirmative vote of a majority of the remaining directors, even if the remaining directors do not constitute a quorum. Such election is subject to applicable requirements of the 1940 Act and to the provisions of any class or series of preferred stock established by the board.

Reports to Stockholders

We will file annual, quarterly and current reports on Forms 10-K, 10-Q and 8-K, respectively, proxy statements and other reports required by the federal securities laws with the SEC via the SEC's EDGAR filing system. Within 60 days after the end of each fiscal quarter, we will distribute our quarterly report on Form 10-Q to all stockholders of record. In addition, we will distribute our annual report on Form 10-K to all stockholders of record within 120 days after the end of each fiscal year. Additionally, these reports will be available upon filing on the SEC's website at www.sec.gov and on our website at www.HinesSecurities.com.

In your subscription agreement you authorize us to provide prospectuses, prospectus supplements, annual reports and other information (documents) electronically. Unless you elect in the appropriate place in your subscription agreement to receive documents in paper form by mail, all documents will be provided electronically. You must have internet access to use electronic delivery. We may impose additional charges upon investors who elect to receive documents by mail to defray the cost of mailing paper documents. Documents will be available on our website. You may access and print all documents provided through this service. As documents become available, we will notify you of this by sending you an e-mail message that will include instructions on how to retrieve the document. If our e-mail notification is returned to us as "undeliverable," we will contact you to obtain your updated e-mail address. If we are unable to obtain a valid e-mail address for you, we will send a paper copy by regular U.S. mail to your address of record. You may opt to receive paper documents at any time. However, in order for us to be properly notified, your election must be given to us a reasonable time. We will provide you with paper copies at any time upon request. Such request will not constitute revocation of your consent to receive required documents electronically. In addition, promptly following the payment of distributions to stockholders of record residing in Maryland, we will send a notice to Maryland stockholders including information regarding the source(s) of such stockholder distributions.

MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following discussion is a general summary of the material U.S. federal income tax considerations applicable to us and to an investment in our shares. This summary does not purport to be a complete description of the income tax considerations applicable to us or to investors with respect to an investment in shares of our common stock. For example, we have not described tax consequences that we assume to be generally known by investors or certain considerations that may be relevant to certain types of holders subject to special treatment under U.S. federal income tax laws, including stockholders subject to the alternative minimum tax, tax-exempt organizations, insurance companies, dealers in securities, pension plans and trusts, financial institutions, U.S. stockholders (as defined below) whose functional currency is not the U.S. dollar, persons who mark-to-market our shares and persons who hold our shares as part of a "straddle," "hedge" or "conversion" transaction. This summary assumes that investors hold shares of our common stock as capital assets (within the meaning of the Code). The discussion is based upon the Code, Treasury regulations, and administrative and judicial interpretations, each as of the date of this prospectus and all of which are subject to change, possibly retroactively, which could affect the continuing validity of this discussion. We have not sought and do not intend to seek any ruling from the Internal Revenue Service, or the IRS, regarding any offer and sale of shares of our common stock under this prospectus. This summary does not discuss any aspects of U.S. estate or gift tax or foreign, state or local tax. It does not discuss the special treatment under U.S. federal income tax laws that could result if we invested in tax-exempt securities or certain other investment assets.

For purposes of our discussion, a "U.S. stockholder" means a beneficial owner of shares of our common stock that is for U.S. federal income tax purposes:

- a citizen or individual resident of the U.S.;
- a corporation, or other entity treated as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the U.S. or any state thereof or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust if (1) a U.S. court is able to exercise primary supervision over the administration of such trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) it has a valid election in place to be treated as a U.S. person.

For purposes of our discussion, a "Non-U.S. stockholder" means a beneficial owner of shares of our common stock that is neither a U.S. stockholder nor a partnership (including an entity treated as a partnership for U.S. federal income tax purposes).

If a partnership (including an entity treated as a partnership for U.S. federal income tax purposes) holds shares of our common stock, the tax treatment of a partner or member of the partnership will generally depend upon the status of the partner and the activities of the partnership. A prospective stockholder that is a partner in a partnership holding shares of our common stock should consult his, her or its tax advisors with respect to the purchase, ownership and disposition of shares of our common stock.

Tax matters are very complicated and the tax consequences to an investor of an investment in our shares will depend on the facts of his, her or its particular situation. We encourage investors to consult their own tax advisors regarding the specific consequences of such an investment, including tax reporting requirements, the applicability of U.S. federal, state, local and foreign tax laws, eligibility for the benefits of any applicable tax treaty and the effect of any possible changes in the tax laws.

Election to be Taxed as a RIC

We intend to elect to be treated as a RIC under Subchapter M of the Code commencing with the first taxable year in which we hold our initial closing. As a RIC, we generally will not be subject to corporate-level U.S.

federal income taxes on any income that we distribute to our stockholders from our tax earnings and profits. To qualify as a RIC, we must, among other things, meet certain source-of-income and asset diversification requirements (as described below). In addition, in order to obtain RIC tax treatment, we must distribute to our stockholders, for each taxable year, at least 90% of our "investment company taxable income," which is generally our net ordinary income plus the excess, if any, of realized net short-term capital gain over realized net long-term capital loss, or the Annual Distribution Requirement. Depending on the level of taxable income earned in a tax year, we may choose to carry forward taxable income in excess of current year distributions into the next tax year and pay a 4% excise tax on such income. Any such carryover taxable income must be distributed through a dividend declared prior to filing the final tax return related to the year which generated such taxable income. Even if we qualify as a RIC, we generally will be subject to corporate-level U.S. federal income tax on our undistributed taxable income and could be subject to U.S. federal excise, state, local and foreign taxes.

Taxation as a RIC

Provided that we qualify as a RIC and satisfy the Annual Distribution Requirement, we will not be subject to U.S. federal income tax on the portion of our investment company taxable income and net capital gain (which we define as net long-term capital gain in excess of net short-term capital loss) that we timely distribute to stockholders. We will be subject to U.S. federal income tax at the regular corporate rates on any income or capital gain not distributed (or deemed distributed) to our stockholders.

We will be subject to a 4% nondeductible U.S. federal excise tax on certain undistributed income of RICs unless we distribute in a timely manner an amount at least equal to the sum of (1) 98.0% of our ordinary income for each calendar year, (2) 98.2% of our capital gain net income for the one-year period ending October 31 in that calendar year (or, if we so elect, for the calendar year) and (3) any income recognized, but not distributed, in preceding years and on which we paid no U.S. federal income tax.

In order to qualify as a RIC for U.S. federal income tax purposes, we must, among other things:

- elect to be treated as a RIC;
- meet the Annual Distribution Requirement;
- qualify to be treated as a BDC or be registered as a management investment company under the 1940 Act at all times during each taxable year;
- derive in each taxable year at least 90% of our gross income from dividends, interest, payments with respect to certain securities loans, gains from the sale or other disposition of stock or other securities or foreign currencies or other income derived with respect to our business of investing in such stock, securities or currencies and net income derived from an interest in a "qualified publicly traded partnership" (as defined in the Code), or the 90% Income Test; and
- diversify our holdings so that at the end of each quarter of the taxable year:
- at least 50% of the value of our assets consists of cash, cash equivalents, U.S. Government securities, securities of other RICs, and other securities if such other securities of any one issuer do not represent more than 5% of the value of our assets or more than 10% of the outstanding voting securities of the issuer (which for these purposes includes the equity securities of a "qualified publicly traded partnership"); and
- no more than 25% of the value of our assets is invested in the securities, other than U.S. Government securities or securities of other RICs, (i) of one issuer (ii) of two or more issuers that are controlled, as determined under applicable tax rules, by us and that are engaged in the same or similar or related trades or businesses or (iii) of one or more "qualified publicly traded partnerships," or the Diversification Tests.

To the extent that we invest in entities treated as partnerships for U.S. federal income tax purposes (other than a "qualified publicly traded partnership"), we generally must include the items of gross income derived by

the partnerships for purposes of the 90% Income Test, and the income that is derived from a partnership (other than a "qualified publicly traded partnership") will be treated as qualifying income for purposes of the 90% Income Test only to the extent that such income is attributable to items of income of the partnership which would be qualifying income if realized by us directly. In addition, we generally must take into account our proportionate share of the assets held by partnerships (other than a "qualified publicly traded partnership") in which we are a partner for purposes of the Diversification Tests.

In order to meet the 90% Income Test, we may establish one or more special purpose corporations (any such corporation, a "Taxable Subsidiary") to hold assets from which we do not anticipate earning dividend, interest or other qualifying income under the 90% Income Test. Any investments held through a Taxable Subsidiary generally will be subject to U.S. federal income and other taxes, and therefore we can expect to achieve a reduced after-tax yield on such investments.

We may be required to recognize taxable income in circumstances in which we do not receive a corresponding payment in cash. For example, if we hold debt obligations that are treated under applicable tax rules as having original issue discount (such as debt instruments with payment-in-kind interest or, in certain cases, increasing interest rates or issued with warrants), we must include in income each year a portion of the original issue discount that accrues over the life of the obligation, regardless of whether cash representing such income is received by us in the same taxable year. We may also have to include in income other amounts that we have not yet received in cash, such as deferred loan origination fees that are paid after origination of the loan or are paid in non-cash compensation such as warrants or stock. We anticipate that a portion of our income may constitute original issue discount or other income required to be included in taxable income prior to receipt of cash.

Because any original issue discount or other amounts accrued will be included in our investment company taxable income for the year of the accrual, we may be required to make a distribution to our stockholders in order to satisfy the Annual Distribution Requirement, even though we will not have received any corresponding cash amount. As a result, we may have difficulty meeting the annual distribution requirement necessary to obtain and maintain RIC tax treatment under the Code. We may have to sell some of our investments at times and/or at prices we would not consider advantageous, raise additional debt or equity capital or forgo new investment opportunities for this purpose. If we are not able to obtain cash from other sources, we may fail to qualify for RIC tax treatment and thus become subject to corporate-level income tax.

Furthermore, a portfolio company in which we invest may face financial difficulty that requires us to work-out, modify or otherwise restructure our investment in the portfolio company. Any such restructuring may result in unusable capital losses and future non-cash income. Any restructuring may also result in our recognition of a substantial amount of non-qualifying income for purposes of the 90% Income Test, such as cancellation of indebtedness income in connection with the work-out of a leveraged investment (which, while not free from doubt, may be treated as non-qualifying income) or the receipt of other non-qualifying income.

Gain or loss realized by us from warrants acquired by us as well as any loss attributable to the lapse of such warrants generally will be treated as capital gain or loss. Such gain or loss generally will be long-term or short-term, depending on how long we held a particular warrant.

Investments by us in non-U.S. securities may be subject to non-U.S. income, withholding and other taxes, and therefore, our yield on any such securities may be reduced by such non-U.S. taxes. Stockholders will generally not be entitled to claim a credit or deduction with respect to non-U.S. taxes paid by us.

If we purchase shares in a "passive foreign investment company," or PFIC, we may be subject to U.S. federal income tax on a portion of any "excess distribution" or gain from the disposition of such shares even if such income is distributed as a taxable dividend by us to our stockholders. Additional charges in the nature of interest may be imposed on us in respect of deferred taxes arising from such distributions or gains. If we invest in a PFIC and elect to treat the PFIC as a "qualified electing fund" under the Code, or QEF, in lieu of the foregoing requirements, we will be required to include in income each year a portion of the ordinary earnings and net capital gain of the QEF, even if such income is not distributed to it. Alternatively, we can elect to mark-to-market

at the end of each taxable year our shares in a PFIC; in this case, we will recognize as ordinary income any increase in the value of such shares and as ordinary loss any decrease in such value to the extent it does not exceed prior increases included in income. Under either election, we may be required to recognize in a year income in excess of our distributions from PFICs and our proceeds from dispositions of PFIC stock during that year, and such income will nevertheless be subject to the Annual Distribution Requirement and will be taken into account for purposes of the 4% excise tax.

Under Section 988 of the Code, gain or loss attributable to fluctuations in exchange rates between the time we accrue income, expenses, or other liabilities denominated in a foreign currency and the time we actually collect such income or pay such expenses or liabilities are generally treated as ordinary income or loss. Similarly, gain or loss on foreign currency forward contracts and the disposition of debt denominated in a foreign currency, to the extent attributable to fluctuations in exchange rates between the acquisition and disposition dates, are also treated as ordinary income or loss.

Although we do not presently expect to do so, we are authorized to borrow funds and to sell assets in order to satisfy distribution requirements. However, under the 1940 Act, we are not permitted to make distributions to our stockholders while our debt obligations and other senior securities are outstanding unless certain "asset coverage" tests are met. See "Regulation — Qualifying Assets" and "Regulation — Senior Securities." Moreover, our ability to dispose of assets to meet our distribution requirements may be limited by (1) the illiquid nature of our portfolio and/or (2) other requirements relating to our status as a RIC, including the Diversification Tests. If we dispose of assets in order to meet the Annual Distribution Requirement or to avoid the excise tax, we may make such dispositions at times that, from an investment standpoint, are not advantageous.

If we fail to satisfy the Annual Distribution Requirement or otherwise fail to qualify as a RIC in any taxable year, we will be subject to tax in that year on all of our taxable income, regardless of whether we make any distributions to our stockholders. In that case, all of such income will be subject to corporate-level U.S. federal income tax, reducing the amount available to be distributed to our stockholders. See "— Failure To Obtain RIC Tax Treatment."

As a RIC, we are not allowed to carry forward or carry back a net operating loss for purposes of computing our investment company taxable income in other taxable years. U.S. federal income tax law generally permits a RIC to carry forward (i) the excess of its net short-term capital loss over its net long-term capital gain for a given year as a short-term capital loss arising on the first day of the following year and (ii) the excess of its net long-term capital loss over its net short-term capital gain for a given year as a long-term capital loss arising on the first day of the following year. However, future transactions we engage in may cause our ability to use any capital loss carryforwards, and unrealized losses once realized, to be limited under Section 382 of the Code. Certain of our investment practices may be subject to special and complex U.S. federal income tax provisions that may, among other things, (i) disallow, suspend or otherwise limit the allowance of certain losses or deductions, (ii) convert lower taxed long-term capital gain and qualified dividend income into higher taxed short-term capital gain or ordinary income, (iii) convert an ordinary loss or a deduction into a capital loss (the deductibility of which is more limited), (iv) cause us to recognize income or gain without a corresponding receipt of cash, (v) adversely affect the time as to when a purchase or sale of stock or securities is deemed to occur, (vi) adversely alter the characterization of certain complex financial transactions, and (vii) produce income that will not be qualifying income for purposes of the 90% Income Test. We will monitor our transactions and may make certain tax elections in order to mitigate the effect of these provisions.

As described above, to the extent that we invest in equity securities of entities that are treated as partnerships for U.S. federal income tax purposes, the effect of such investments for purposes of the 90% Income Test and the Diversification Tests will depend on whether or not the partnership is a "qualified publicly traded partnership" (as defined in the Code). If the partnership is a "qualified publicly traded partnership," the net income derived from such investments will be qualifying income for purposes of the 90% Income Test and will be "securities" for purposes of the Diversification Tests. If the partnership, however, is not treated as a "qualified publicly traded partnership," then the consequences of an investment in the partnership will depend upon the amount and type of income and assets of the partnership allocable to us. The income derived from such

investments may not be qualifying income for purposes of the 90% Income Test and, therefore, could adversely affect our qualification as a RIC. We intend to monitor our investments in equity securities of entities that are treated as partnerships for U.S. federal income tax purposes to prevent our disqualification as a RIC.

We may invest in preferred securities or other securities the U.S. federal income tax treatment of which may not be clear or may be subject to recharacterization by the IRS. To the extent the tax treatment of such securities or the income from such securities differs from the expected tax treatment, it could affect the timing or character of income recognized, requiring us to purchase or sell securities, or otherwise change our portfolio, in order to comply with the tax rules applicable to RICs under the Code.

Taxation of U.S. Stockholders

Whether an investment in shares of our common stock is appropriate for a U.S. stockholder will depend upon that person's particular circumstances. An investment in shares of our common stock by a U.S. stockholder may have adverse tax consequences. The following summary generally describes certain U.S. federal income tax consequences of an investment in shares of our common stock by taxable U.S. stockholders and not by U.S. stockholders that are generally exempt from U.S. federal income taxation. U.S. stockholders should consult their own tax advisors before making an investment in our common stock.

Distributions by us generally are taxable to U.S. stockholders as ordinary income or capital gain. Distributions of our "investment company taxable income" (which is, generally, our ordinary income excluding net capital gain) will be taxable as ordinary income to U.S. stockholders to the extent of our current or accumulated earnings and profits, whether paid in cash or reinvested in additional common stock. To the extent such distributions paid by us to noncorporate U.S. stockholders (including individuals) are attributable to dividends from U.S. corporations and certain qualified foreign corporations, such distributions generally will be eligible for taxation at rates applicable to "qualifying dividends" (at a maximum tax rate of 15% through 2012) provided that we properly report such distribution as "qualified dividend income" in a written statement furnished to our stockholders and certain holding period and other requirements are satisfied. In this regard, it is not anticipated that a significant portion of distributions paid by us will be attributable to qualifying dividends; therefore, our distributions generally will not qualify for the preferential rates applicable to qualified dividend income. Distributions of our net capital gain (which is generally our net long-term capital gain in excess of net short-term capital loss) properly designated by us as "capital gain dividends" will be taxable to a U.S. stockholder as long-term capital gain (at a maximum rate of 15% through 2012 in the case of individuals, trusts or estates), regardless of the U.S. stockholder's holding period for his, her or its common stock and regardless of whether paid in cash or reinvested in additional common stock. Distributions in excess of our current and accumulated earnings and profits first will reduce a U.S. stockholder's adjusted tax basis in such stockholder's common stock and, after the adjusted basis is reduced to zero, will constitute capital gain to such U.S. stockholder.

Although we currently intend to distribute any long-term capital gain at least annually, we may in the future decide to retain some or all of our long-term capital gain, but designate the retained amount as a "deemed distribution." In that case, among other consequences, we will pay tax on the retained amount, each U.S. stockholder will be required to include his, her or its proportionate share of the deemed distribution in income as if it had been actually distributed to the U.S. stockholder, and the U.S. stockholder will be entitled to claim a credit equal to his, her or its allocable share of the tax paid thereon by us. The amount of the deemed distribution net of such tax will be added to the U.S. stockholder's tax basis for his, her or its common stock. Since we expect to pay tax on any retained capital gain at our regular corporate tax rate, and since that rate is in excess of the maximum rate currently payable by individuals on net capital gain, the amount of tax that individual stockholders will be treated as having paid and for which they will receive a credit will exceed the tax they owe on the retained net capital gain. Such excess generally may be claimed as a credit against the U.S. stockholder's other U.S. federal income tax obligations or may be refunded to the extent it exceeds a stockholder's liability for U.S. federal income tax. A stockholder that is not subject to U.S. federal income tax or otherwise required to file a U.S. federal income tax return would be required to file a U.S. federal income tax return on the appropriate form in order to claim a refund for the taxes we paid. In order to utilize the deemed distribution approach, we must provide written notice to our stockholders prior to the expiration of 60 days after the close of the relevant taxable year. We cannot treat any of our investment company taxable income as a "deemed distribution."

We could be subject to the alternative minimum tax, or the AMT, but any items that are treated differently for AMT purposes must be apportioned between us and our stockholders and this may affect U.S. stockholders' AMT liabilities. Although regulations explaining the precise method of apportionment have not yet been issued, such items will generally be apportioned in the same proportion that distributions paid to each stockholder bear to our taxable income (determined without regard to the dividends paid deduction), unless a different method for a particular item is warranted under the circumstances.

For purposes of determining (1) whether the Annual Distribution Requirement is satisfied for any year and (2) the amount of capital gain dividends paid for that year, we may, under certain circumstances, elect to treat a dividend that is paid during the following taxable year as if it had been paid during the taxable year in question. If we make such an election, the U.S. stockholder will still be treated as receiving the dividend in the taxable year in which the distribution is made. However, any dividend declared by us in October, November or December of any calendar year, payable to stockholders of record on a specified date in any such month and actually paid during January of the following year, will be treated as if it had been received by our U.S. stockholders on December 31 of the year in which the dividend was declared.

If an investor purchases shares of our common stock shortly before the record date of a distribution, the price of the shares will include the value of the distribution, and the investor will be subject to tax on the distribution even though it represents a return of his, her or its investment.

A U.S. stockholder generally will recognize taxable gain or loss if the stockholder sells or otherwise disposes of his, her or its shares of our common stock. The amount of gain or loss will be measured by the difference between such stockholder's adjusted tax basis in the common stock sold and the amount of the proceeds received in exchange. Any gain arising from such sale or disposition generally will be treated as long-term capital gain or loss if the stockholder has held his, her or its shares for more than one year. Otherwise, it will be classified as short-term capital gain or loss. However, any capital loss arising from the sale or disposition of shares of our common stock held for six months or less will be treated as long-term capital loss to the extent of the amount of capital gain dividends received, or undistributed capital gain deemed received, with respect to such shares. In addition, all or a portion of any loss recognized upon a disposition of shares of our common stock may be disallowed if other substantially identical shares are purchased (whether through reinvestment of distributions or otherwise) within 30 days before or after the disposition. The ability to otherwise deduct capital loss may be subject to other limitations under the Code.

In general, noncorporate U.S. stockholders, including individuals, trusts and estates, are subject to U.S. federal income tax (at a maximum rate of 15% through 2012) on their net capital gain, or the excess of realized net long-term capital gain over realized net short-term capital loss for a taxable year, including a long-term capital gain derived from an investment in our shares. Such rate is lower than the maximum rate on ordinary income currently payable by individuals. Corporate U.S. stockholders currently are subject to U.S. federal income tax on net capital gain at the maximum 35% rate also applied to ordinary income. Noncorporate stockholders with net capital loss for a year (which we define as capital loss in excess of capital gain) generally may deduct up to $3,000 of such losses against their ordinary income each year; any net capital loss of a noncorporate stockholder in excess of $3,000 generally may be carried forward and used in subsequent years as provided in the Code. Corporate stockholders generally may not deduct any net capital loss for a year, but may carry back such losses for three years or carry forward such losses for five years.

For taxable years beginning after December 31, 2012, certain U.S. stockholders who are individuals, estates or trusts generally will be subject to a 3.8% Medicare tax on, among other things, dividends on, and capital gain from the sale or other disposition of, shares of our common stock.

A "publicly offered" RIC is a RIC whose shares are either (i) continuously offered pursuant to a public offering, (ii) regularly traded on an established securities market or (iii) held by at least 500 persons at all times during the taxable year. If we are not a publicly offered RIC for any period, a noncorporate stockholder's pro rata portion of our affected expenses, including our management fees, will be treated as an additional dividend to the stockholder and will be deductible by such stockholder only to the extent permitted under the limitations

described below. For noncorporate stockholders, including individuals, trusts, and estates, significant limitations generally apply to the deductibility of certain expenses of a nonpublicly offered RIC, including advisory fees. In particular, these expenses, referred to as miscellaneous itemized deductions, are deductible only to individuals to the extent they exceed 2% of such a stockholder's adjusted gross income, and are not deductible for AMT purposes. While we anticipate that we will constitute a publicly offered RIC after our first tax year, there can be no assurance that we will in fact so qualify for any of our taxable years.

We will send to each of our U.S. stockholders, as promptly as possible after the end of each calendar year, a written statement detailing, on a per share and per distribution basis, the amounts includible in such U.S. stockholder's taxable income for such year as ordinary income and as long-term capital gain. In addition, the U.S. federal tax status of each year's distributions generally will be reported to the IRS (including the amount of dividends, if any, eligible for the current 15% maximum rate). Distributions paid by us generally will not be eligible for the dividends-received deduction or the preferential tax rate applicable to qualifying dividends. Distributions may also be subject to additional state, local and foreign taxes depending on a U.S. stockholder's particular situation.

We may be required to withhold U.S. federal income tax, or backup withholding (at a rate of 28% through 2012), from all taxable distributions to any noncorporate U.S. stockholder (1) who fails to furnish us with a correct taxpayer identification number or a certificate that such stockholder is exempt from backup withholding or (2) with respect to whom the IRS notifies us that such stockholder has failed to properly report certain interest and dividend income to the IRS and to respond to notices to that effect. An individual's taxpayer identification number is his or her social security number. Backup withholding tax is not an additional tax, and any amount withheld may be refunded or credited against the U.S. stockholder's U.S. federal income tax liability, provided that proper information is timely provided to the IRS.

For taxable years beginning after December 31, 2013, if certain disclosure requirements related to U.S. accounts or ownership are not satisfied, a U.S. federal withholding tax at a 30% rate will be imposed on dividends received by U.S. stockholders that own their stock through foreign accounts or foreign intermediaries. In addition, for taxable years beginning after December 31, 2014, if certain disclosure requirements related to U.S. accounts or ownership are not satisfied, a U.S. federal withholding tax at a 30% rate will be imposed on proceeds of sale in respect of our stock received by U.S. stockholders that own their stock through foreign accounts or foreign intermediaries. We will not pay any additional amounts in respect of any amounts withheld.

Under U.S. Treasury regulations, if a stockholder recognizes a loss with respect to shares of our stock of $2 million or more for an individual, S corporation, trust, or a partnership with at least one noncorporate partner or $10 million or more for a stockholder that is either a corporation or a partnership with only corporate partners in any single taxable year (or a greater loss over a combination of years), the stockholder must file with the IRS a disclosure statement on IRS Form 8886 (or successor form). Direct stockholders of portfolio securities in many cases are excepted from this reporting requirement, but under current guidance, stockholders of a RIC are not excepted. Future guidance may extend the current exception from this reporting requirement to stockholders of most or all RICs. The fact that a loss is reportable under these regulations does not affect the legal determination of whether the taxpayer's treatment of the loss is proper. Significant monetary penalties apply to a failure to comply with this reporting requirement. States may also have a similar reporting requirement. Stockholders should consult their own tax advisors to determine the applicability of these regulations in light of their individual circumstances.

Taxation of Non-U.S. Stockholders

Whether an investment in the shares is appropriate for a Non-U.S. stockholder will depend upon that person's particular circumstances. An investment in the shares by a Non-U.S. stockholder may have adverse tax consequences. Non-U.S. stockholders should consult their tax advisers before investing in our common stock.

Distributions of our "investment company taxable income" to Non-U.S. stockholders that are not "effectively connected" with a U.S. trade or business carried on by the Non-U.S. stockholder, will generally be subject to withholding of U.S. federal income tax at a rate of 30% (or lower rate provided by an applicable treaty)

to the extent of our current and accumulated earnings and profits, unless an applicable exception applies. For taxable years beginning before 2012, however, we generally will not be required to withhold any amounts with respect to distributions of (i) U.S.-source interest income that would not have been subject to withholding of U.S. federal income tax if they had been earned directly by a Non-U.S. stockholder, and (ii) net short-term capital gains in excess of net long-term capital losses that would not have been subject to withholding of U.S. federal income tax if they had been earned directly by a Non-U.S. stockholder, in each case only to the extent that such distributions are properly reported by us as "interest-related dividends" or "short-term capital gain dividends," as the case may be, and certain other requirements are met.

Actual or deemed distributions of our net capital gain to a Non-U.S. stockholder, and gains realized by a Non-U.S. stockholder upon the sale of our common stock, that are not effectively connected with a U.S. trade or business carried on by the Non-U.S. stockholder, will generally not be subject to U.S. federal withholding tax and generally will not be subject to U.S. federal income tax unless the Non-U.S. stockholder is a nonresident alien individual and is physically present in the U.S. for more than 182 days during the taxable year and meets certain other requirements. However, withholding of U.S. federal income tax at a rate of 30% on capital gain of nonresident alien individuals who are physically present in the U.S. for more than the 182 day period only applies in exceptional cases because any individual present in the U.S. for more than 182 days during the taxable year is generally treated as a resident for U.S. income tax purposes; in that case, he or she would be subject to U.S. income tax on his or her worldwide income at the graduated rates applicable to U.S. citizens, rather than the 30% U.S. federal withholding tax.

If we distribute our net capital gain in the form of deemed rather than actual distributions (which we may do in the future), a Non-U.S. stockholder will be entitled to a U.S. federal income tax credit or tax refund equal to the stockholder's allocable share of the tax we pay on the capital gain deemed to have been distributed. In order to obtain the refund, the Non-U.S. stockholder must obtain a U.S. taxpayer identification number and file a U.S. federal income tax return even if the Non-U.S. stockholder would not otherwise be required to obtain a U.S. taxpayer identification number or file a U.S. federal income tax return. Accordingly, investment in the shares may not be appropriate for a Non-U.S. stockholder.

Distributions of our "investment company taxable income" and net capital gain (including deemed distributions) to Non-U.S. stockholders, and gain realized by Non-U.S. stockholders upon the sale of our common stock that is "effectively connected" with a U.S. trade or business carried on by the Non-U.S. stockholder (or if an income tax treaty applies, attributable to a "permanent establishment" in the U.S.), will be subject to U.S. federal income tax at the graduated rates applicable to U.S. citizens, residents and domestic corporations. Corporate Non-U.S. stockholders may also be subject to an additional branch profits tax at a rate of 30% imposed by the Code (or lower rate provided by an applicable treaty). In the case of a noncorporate Non-U.S. stockholder, we may be required to withhold U.S. federal income tax from distributions that are otherwise exempt from withholding tax (or taxable at a reduced rate) unless the Non-U.S. stockholder certifies his or her foreign status under penalties of perjury or otherwise establishes an exemption.

The tax consequences to a Non-U.S. stockholder entitled to claim the benefits of an applicable tax treaty may differ from those described herein. Non-U.S. stockholders are advised to consult their own tax advisers with respect to the particular tax consequences to them of an investment in our shares.

A Non-U.S. stockholder who is a nonresident alien individual may be subject to information reporting and backup withholding of U.S. federal income tax on dividends unless the Non-U.S. stockholder provides us or the dividend paying agent with an IRS Form W-8BEN (or an acceptable substitute form) or otherwise meets documentary evidence requirements for establishing that it is a Non-U.S. stockholder or otherwise establishes an exemption from backup withholding.

For taxable years beginning after December 31, 2013, if certain disclosure requirements related to U.S. accounts or ownership are not satisfied, a U.S. federal withholding tax at a 30% rate will be imposed on dividends received by certain Non-U.S. stockholders. In addition, for taxable years beginning after December 31, 2014, if certain disclosure requirements related to U.S. accounts or ownership are not satisfied, a U.S. federal

withholding tax at a 30% rate will be imposed on proceeds of sale in respect of shares of our common stock received by certain Non-U.S. stockholders. If payment of withholding taxes is required, Non-U.S. stockholders that are otherwise eligible for an exemption from, or reduction of, U.S. federal withholding taxes with respect to such dividends and proceeds will be required to seek a refund from the IRS to obtain the benefit of such exemption or reduction. We will not pay any additional amounts in respect of any amounts withheld.

Non-U.S. persons should consult their own tax advisors with respect to the U.S. federal income tax and withholding tax, and state, local and foreign tax consequences of an investment in the shares.

Failure To Obtain RIC Tax Treatment

If we fail to satisfy the 90% Income Test or the Diversification Tests for any taxable year, we may nevertheless continue to qualify as a RIC for such year if certain relief provisions are applicable (which may, among other things, require us to pay certain corporate-level federal taxes or to dispose of certain assets).

If we were unable to obtain tax treatment as a RIC, we would be subject to tax on all of our taxable income at regular corporate rates. We would not be able to deduct distributions to stockholders, nor would they be required to be made. Distributions would generally be taxable to our stockholders as dividend income to the extent of our current and accumulated earnings and profits (in the case of noncorporate U.S. stockholders, at a maximum rate applicable to qualified dividend income of 15% through 2012). Subject to certain limitations under the Code, corporate distributees would be eligible for the dividends-received deduction. Distributions in excess of our current and accumulated earnings and profits would be treated first as a return of capital to the extent of the stockholder's tax basis, and any remaining distributions would be treated as a capital gain.

If we fail to meet the RIC requirements for more than two consecutive years and then, seek to re-qualify as a RIC, we would be subject to corporate-level taxation on any built-in gain recognized during the succeeding 10-year period unless we made a special election to recognize all such built-in gain upon our re-qualification as a RIC and to pay the corporate-level tax on such built-in gain.

Sunset of Reduced Tax Rate Provisions

Certain tax laws providing for certain reduced tax rates described herein are subject to sunset provisions. The sunset provisions generally provide that for taxable years beginning after December 31, 2012, certain provisions that are currently in the Code will revert back to a prior version of those provisions. Such provisions include those related to the reduced maximum income tax rates generally applicable to ordinary income, long-term capital gain and qualified dividend income recognized by certain noncorporate taxpayers and certain other tax rate provisions described herein. The impact of this reversion is not discussed herein. Consequently, prospective stockholders should consult their own tax advisors regarding the effect of these sunset provisions on an investment in our common stock.

Possible Legislative or Other Actions Affecting Tax Considerations

Prospective investors should recognize that the present U.S. federal income tax treatment of an investment in our stock may be modified by legislative, judicial or administrative action at any time, and that any such action may affect investments and commitments previously made. The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process any by the IRS and the U.S. Treasury Department, resulting in revisions of regulations and revised interpretations of established concepts as well as statutory changes. Revisions in U.S. federal tax laws and interpretations thereof could adversely affect the tax consequences of an investment in our stock.

State and Local Tax Treatment

The state and local treatment may differ from federal income tax treatment.

The discussion set forth herein does not constitute tax advice, and potential investors should consult their own tax advisors concerning the tax considerations relevant to their particular situation.

REGULATION

Prior to the completion of this offering, we will elect to be regulated as a BDC under the 1940 Act. The 1940 Act contains prohibitions and restrictions relating to transactions between business development companies and their affiliates, principal underwriters and affiliates of those affiliates or underwriters. The 1940 Act requires that a majority of the directors be persons other than "interested persons," as that term is defined in the 1940 Act. In addition, the 1940 Act provides that we may not change the nature of our business so as to cease to be, or to withdraw our election as, a business development company unless approved by a majority of our outstanding voting securities.

The 1940 Act defines "a majority of the outstanding voting securities" as the lesser of (i) 67% or more of the voting securities present at a meeting if the holders of more than 50% of our outstanding voting securities are present or represented by proxy or (ii) 50% of our voting securities.

We will generally not be able to issue and sell our common stock at a price below net asset value per share. See "Risk Factors — Risks Relating to Business Development Companies — *Regulations governing our operation as a BDC and RIC will affect our ability to raise, and the way in which we raise, additional capital or borrow for investment purposes, which may have a negative effect on our growth.*" We may, however, sell our common stock, or warrants, options or rights to acquire our common stock, at a price below the then-current net asset value of our common stock if our board of directors determines that such sale is in our best interests and the best interests of our stockholders, and our stockholders approve such sale. In addition, we may generally issue new shares of our common stock at a price below net asset value in rights offerings to existing stockholders, in payment of dividends and in certain other limited circumstances.

As a business development company, we will not be permitted to invest in any portfolio company in which our Adviser, Sub-Adviser or any of their affiliates currently have an investment or to make any co-investments with our Adviser, Sub-Adviser or any of their affiliates without an exemptive order from the SEC.

Qualifying Assets

Under the 1940 Act, a business development company may not acquire any asset other than assets of the type listed in Section 55(a) of the 1940 Act, which are referred to as qualifying assets, unless, at the time the acquisition is made, qualifying assets represent at least 70% of the company's total assets. The principal categories of qualifying assets relevant to our business are any of the following:

1. Securities purchased in transactions not involving any public offering from the issuer of such securities, which issuer (subject to certain limited exceptions) is an eligible portfolio company, or from any person who is, or has been during the preceding 13 months, an affiliated person of an eligible portfolio company, or from any other person, subject to such rules as may be prescribed by the SEC. An eligible portfolio company is defined in the 1940 Act as any issuer which:
    a. is organized under the laws of, and has its principal place of business in, the U.S.;
    b. is not an investment company (other than a small business investment company wholly owned by the business development company) or a company that would be an investment company but for certain exclusions under the 1940 Act; and
    c. satisfies any of the following:
        i. does not have any class of securities that is traded on a national securities exchange;
        ii. has a class of securities listed on a national securities exchange, but has an aggregate market value of outstanding voting and non-voting common equity of less than $250 million;
        iii. is controlled by a business development company or a group of companies including a business development company and the business development company has an affiliated person who is a director of the eligible portfolio company; or

iv. is a small and solvent company having total assets of not more than $4.0 million and capital and surplus of not less than $2.0 million

2. Securities of any eligible portfolio company that we control.

3. Securities purchased in a private transaction from a U.S. issuer that is not an investment company or from an affiliated person of the issuer, or in transactions incident thereto, if the issuer is in bankruptcy and subject to reorganization or if the issuer, immediately prior to the purchase of its securities was unable to meet its obligations as they came due without material assistance other than conventional lending or financing arrangements.

4. Securities of an eligible portfolio company purchased from any person in a private transaction if there is no ready market for such securities and we already own 60% of the outstanding equity of the eligible portfolio company.

5. Securities received in exchange for or distributed on or with respect to securities described in (1) through (4) above, or pursuant to the exercise of warrants or rights relating to such securities.

6. Cash, cash equivalents, U.S. government securities or high-quality debt securities maturing in one year or less from the time of investment.

In addition, a business development company must have been organized and have its principal place of business in the U.S. and must be operated for the purpose of making investments in the types of securities described in (1), (2) or (3) above.

Managerial Assistance to Portfolio Companies

In order to count portfolio securities as qualifying assets for the purpose of the 70% test, we must either control the issuer of the securities or must offer to make available to the issuer of the securities (other than small and solvent companies described above) significant managerial assistance; except that, where we purchase such securities in conjunction with one or more other persons acting together, one of the other persons in the group may make available such managerial assistance. Making available managerial assistance means, among other things, any arrangement whereby the business development company, through its directors, officers or employees, offers to provide, and, if accepted, does so provide, significant guidance and counsel concerning the management, operations or business objectives and policies of a portfolio company.

Temporary Investments

Pending investment in other types of "qualifying assets," as described above, our investments may consist of cash, cash equivalents, U.S. government securities or high-quality debt securities maturing in one year or less from the time of investment, which we refer to, collectively, as temporary investments, so that 70% of our assets are qualifying assets. Typically, we will invest in U.S. Treasury bills or in repurchase agreements, provided that such agreements are fully collateralized by cash or securities issued by the U.S. government or its agencies. A repurchase agreement involves the purchase by an investor, such as us, of a specified security and the simultaneous agreement by the seller to repurchase it at an agreed-upon future date and at a price that is greater than the purchase price by an amount that reflects an agreed-upon interest rate. There is no percentage restriction on the proportion of our assets that may be invested in such repurchase agreements. However, if more than 25% of our total assets constitute repurchase agreements from a single counterparty, we would not meet the Diversification Tests in order to qualify as a RIC for federal income tax purposes. Thus, we do not intend to enter into repurchase agreements with a single counterparty in excess of this limit. Our Adviser will monitor the creditworthiness of the counterparties with which we enter into repurchase agreement transactions.

Senior Securities

We are permitted, under specified conditions, to issue multiple classes of debt and one class of stock senior to our common stock if our asset coverage, as defined in the 1940 Act, is at least equal to 200% immediately after each such issuance. In addition, while any senior securities remain outstanding, we must make provisions to

prohibit any distribution to our stockholders or the repurchase of such securities or shares unless we meet the applicable asset coverage ratios at the time of the distribution or repurchase. We may also borrow amounts up to 5% of the value of our total assets for temporary or emergency purposes without regard to asset coverage. For a discussion of the risks associated with leverage, See "Risk Factors — Risks Relating to Business Development Companies — *Regulations governing our operation as a BDC and RIC will affect our ability to raise, and the way in which we raise additional capital or borrow for investment purposes, which may have a negative effect on our growth*."

Code of Ethics

We, our Advisers and our Dealer Manager have each adopted a code of ethics pursuant to Rule 17j-1 under the 1940 Act that establishes procedures for personal investments and restricts certain personal securities transactions. Personnel subject to each code may invest in securities for their personal investment accounts, including securities that may be purchased or held by us, so long as such investments are made in accordance with the code's requirements. We have attached these codes of ethics as exhibits to the registration statement of which this prospectus is a part. You may also read and copy, after paying a duplication fee, the codes of ethics at the SEC's Public Reference Room located at 100 F Street, N.E., Washington, D.C. 20549, or by making an electronic request to the following email address: publicinfo@sec.gov. You may obtain information on the operation of the Public Reference Room by calling the SEC at (202) 942-8090. In addition, the code of ethics is available on the EDGAR Database on the SEC's Internet site at http://www.sec.gov.

Compliance Policies and Procedures

We and our Adviser will adopt and implement written policies and procedures reasonably designed to prevent violation of the federal securities laws, and our board of directors will be required to review these compliance policies and procedures annually to assess their adequacy and the effectiveness of their implementation. We have designated Susan Dudley as our chief compliance officer.

Proxy Voting Policies and Procedures

We anticipate delegating our proxy voting responsibility to our Adviser. The proxy voting policies and procedures that we anticipate that our Adviser will follow are set forth below. The guidelines will be reviewed periodically by our Adviser and our non-interested directors, and, accordingly, are subject to change.

Introduction

As an investment adviser registered under the Advisers Act, HMS Adviser has a fiduciary duty to act solely in the best interests of its clients. As part of this duty, it recognizes that it must vote client securities in a timely manner free of conflicts of interest and in the best interests of its clients.

These policies and procedures for voting proxies for the investment advisory clients of HMS Adviser are intended to comply with Section 206 of, and Rule 206(4)-6 under, the Advisers Act.

Proxy Policies

HMS Adviser will vote proxies relating to our securities in the best interest of its clients' stockholders. It will review on a case-by-case basis each proposal submitted for a stockholder vote to determine its impact on the portfolio securities held by its clients. Although HMS Adviser will generally vote against proposals that may have a negative impact on its clients' portfolio securities, it may vote for such a proposal if there exist compelling long-term reasons to do so.

The proxy voting decisions of HMS Adviser are made by the senior officers who are responsible for monitoring each of its clients' investments. To ensure that its vote is not the product of a conflict of interest, it will require that: (a) anyone involved in the decision-making process disclose to its chief compliance officer any potential conflict that he or she is aware of and any contact that he or she has had with any interested party regarding a proxy vote; and (b) employees involved in the decision making process or vote administration are prohibited from revealing how HMS Adviser intends to vote on a proposal in order to reduce any attempted influence from interested parties.

Proxy Voting Records

You may obtain information, without charge, regarding how we voted proxies with respect to our portfolio securities by making a written request for proxy voting information to: Chief Financial Officer, 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118, or by calling the Company at (888) 220-6121. Also, the SEC maintains a website at www.sec.gov that contains such information.

Other

We will be periodically examined by the SEC for compliance with the 1940 Act.

We are required to provide and maintain a bond issued by a reputable fidelity insurance company to protect us against larceny and embezzlement. Furthermore, as a business development company, we are prohibited from protecting any director or officer against any liability to us or our stockholders arising from misconduct, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of such person's office.

Securities Exchange Act and Sarbanes-Oxley Act Compliance

We will be subject to the reporting and disclosure requirements of the Exchange Act, including the filing of quarterly, annual and current reports, proxy statements and other required items. In addition, we will be subject to the Sarbanes-Oxley Act of 2002, which imposes a wide variety of regulatory requirements on publicly-held companies and their insiders. Many of these requirements will affect us. For example:

- pursuant to Rule 13a-14 of the Exchange Act, our chief executive officer and chief financial officer will be required to certify the accuracy of the financial statements contained in our periodic reports;
- pursuant to Item 307 of Regulation S-K, our periodic reports will be required to disclose our conclusions about the effectiveness of our disclosure controls and procedures; and
- pursuant to Rule 13a-15 of the Exchange Act, our management will be required to prepare a report regarding its assessment of our internal control over financial reporting.

The Sarbanes-Oxley Act requires us to review our current policies and procedures to determine whether we comply with the Sarbanes-Oxley Act and the regulations promulgated thereunder. We intend to monitor our compliance with all regulations that are adopted under the Sarbanes-Oxley Act and will take actions necessary to ensure that we are in compliance therewith.

PLAN OF DISTRIBUTION

General

We are offering a maximum of 150,000,000 shares of our common stock to the public at an initial offering price of $10.00 per share, except as provided below, through Hines Securities, Inc., the dealer manager. The shares are being offered on a "best efforts" basis, which means generally that the dealer manager is required to use only its best efforts to sell the shares and it has no firm commitment or obligation to purchase any of the shares. The offering of shares of our common stock will terminate on or before , 2014, which is two years after the effective date of this offering, unless we elect to extend it to a date no later than , 2015. This offering must be registered in every state in which we offer or sell shares.

Generally, such registrations are for a period of one year. Thus, we may have to stop selling shares in any state in which our registration is not renewed or otherwise extended annually. We reserve the right to terminate this offering at any time prior to the stated termination date.

After holding our initial closing we will offer our shares on a continuous basis at an initial offering price of $10.00; however, to the extent our net asset value per share increases after commencement of the offering, we will increase the offering price to that price per share, after deduction of selling commissions and dealer manager fees, that will be equal to our net asset value per share. Therefore, persons who tender subscriptions for shares of our common stock in this offering must submit subscriptions for a fixed dollar amount, rather than a number of shares of common stock and, as a result, may receive fractional shares of our common stock. Promptly following any such adjustment to the offering price per share, we will file a prospectus supplement with the SEC disclosing the adjusted offering price, and we will also post the updated information on our website at www.HinesSecurities.com.

We will offer shares of our common stock on a continuous basis. Subject to the requirements of state securities regulators with respect to sales to residents of their states, there is no minimum number of shares required to be sold in this offering. Therefore, we intend to have our initial closing as soon as practicable after the effective date of the registration statement of which this prospectus is a part, and we expect to accept subscriptions at semi-monthly closings in which we admit new stockholders until the conclusion of this offering. Shares pursuant to our distribution reinvestment plan will be issued on the same date that we hold our first closing of the month. All subscription payments will be placed in a segregated account and will be held in trust for our subscribers' benefit, pending release to us at the next scheduled semi-monthly closing.

About the Dealer Manager

We expect to engage Hines Securities, Inc. as our dealer manager. Hines Securities, Inc. is a member firm of the Financial Industry Regulatory Authority, or FINRA. Hines Securities, Inc. was organized on 2003 for the purpose of participating in and facilitating the distribution of securities of programs sponsored by Hines, its affiliates and its predecessors. Hines Securities, Inc. is indirectly owned by an affiliate of Hines. Hines Securities, Inc. is the dealer manager or is named in the registration statement as dealer manager in two offerings, including two offerings in which Hines is the sole sponsor, that are effective.

Compensation of Dealer Manager and Selected Broker-Dealers

Except as provided below, the dealer manager will receive selling commissions of 7.0% of the gross proceeds of shares sold in the offering. The dealer manager will also receive a dealer manager fee up to 3.0% of the gross offering proceeds as compensation for managing and coordinating the offering, working with the selected broker-dealers and providing sales and marketing assistance.

We expect the dealer manager to authorize other broker-dealers that are members of FINRA, which we refer to as selected broker-dealers, to sell our shares. The dealer manager may re-allow all of its selling commissions attributable to a selected broker-dealer.

The dealer manager, in its sole discretion, may also re-allow to any selected broker-dealer a portion of its dealer manager fee as a marketing fee in an amount up to 1.5% of gross proceeds from the offering of our common stock during our offering period of shares sold in the offering by such selected broker-dealer; and may

pay out of its dealer manager fee up to an additional 1.0% of gross offering proceeds from the sales of shares sold in the offering by such broker-dealer, as reimbursement for distribution and marketing-related costs and expenses, such as, fees and costs associated with attending or sponsoring conferences and technology costs. The amount of the reallowance will be based on factors such as the prior or projected volume of sales and the amount of marketing assistance and the level of marketing support provided by the selected broker-dealer, in the past and anticipated to be provided in this offering. In addition, our dealer manager may incur the expense of training and education meetings, business gifts and travel and entertainment expenses which comply with the FINRA Rules. The dealer manager will use the portion of its dealer manager fee that it does not re-allow to selected broker-dealers to pay commissions and salaries of its registered persons participating in this offering.

We will not pay selling commissions or dealer manager fees on shares sold under our distribution reinvestment plan. The amount that would have been paid as selling commissions and dealer manager fees if the shares sold under our distribution reinvestment plan had been sold pursuant to this public offering of shares will be retained and used by us. Therefore, the net proceeds to us for sales under our distribution reinvestment plan will be greater than the net proceeds to us for sales pursuant to this prospectus.

Under the rules of FINRA, the maximum compensation payable to members of FINRA participating in this offering may not exceed 10% of our gross offering proceeds. If, upon an abrupt termination of the offering, the total amount of underwriting compensation paid in connection with the offering exceeds 10% of our gross offering proceeds (excluding proceeds from the sale of shares under our distribution reinvestment plan), then the dealer manager will pay to us an amount equal to the underwriting compensation in excess of 10%.

We will also reimburse our Adviser for all actual issuer costs incurred by our Adviser and its affiliates in connection with this offering and our organization; provided that the aggregate of such costs, shall not exceed an aggregate of 1.5% of the gross proceeds from the offering of our common stock during our offering period. Such issuer costs will include our reimbursements to the dealer manager and selected broker-dealers for bona fide out-of-pocket itemized and detailed due diligence expenses incurred by selected broker-dealers and their personnel when visiting our office to verify information relating to us and this offering and, in some cases, reimbursement of the allocable share of actual out-of-pocket employee expenses of internal due diligence personnel of the selected broker-dealers conducting due diligence on the offering. These due diligence reimbursements are not considered part of the 10% underwriting compensation under FINRA Rule 2310(b)(4)(B)(vii), so long as they are included in a detailed and itemized invoice, although they are considered an organization and offering expense, which cannot exceed 15% of the offering proceeds.

Other than these fees, we may not pay referral or similar fees to any professional or other person in connection with the distribution of the shares in this offering.

We have agreed to indemnify the selected broker-dealers, including the dealer manager and selected registered investment advisors, against certain liabilities arising under the Securities Act and liabilities arising from breaches of our representations and warranties contained in the dealer manager agreement. However, the SEC takes the position that indemnification against liabilities arising under the Securities Act is against public policy and is unenforceable. The broker-dealers participating in the offering of shares of our common stock are not obligated to obtain any subscriptions on our behalf, and we cannot assure you that any shares of common stock will be sold.

We will not pay any selling commissions in connection with the sale of shares to investors whose contracts for investment advisory and related brokerage services include a fixed or “wrap” fee feature. Investors may agree with their participating brokers to reduce the amount of selling commissions payable with respect to the sale of their shares down to zero (i) if the investor has engaged the services of a registered investment advisor or other financial advisor who will be paid compensation for investment advisory services or other financial or investment advice or (ii) if the investor is investing through a bank trust account with respect to which the investor has delegated the decision-making authority for investments made through the account to a bank trust department. The net proceeds to us will not be affected by reducing the commissions payable in connection with such transaction. Neither our dealer manager nor its affiliates will directly or indirectly compensate any person

engaged as an investment advisor or a bank trust department by a potential investor as an inducement for such investment advisor or bank trust department to advise favorably for an investment in our shares.

We will not pay selling commissions in connection with the sale of our common stock to one or more soliciting dealers and to their respective officers and employees and some of their respective affiliates who request and are entitled to purchase common stock net of selling commissions.

It is illegal for us to pay or award any commissions or other compensation to any person engaged by you for investment advice as an inducement to such advisor to advise you to purchase our common stock; however, nothing herein will prohibit a registered broker-dealer or other properly licensed person from earning a sales commission in connection with a sale of the common stock.

Special Discounts

Our officers and directors and their immediate family members, as well as officers and employees of our Adviser and our Sub-Adviser and their affiliates and their immediate family members (including spouses, parents, grandparents, children and siblings), Friends, and other individuals designated by management, and, if approved by our board of directors, joint venture partners, consultants and other service providers, may purchase shares of our common stock in this offering without being subject to any selling commissions or dealer manager fees. “Friends” mean those individuals who have had long standing business and/or personal relationships with our officers and directors. There is no limit on the number of shares of our common stock that may be sold to such persons.

In addition, the selling commission and the dealer manager fee may be reduced or waived in connection with certain categories of sales, such as sales for which a volume discount applies, sales to certain institutional investors, sales through investment advisers or banks acting as trustees or fiduciaries, sales to our affiliates, sales to employees (and their spouses, parents, and minor children) of selected participating broker-dealers, sales made by certain selected participating broker-dealers at the discretion of the dealer manager, sales in wrap accounts managed by participating broker-dealers or their affiliates and sales in managed accounts that are managed by participating broker-dealers or their affiliates.

The amount of net proceeds to us will not be affected by reducing or eliminating the selling commissions or the dealer manager fee payable in connection with sales to such institutional investors and affiliates. Our Adviser and its affiliates will be expected to hold their shares of our common stock purchased as stockholders for investment and not with a view towards distribution.

To the extent permitted by law and our charter, we will indemnify the selected broker-dealers and the dealer manager against some civil liabilities, including certain liabilities under the Securities Act and liabilities arising from breaches of our representations and warranties contained in the dealer manager agreement.

Volume Discounts

We will offer a reduced share purchase price to “single purchasers” on orders of more than $500,000 and selling commissions paid to Hines Securities, Inc. and participating broker-dealers will be reduced by the amount of the share purchase price discount. The per share purchase price will apply to the specific range of each share purchased in the total volume ranges set forth in the table below. The reduced purchase price will not affect the amount we receive for investment.

For a "Single Purchaser"	Purchase Price per Share in Volume Discount Range[1]	Selling Commission per Share in Volume Discount Range
$2,500 – $500,000.00	$10.00	7.0%
$500,000.01 – $750,000.00	9.90	6.0%
$750,000.01 – $1,000,000.00	9.80	5.0%
$1,000,000.01 – $2,500,000.00	9.70	4.0%
$2,500,000.01 – $5,000,000.00	9.60	3.0%
Over $5,000,000.00	9.50	2.0%

(1) Assumes a $10.00 per share offering price. Discounts will be adjusted appropriately for changes in the offering price.

We will apply the reduced selling price per share and selling commissions to the incremental shares within the indicated range only. Thus, for example, a total subscription amount of $1,250,000 would result in the purchase of 126,535.926 shares at a weighted average purchase price of $9.88 per share as shown below:

- $500,000 at $10.00 per share=50,000 shares; (7% selling commission + 3% dealer manager fee);
- $250,000 at $9.90 per share=25,252.525 shares; (6% selling commission + 3% dealer manager fee);
- $250,000 at $9.80 per share=25,510.204 shares; (5% selling commission + 3% dealer manager fee); and
- $250,000 at $9.70 per share=25,773.196 shares; (4% selling commission + 3% dealer manager fee).

Subscriptions may be combined for the purpose of determining the volume discounts in the case of subscriptions made by any "purchaser," as that term is defined below, provided all such shares are purchased through the same broker-dealer. The volume discount shall be prorated among the separate subscribers considered to be a single "purchaser." Any request to combine more than one subscription must be made in writing submitted simultaneously with your subscription for shares, and must set forth the basis for such request. Any such request will be subject to verification by the dealer manager that all of such subscriptions were made by a single "purchaser."

For the purposes of such volume discounts, the term "purchaser" includes:

- an individual, his or her spouse and their children under the age of 21 who purchase the shares for his, her or their own accounts;
- a corporation, partnership, association, joint-stock company, trust fund or any organized group of persons, whether incorporated or not;
- an employees' trust, pension, profit sharing or other employee benefit plan qualified under Section 401(a) of the Internal Revenue Code;
- all commingled trust funds maintained by a given bank; and
- any person or entity, or persons or entities, acquiring shares that are clients of and are advised by a single investment adviser registered under the Advisers Act.

If a single purchaser described in the categories above wishes to have its orders so combined, that purchaser will be required to request the treatment in writing, which request must set forth the basis for the discount and identify the orders to be combined. Any request will be subject to our verification that all of the orders were made by a single purchaser.

Orders also may be combined for the purpose of determining the commissions payable in the case of orders by any purchaser described in any category above who orders additional shares. In this event, the commission payable with respect to the subsequent purchase of shares will equal the commission per share which would have been payable in accordance with the commission schedule set forth above if all purchases had been made simultaneously.

Notwithstanding the above, the dealer manager may, at its sole discretion, enter into an agreement with a selected broker-dealer, whereby such selected broker-dealer may aggregate subscriptions as part of a combined order for the purpose of offering investors reduced aggregate selling commissions, provided that any such aggregate group of subscriptions must be received from such selected broker-dealer. Additionally, the dealer manager may, at its sole discretion, aggregate subscriptions as part of a combined order for the purpose of offering investors reduced aggregate selling commissions, provided that any such aggregate group of subscriptions must be received from the dealer manager. Any reduction in selling commissions and dealer manager fees would be prorated among the separate subscribers.

In order to encourage purchases of shares of our common stock in excess of 500,000 shares, our dealer manager may, in its sole discretion, agree with a purchaser to reduce the selling commission and the dealer manager fee. However, in no event will the net proceeds to us be affected by such fee reductions. For the purposes of such purchases in excess of 500,000 shares, the term “purchaser” has the same meaning as defined above with respect to volume discount purchases.

Subscription Process

To purchase shares in this offering, you must complete and sign a subscription agreement (in the form attached to this prospectus as Appendix A) for a specific dollar amount equal to or greater than $2,500 and pay such amount at the time of subscription. You should pay for your shares by delivering a check for the full purchase price of the shares, payable to “HMS Income Fund, Inc.” You should exercise care to ensure that the applicable subscription agreement is filled out correctly and completely.

By executing the subscription agreement, you will attest, among other things, that you:

- have received the final prospectus;
- accept the terms of our charter;
- meet the suitability requirements described in this prospectus;
- are purchasing the shares for your own account;
- acknowledge that there is no public market for our shares; and
- are in compliance with the USA PATRIOT Act and are not on any governmental authority watch list.

We include these representations in our subscription agreement in order to prevent persons who do not meet our suitability standards or other investment qualifications from subscribing to purchase our shares.

Subscriptions will be effective only upon our acceptance, and we reserve the right to reject any subscription in whole or in part. We may not accept a subscription for shares until at least five business days after the date you receive the final prospectus. Subject to compliance with Rule 15c2-4 of the Exchange Act, our dealer manager and/or the broker-dealers participating in the offering will promptly submit a subscriber’s check on the business day following receipt of the subscriber’s subscription documents and check. In certain circumstances where the suitability review procedures are more lengthy than customary, a subscriber’s check will be promptly deposited in compliance with Exchange Act Rule 15c2-4. The proceeds from your subscription will be deposited in a segregated account and will be held in trust for your benefit, pending our acceptance of your subscription.

A sale of the shares may not be completed until at least five business days after the subscriber receives our final prospectus as filed with the SEC pursuant to Rule 497 of the Securities Act. Within 30 days of our receipt of each completed subscription agreement, we will accept or reject the subscription. If we accept the subscription, we will mail a confirmation within three days. If for any reason we reject the subscription, we will promptly return the funds and the subscription agreement, without interest or deduction, within ten business days after rejecting it.

Investments through IRA Accounts

Community National Bank has agreed to act as an IRA custodian for investors who would like to purchase shares through an IRA. For any accountholder that makes and maintains an investment equal to or greater than $10,000 in shares of our common stock through an IRA for which Community National Bank serves as custodian, we will pay the base fee for such IRA for the first calendar year and an affiliate of Hines will pay the base fee for such IRA for each successive year. Beginning on the date that their accounts are established, all investors will be responsible for any other fees applicable to their accounts with Community National Bank. Further information about custodial services is available through your broker or through our dealer manager. See "Questions and Answers About This Offering — Who can help answer my questions?" for the dealer manager's contact information.

Supplemental Sales Material

In addition to this prospectus, we intend to use supplemental sales material in connection with the offering of our shares, although only when accompanied by or preceded by the delivery of the prospectus, as supplemented. We will file all supplemental sales material with FINRA prior to distributing such material. The supplemental sales material does not contain all of the information material to an investment decision and should only be reviewed after reading the prospectus. The sales material expected to be used in permitted jurisdictions includes:

- investor sales promotion brochures;
- cover letters transmitting the prospectus;
- brochures containing a summary description of the offering;
- fact sheets describing the general nature of HMS Income Fund, Inc. and our investment objective;
- asset flyers describing our recent investments;
- broker updates;
- online investor presentations;
- third-party article reprints;
- website material;
- electronic media presentations; and
- client seminars and seminar advertisements and invitations.

All of the foregoing material will be prepared by our Advisers or their affiliates with the exception of the third-party article reprints, if any. In certain jurisdictions, some or all of such sales material may not be available. In addition, the sales material may contain certain quotes from various publications without obtaining the consent of the author or the publication for use of the quoted material in the sales material.

We are offering shares in this offering only by means of this prospectus. Although the information contained in our supplemental sales materials will not conflict with any of the information contained in the prospectus, as supplemented, the supplemental materials do not purport to be complete and should not be considered a part of or as incorporated by reference in the prospectus, or the registration statement of which the prospectus is a part.

SUITABILITY STANDARDS

The following are our suitability standards for investors which are required by the Omnibus Guidelines published by the North American Securities Administrators Association, or NASAA, in connection with our continuous offering of common stock under this registration statement.

Pursuant to applicable state securities laws, shares of common stock offered through this prospectus are suitable only as a long-term investment for persons of adequate financial means who have no need for liquidity in this investment. Initially, there is not expected to be any public market for the shares, which means that it may be difficult for stockholders to sell their shares. As a result, we have established suitability standards which require investors to have either (i) a net worth (not including home, furnishings, and personal automobiles) of at least $70,000 and an annual gross income of at least $70,000, or (ii) a net worth (not including home, furnishings, and personal automobiles) of at least $250,000. Our suitability standards also require that a potential investor (1) be positioned to reasonably benefit from an investment in our common stock based on such investor's overall investment objectives and portfolio structuring; (2) be able to bear the economic risk of the investment based on the prospective stockholder's overall financial situation; and (3) have apparent understanding of (a) the fundamental risks of the investment, (b) the risk that such investor may lose his or her entire investment, (c) the lack of liquidity of the shares, (d) the restrictions on transferability of shares, (e) the background and qualifications of our Advisers and (f) the tax consequences of the investment.

In addition, we will not sell shares to investors in the states named below unless they meet special suitability standards.

Alabama — In addition to the suitability standards stated above, investors who reside in the state of Alabama must have a liquid net worth of at least 10 times their investment in us and other similar investment programs.

Arizona — The term of this offering shall be effective for a period of one year with the ability to renew for additional periods of one year.

California, Michigan, New Mexico and Ohio — In addition to the suitability standards above, an investor will limit his or her investment in our common stock to a maximum of 10% of his or her net worth.

Idaho — Investors who reside in the state of Idaho must have either (i) a liquid net worth of $85,000 and annual gross income of $85,000 or (ii) a liquid net worth of $300,000. Additionally, an Idaho investor's total investment shall not exceed 10% of his or her liquid net worth. (The calculation of liquid net worth shall include only cash plus cash equivalents. Cash equivalents include assets which may be convertible to cash within one year.)

Iowa — Investors who reside in the state of Iowa must have either (i) a liquid net worth of $100,000 and annual gross income of $100,000 or (ii) a liquid net worth of $350,000. Additionally, an Iowa investor's total investment in us shall not exceed 10% of his or her liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

Kansas — The Office of the Kansas Securities Commissioner recommends that you should limit your aggregate investment in our shares and other similar investments to not more than 10% of your liquid net worth. Liquid net worth is that portion of your total net worth (assets minus liabilities) that is comprised of cash, cash equivalents and readily marketable securities.

Kentucky — Investors who reside in the state of Kentucky must have either (i) a liquid net worth of $85,000 and annual gross income of $85,000 or (ii) a liquid net worth of $300,000. Additionally, a Kentucky investor's total investment in us shall not exceed 10% of his or her liquid net worth.

Maine — The Maine Office of Securities recommends that an investor's aggregate investment in this offering and other similar offerings not exceed 10% of the investor's liquid net worth. For this purpose, "liquid net worth" is defined as that portion of net worth that consists of cash, cash equivalents and readily marketable securities.

Massachusetts — Investors who reside in the state of Massachusetts must have either (i) a minimum of $100,000 annual gross income and a liquid net worth of $100,000; or (ii) a liquid net worth of $250,000 irrespective of gross annual income. Additionally, a Massachusetts investor's total investment in us shall not exceed 10% of his or her liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

Nebraska — Nebraska investors must meet the following suitability standards: (i) either (a) an annual gross income of at least $100,000 and a net worth of at least $350,000, or (b) a net worth of at least $500,000; and (ii) investor will not invest more than 10% of their net worth in the Issuer. For such investors, net worth should not include the value of one's home, home furnishings, or automobiles.

New Jersey — Investors who reside in the state of New Jersey must have either (i) a minimum annual gross income of $100,000 and a minimum liquid net worth of $100,000; or (ii) a minimum liquid net worth of $300,000. Additionally, a New Jersey investor's total investment in this offering and other similar offerings shall not exceed 10% of such investor's liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

North Carolina — Investors who reside in the state of North Carolina must have either (i) a minimum liquid net worth of $85,000 and minimum annual gross income of $85,000 or (ii) a minimum liquid net worth of $300,000.

North Dakota — Our shares will only be sold to residents of North Dakota representing that their investment will not exceed 10% of his or her net worth and that they meet one of the established suitability standards.

Oklahoma — Purchases by Oklahoma investors should not exceed 10% of their net worth (not including home, home furnishings and automobiles).

Oregon — In addition to the suitability standards above, the state of Oregon requires that each Oregon investor will limit his or her investment in our common stock to a maximum of 10% of his or her net worth (not including home, home furnishings or automobiles).

Tennessee — We must sell a minimum of $15,000,000 worth of shares before accepting subscriptions from residents of Tennessee. In addition, investors who reside in the state of Tennessee must have either (i) a minimum annual gross income of $100,000 and a minimum net worth of $100,000, or (ii) a minimum net worth of $500,000 exclusive of home, home furnishings and automobile. Additionally, Tennessee residents' investment must not exceed 10% of their liquid net worth.

Texas — Investors who reside in the state of Texas must have either (i) a minimum of $100,000 annual gross income and a liquid net worth of $100,000; or (ii) a liquid net worth of $250,000 irrespective of gross annual income. Additionally, a Texas investor's total investment in us shall not exceed 10% of his or her liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

Vermont — Investors who reside in the state of Vermont must have either (i) a minimum of $100,000 annual gross income and a liquid net worth of $100,000; or (ii) a liquid net worth of $250,000 irrespective of gross annual income. Additionally, a Vermont investor's total investment in us shall not exceed 10% of his or her liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

The minimum purchase amount is $2,500 in shares of our common stock. To satisfy the minimum purchase requirements for retirement plans, unless otherwise prohibited by state law, a husband and wife may jointly contribute funds from their separate individual retirement accounts, or IRAs, provided that each such contribution is made in increments of $500. You should note that an investment in shares of our common stock will not, in itself, create a retirement plan and that, in order to create a retirement plan, you must comply with all applicable provisions of the Code.

If you have satisfied the applicable minimum purchase requirement, any additional purchase must be in amounts of at least $500. The investment minimum for subsequent purchases does not apply to shares purchased pursuant to our distribution reinvestment plan.

In the case of sales to fiduciary accounts, these suitability standards must be met by the person who directly or indirectly supplied the funds for the purchase of the shares of our stock or by the beneficiary of the account.

These suitability standards are intended to help ensure that, given the long-term nature of an investment in shares of our stock, our investment objective and the relative illiquidity of our stock, shares of our stock are an appropriate investment for those of you who become stockholders. Our sponsors and those selling shares on our behalf must make every reasonable effort to determine that the purchase of shares of our stock is a suitable and appropriate investment for each stockholder based on information provided by the stockholder in the subscription agreement. Each selected broker-dealer is required to maintain for six years records of the information used to determine that an investment in shares of our stock is suitable and appropriate for a stockholder.

In purchasing shares, custodians or trustees of employee pension benefit plans or IRAs may be subject to the fiduciary duties imposed by the Employee Retirement Income Security Act of 1974, or ERISA, or other applicable laws and to the prohibited transaction rules prescribed by ERISA and related provisions of the Code. In addition, prior to purchasing shares, the trustee or custodian of an employee pension benefit plan or an IRA should determine that such an investment would be permissible under the governing instruments of such plan or account and applicable law.

LIQUIDITY STRATEGY

We intend to explore a potential liquidity event for our stockholders between four and six years following the completion of our offering period. However, we may determine to explore or complete a liquidity event sooner than between four and six years following the completion of our offering period. We will view our offering period as complete as of the termination date of our most recent public equity offering, if we have not conducted a public offering in any continuous two-year period. We may determine not to pursue a liquidity event if we believe that then-current market conditions are not favorable for a liquidity event, and that such conditions will improve in the future. See "Risk Factors — Risks Relating to this Offering and Our Common Stock — *We are not obligated to complete a liquidity event by a specified date; therefore, it will be difficult for you to sell your shares.*"

A liquidity event could include (1) the sale of all or substantially all of our assets either on a complete portfolio basis or individually followed by a liquidation, (2) a listing of our shares on a national securities exchange, or (3) a merger or another transaction approved by our board of directors in which our stockholders will receive cash or shares of a publicly traded company. We refer to the above scenarios as "liquidity events." While our intention is to seek to explore a potential liquidity event between four and six years following the completion of our offering period, there can be no assurance that a suitable transaction will be available or that market conditions for a liquidity event will be favorable during that timeframe. In making a determination of what type of liquidity event is in our best interest, our board of directors, including our independent directors, may consider a variety of criteria, including, but not limited to, portfolio diversification, portfolio performance, our financial condition, potential access to capital as a listed company, market conditions for the sale of our assets or listing of our securities, internal management considerations and the potential for stockholder liquidity. If we determine to pursue a listing of our securities on a national securities exchange in the future, at that time we may consider either an internal or an external management structure.

Prior to the completion of a liquidity event, our share repurchase program may provide a limited opportunity for you to have your shares of common stock repurchased, subject to certain restrictions and limitations, at a price which may reflect a discount from the purchase price you paid for the shares being repurchased. See "Share Repurchase Program" for a detailed description of our share repurchase program.

FINRA Rule 2310(b)(3)(D) requires that we disclose the liquidity of prior public programs sponsored by Hines, our Sponsor. In addition to HMS Income Fund, Inc., the Hines group of companies has sponsored the following two other public programs: Hines REIT and Hines Global REIT, neither of which has reached the period in which it expected to consider a liquidation event.

SHARE REPURCHASE PROGRAM

We do not intend to list our shares on a securities exchange, and we do not expect there to be a public market for our shares. As a result, if you purchase shares of our common stock, your ability to sell your shares will be limited.

Beginning 12 months after we conduct our initial closing, we intend to commence a share repurchase program pursuant to which we intend to conduct quarterly share repurchases, on approximately 10% of our weighted average number of outstanding shares in any 12-month period, to allow our stockholders to sell their shares back to us at a price equal to the net asset value per share, as determined within 48 hours prior to the Repurchase Date which shall be the date of the first closing of the month in January, April, July and August unless otherwise determined by the board of directors. All requests for redemption must be made in writing and received by us at least five business days prior to the applicable Repurchase Date. You may withdraw your request to have your shares redeemed by submitting a withdrawal request in writing at least five business days prior to the applicable Repurchase Date. Our share repurchase program will include numerous restrictions that limit your ability to sell your shares.

Unless our board of directors determines otherwise, we will limit the number of shares to be repurchased during any calendar year to the number of shares we can repurchase with the proceeds we receive from the sale of shares of our common stock under our distribution reinvestment plan. See "Distribution Reinvestment Plan." At the sole discretion of our board of directors, we may also use cash on hand, cash available from borrowings and cash from liquidation of investments as of the end of the applicable period to repurchase shares. In addition, we will limit repurchases in each quarter to 2.5% of the weighted average number of shares of our common stock outstanding in the prior four calendar quarters. You may request that we repurchase all of the shares of our common stock that you own.

To the extent that the number of shares of our common stock submitted to us for repurchase exceeds the number of shares that we are able to purchase, we will repurchase shares on a pro rata basis from among the requests for repurchase received by us. Further, we will have no obligation to repurchase shares if the repurchase would violate the restrictions on distributions under federal law or Maryland law, which prohibit distributions that would cause a corporation to fail to meet statutory tests of solvency.

Our board of directors has the right to suspend or terminate the share repurchase program to the extent that it determines that it is in our best interest to do so. We will promptly notify our stockholders of any changes to the share repurchase program, including any suspension or termination of it. Moreover, the share repurchase program will terminate on the date that our shares are listed on a national securities exchange, are included for quotation in a national securities market or, in the sole determination of our board of directors, a secondary trading market for the shares otherwise develops. All shares to be repurchased under our share repurchase program must be (i) fully transferable and not be subject to any liens or other encumbrances and (ii) free from any restrictions on transfer. If we determine that a lien or other encumbrance or restriction exists against the shares requested to be repurchased, we will not repurchase any such shares. There is no assurance that our board of directors will exercise its discretion to conduct a share repurchase program and a share repurchase program will only be conducted when our board of directors determines it is in our best interests to repurchase shares of our common stock.

Our board of directors will consider the following factors, among others, in making its determination regarding whether to commence a share repurchase program and under what terms:

- the effect of such repurchases on our qualification as a RIC (including the consequences of any necessary asset sales);
- the liquidity of our assets (including fees and costs associated with disposing of assets);
- our investment plans and working capital requirements;
- the relative economies of scale with respect to our size;
- our history in repurchasing shares of our common stock or portions thereof; and
- the condition of the securities markets.

The limitations and restrictions described above may prevent us from accommodating all repurchase requests made in any quarter. Our share repurchase program has many limitations, including the limitations described above, and should not in any way be viewed as the equivalent of a secondary market. There is no assurance that we will repurchase any of your shares pursuant to the share repurchase program or that there will be sufficient funds available to accommodate all of our stockholders' requests for repurchase. As a result, we may repurchase less than the full amount of shares that you request to have repurchased. If we do not repurchase the full amount of your shares that you have requested to be repurchased, or we determine not to make repurchases of our shares, you will likely not be able to dispose of your shares, even if we under-perform. Any periodic repurchase offers will be subject in part to our available cash and compliance with the RIC qualification and diversification rules and the 1940 Act. Stockholders will not pay a fee in connection with our repurchase of shares under the share repurchase program.

In the event of the death or disability of a stockholder, we will, upon request, repurchase the shares held by such stockholder regardless of the period the deceased or disabled stockholder has owned such shares. The repurchase price per share to be paid by us to the stockholder or stockholder's estate, as applicable, will equal the net asset value per share, as determined within 48 hours prior to the Repurchase Date. However, we will not be obligated to repurchase shares if more than two years have elapsed since the date of the death or disability of the stockholder and, in the case of a disability, if the stockholder fails to provide the opinion of the qualified independent physician referred to below. For purposes of this repurchase right, a disability will be deemed to have occurred when a stockholder suffers a disability for a period of time, as determined by our board of directors and confirmed by a qualified independent physician. Our board of directors will have no obligation to repurchase shares if it would cause us to violate federal law or Maryland law. Moreover, our board of directors has the right to suspend or terminate this repurchase right to the extent that it determines that it is in our best interest to do so. Finally, this repurchase right will terminate on the date that our shares are listed on a national securities exchange or are included for quotation in a national securities market. All shares to be repurchased under our share repurchase program must be (i) fully transferable and not be subject to any liens or other encumbrances and (ii) free from any restrictions on transfer. If we determine that a lien or other encumbrance or restriction exists against the shares requested to be repurchased, we will not repurchase any such shares.

Our charter contains provisions governing our share repurchase program and our repurchase of shares upon the death or disability of a stockholder. For a more detailed discussion of these provisions, see "Description of Our Securities — Limited Repurchase Rights."

Transfer on death designation. You have the option of placing a transfer on death, or TOD, designation on your shares purchased in this offering. A TOD designation transfers ownership of your shares to your designated beneficiary upon your death. This designation may only be made by individuals, not entities, who are the sole or joint owners with right of survivorship of the shares. However, this option is not available to residents of Louisiana or Puerto Rico. If you would like to place a TOD designation on your shares, you must check the TOD box on the subscription agreement.

CUSTODIAN, TRANSFER AND DISTRIBUTION PAYING AGENT AND REGISTRAR

Our securities are held under a custody agreement by Amegy Bank National Association, whose address is 1221 McKinney Street, Houston, TX 77010. DST Systems Inc. acts as our transfer agent, plan administrator, distribution paying agent and registrar. The principal business address of DST Systems Inc. is 333 W. 11th St. Kansas City, MO 64105.

BROKERAGE ALLOCATION AND OTHER PRACTICES

Since we intend to generally acquire and dispose of our investments in privately negotiated transactions, we expect to infrequently use brokers in the normal course of our business. Subject to policies established by our board of directors, our Adviser shall be primarily responsible for the execution of the publicly-traded securities portion of our portfolio transactions and the allocation of brokerage commissions. Our Adviser does not execute transactions through any particular broker or dealer, but seeks to obtain the best net results for us, taking into account such factors as price (including the applicable brokerage commission or dealer spread), size of order, difficulty of execution, and operational facilities of the firm and the firm's risk and skill in positioning blocks of securities. While our Adviser will generally seek reasonably competitive trade execution costs, they will not necessarily pay the lowest spread or commission available. Subject to applicable legal requirements, our Adviser may select a broker based partly upon brokerage or research services provided to it and us and any other clients. In return for such services, we may pay a higher commission than other brokers would charge if our Adviser determines in good faith that such commission is reasonable in relation to the services provided.

LEGAL MATTERS

Certain legal matters regarding the shares of common stock offered hereby have been passed upon for us by Bass, Berry & Sims PLC, Memphis, Tennessee, and certain matters with respect to Maryland law will be passed upon by Venable LLP, Baltimore, Maryland.

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The financial statements as of December 31, 2011 and for the period from inception (November 22, 2011) to December 31, 2011, included in this prospectus and elsewhere in the registration statement, have been audited by Grant Thornton LLP, independent registered public accountants, as stated in their report appearing herein. The principal business address of Grant Thornton LLP is 333 Clay St., 2700 Three Allen Center, Houston, TX 77002.

AVAILABLE INFORMATION

We have filed with the SEC a registration statement on Form N-2, together with all amendments and related exhibits, under the Securities Act, with respect to our shares of common stock offered by this prospectus. The registration statement contains additional information about us and our shares of common stock being offered by this prospectus.

Upon the registration statement being declared effective by the SEC, we will file with or submit to the SEC annual, quarterly and current reports, proxy statements and other information meeting the informational requirements of the Exchange Act. You may inspect and copy these reports, proxy statements and other information, as well as the registration statement and related exhibits and schedules, at the Public Reference Room of the SEC at 100 F Street, N.E., Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an Internet site that contains reports, proxy and information statements and other information filed electronically by us with the SEC, which are available on the SEC's website at *http://www.sec.gov*. Copies of these reports, proxy and information statements and other information may be obtained, after paying a duplicating fee, by electronic request at the following e-mail address: *publicinfo@sec.gov*, or by writing the SEC's Public Reference Section, 100 F Street, N.E., Washington, D.C. 20549.

PRIVACY NOTICE

We are committed to protecting your privacy. This privacy notice explains the privacy policies of HMS Income Fund, Inc. and its affiliated companies. This notice supersedes any other privacy notice you may have received from HMS Income Fund, Inc.

We will safeguard, according to strict standards of security and confidentiality, all information we receive about you. The only information we collect from you is your name, address, number of shares you hold and your social security number. This information is used only so that we can send you annual reports and other information about us, and send you proxy statements or other information required by law.

We do not share this information with any non-affiliated third party except as described below.

- *Authorized Employees of our Adviser.* It is our policy that only authorized employees of our Adviser who need to know your personal information will have access to it.
- *Service Providers.* We may disclose your personal information to companies that provide services on our behalf, such as record keeping, processing your trades, and mailing you information. These companies are required to protect your information and use it solely for the purpose for which they received it.
- *Courts and Government Officials*. If required by law, we may disclose your personal information in accordance with a court order or at the request of government regulators. Only that information required by law, subpoena, or court order will be disclosed.

If you decide to no longer do business with us, we will continue to follow this privacy policy with respect to the information we have in our possession about you and your account.

HMS INCOME LLC

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HMS Income LLC
Balance Sheet
As of March 31, 2012 and December 31, 2011
(in thousands, except per unit amounts)
(Unaudited)

	March 31, 2012	December 31, 2011
ASSETS		
Portfolio investments at fair value:		
Non-Control/Non-Affiliate investments (cost: $16,297 and $16,423 as of March 31, 2012 and December 31, 2011)	$ 16,440	$ 16,387
Cash and cash equivalents	1,233	942
Interest receivable	54	26
Due from affiliate	294	170
Deferred financing costs (net of accumulated amortization of $9 and $2 as of March 31, 2012 and December 31, 2011)	30	27
Total assets	$ 18,051	$ 17,552
LIABILITIES		
Accrued organizational expenses	$ 18	$ 18
Interest payable to affiliate	19	14
Note payable to affiliate	7,500	7,500
Total liabilities	7,537	7,532
Commitments and contingencies	—	—
NET ASSETS		
Membership interest units $.001 par value, 1,111,111 units authorized, issued and outstanding as of March 31, 2012 and December 31, 2011	1	1
Additional paid in capital	9,999	9,999
Accumulated net investment income	395	56
Net unrealized appreciation (depreciation)	119	(36)
Total net assets	10,514	10,020
Total liabilities and net assets	$ 18,051	$ 17,552
Net asset value per unit	$ 9.46	$ 9.02

See notes to the financial statements.

HMS Income LLC
Statement of Operations
For the Three Months Ended March 31, 2012
(in thousands)
(Unaudited)

INVESTMENT INCOME:	
Interest income:	
Non-Control/Non-Affiliate investments	$415
Total interest income	415
EXPENSES:	
Interest expense	67
Management fee expense	9
Total expenses	76
NET INVESTMENT INCOME	339
NET UNREALIZED APPRECIATION	
Portfolio investments	155
Total net unrealized appreciation	155
NET INCREASE IN NET ASSETS RESULTING FROM OPERATIONS	$494

See notes to the financial statements.

HMS Income LLC
Statement of Changes in Net Assets
For the Three Months Ended March 31, 2012
(in thousands, except number of units)
(Unaudited)

	Membership Interests		Additional Paid-In Capital	Accumulated Net Investment Income	Net Unrealized Appreciation (Depreciation)	Total Net Assets
	Number of Units	Par Value				
January 1, 2012	1,111,111	$ 1	$ 9,999	$ 56	$ (36)	$10,020
Net increase resulting from operations	—	—	—	339	155	494
Balance at March 31, 2012	1,111,111	$ 1	$ 9,999	$ 395	$ 119	$10,514

See notes to the financial statements.

HMS Income LLC
Statement of Cash Flows
For the Three Months Ended March 31, 2012
(in thousands)
(Unaudited)

CASH FLOWS FROM OPERATING ACTIVITIES	
Net increase in net assets resulting from operations	$ 494
Adjustments to reconcile net increase in net assets resulting from operations to net cash used in operating activities:	
Net unrealized (appreciation)	(155)
Amortization of deferred financing costs	7
Accretion of original issue discount	(8)
Net payment-in-kind interest accrual	(16)
Changes in other assets and liabilities	
Interest Receivable	(28)
Due from affiliate	(124)
Interest payable to affiliate	5
Net cash provided by operating activities	175
CASH FLOWS FROM INVESTING ACTIVITIES	
Principal payments received on loans and debt securities in portfolio companies	126
Net cash provided by investing activities	126
CASH FLOWS FROM FINANCING ACTIVITIES	
Payment of deferred financing costs	(10)
Net cash used in financing activities	(10)
Net increase in cash and cash equivalents	291
CASH AND CASH EQUIVALENTS AT THE BEGINNING OF PERIOD	942
CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD	$1,233

See notes to the financial statements.

HMS Income LLC
Schedule of Investments
As of March 31, 2012
(dollars in thousands)
(Unaudited)

Portfolio Company / Type of Investment (1)	Industry	Principal (5)	Cost (5)	Fair Value
Academy, Ltd, LIBOR Plus 4.50%, Current Coupon 6.00%, Secured Debt (Maturity – August 3, 2018) (6)	Sporting Goods Retailer	$ 1,995	$ 1,987	$ 2,007
Ipreo Holdings LLC, LIBOR Plus 6.50%, Current Coupon 8.00%, Secured Debt (Maturity – August 5, 2017) (6)	Software Solutions	746	732	735
Metropolitan Health Networks, Inc., LIBOR Floor of 1.75% Plus 11.75%, Current Coupon 13.50%, Subordinated Debt (Maturity – October 4, 2017) (6)	Primary Care Network	750	735	735
Multiplan, Inc., LIBOR Plus 3.25%, Current Coupon 4.75%, Secured debt (Maturity – August 26, 2017) (6)	Healthcare Preferred Provider Organization	736	736	731
NAPCO Precast, LLC, 18.00% Secured Debt (Maturity – February 1, 2013)	Precast Concrete Manufacturing	750	750	750
National Healing Corporation, LIBOR Plus 6.75%, Current Coupon 8.25%, Secured Debt (Maturity – November 30, 2017) (6)	Wound Care Services	748	711	741
NRI Clinical Research, LLC, 14.00% Secured Debt (Maturity – September 8, 2016)	Clinical Research	718	718	718
Olympus Building Services, Inc., 12.00% Secured Debt (Including PIK) (Maturity – March 27, 2014) (7)	Custodial/Facilities Services	755	750	755
Pacific Architects and Engineers Incorporated, LIBOR Plus 6.00%, Current Coupon 7.50%, Secured Debt (Maturity – April 4, 2017) (6)	Architecture and Engineering Services	705	691	701
Phillips Plastic Corporation, LIBOR Plus 5.00%, Current Coupon 6.50%, Secured Debt (Maturity – February 12, 2017) (6)	Custom Plastic and Metal Services	746	739	745
Principle Environmental, LLC, 12.00% Secured Debt (Maturity – February 1, 2016)	Noise Abatement Product/Services	750	750	750
Ulterra Drilling Technologies, L.P., LIBOR Floor of 2% Plus 7.50%, Current Coupon 9.50%, Secured Debt (Maturity – June 9, 2016) (6)	Oilfield Services	731	717	733
UniTek Global Services, Inc., LIBOR Plus 7.50%, Current Coupon 9.00%, Secured Debt (Maturity – April 15, 2018) (6)	Telecommunications	3,482	3,385	3,430
Van Gilder Insurance Corporation, 13.00% Secured Debt (Maturity – January 31, 2016)	Insurance Brokerage	750	750	750
VFH Parent LLC, LIBOR Plus 6.00%, Current Coupon 7.50%, Secured Debt (Maturity – July 8, 2016) (6)	Electronic Trading and Market Making	698	684	701
Visant Corporation, Base Rate of 1.25% Plus 4.00%, Current Coupon 5.25%, Secured Debt (Maturity – December 22, 2016) (6)	School Affinity Products	712	712	696
Zieglers NYPD, LLC, 13.00% Current / Plus 5.00% PIK Secured Debt (Maturity – October 1, 2013) (7)	Casual Restaurant Group	762	750	762
Total Non-Control/Non Affiliate Investments (2) (3) (4) - 100%			$16,297	$16,440

(1) See Note 3 – *Fair Value Hierarchy for Investments* for summary geographic location of portfolio companies.
(2) Control investments are defined by the Investment Company Act of 1940, as amended ("1940 Act") as investments in which more than 25% of the voting securities are owned or where the ability to nominate greater than 50% of the board representation is maintained.
(3) Affiliate investments are defined by the 1940 Act as investments in which between 5% and 25% of the voting securities are owned and the investments are not classified as Control investments. As of March 31, 2012, the Company did not own any Control investments.
(4) Non-Control/Non-Affiliate investments are defined by the 1940 Act as investments that are neither Control Investments nor Affiliate Investments. As of March 31, 2012, the Company did not own any affiliate investments.
(5) Principal is net of payments. Cost is net of payments and accumulated unearned income.
(6) Index based floating interest rate is subject to contractual minimum interest rates.
(7) Olympus Building Services Inc, and Ziegler's NYPD LLC, include $3 and $10 respectively of PIK interest revenue.

See notes to the financial statements.

HMS Income LLC
Schedule of Investments
As of December 31, 2011
(dollars in thousands)
(Unaudited)

Portfolio Company / Type of Investment (1)	Industry	Principal (5)	Cost (5)	Fair Value
Academy, Ltd, LIBOR Plus 4.50%, Current Coupon 6.00%, Secured Debt (Maturity – August 3, 2018) (6)	Sporting Goods Retailer	$ 2,000	$ 1,992	$ 1,984
Ipreo Holdings LLC, LIBOR Plus 6.50%, Current Coupon 8.00%, Secured Debt (Maturity – August 5, 2017) (6)	Software Solutions	748	734	731
Metropolitan Health Networks, Inc., LIBOR Floor of 1.75% Plus 11.75%, Current Coupon 13.50%, Subordinated Debt (Maturity – October 4, 2017) (6)	Primary Care Network	750	735	735
Multiplan, Inc., LIBOR Plus 3.25%, Current Coupon 4.75%, Secured debt (Maturity – August 26, 2017) (6)	Healthcare Preferred Provider Organization	747	747	713
NAPCO Precast, LLC, 18.00% Secured Debt (Maturity – February 1, 2013)	Precast Concrete Manufacturing	750	750	750
National Healing Corporation, LIBOR Plus 6.75%, Current Coupon 8.25%, Secured Debt (Maturity – November 30, 2017) (6)	Wound Care Services	750	713	724
NRI Clinical Research, LLC, 14.00% Secured Debt (Maturity – September 8, 2016)	Clinical Research	750	750	750
Olympus Building Services, Inc., 12.00% Secured Debt (Including PIK) (Maturity – March 27, 2014) (7)	Custodial/Facilities Services	750	750	750
Pacific Architects and Engineers Incorporated, LIBOR Plus 6.00%, Current Coupon 7.50%, Secured Debt (Maturity – April 4, 2017) (6)	Architecture and Engineering Services	705	691	684
Phillips Plastic Corporation, LIBOR Plus 5.00%, Current Coupon 6.50%, Secured Debt (Maturity – February 12, 2017) (6)	Custom Plastic and Metal Services	750	743	746
Principle Environmental, LLC, 12.00% Secured Debt (Maturity – February 1, 2016)	Noise Abatement Product/Services	750	750	750
Ulterra Drilling Technologies, L.P., LIBOR Floor of 2% Plus 7.50%, Current Coupon 9.50%, Secured Debt (Maturity – June 9, 2016) (6)	Oilfield Services	741	727	726
UniTek Global Services, Inc., LIBOR Plus 7.50%, Current Coupon 9.00%, Secured Debt (Maturity – April 15, 2018) (6)	Telecommunications	3,491	3,393	3,421
Van Gilder Insurance Corporation, 13.00% Secured Debt (Maturity – January 31, 2016)	Insurance Brokerage	750	750	750
VFH Parent LLC, LIBOR Plus 6.00%, Current Coupon 7.50%, Secured Debt (Maturity – July 8, 2016) (6)	Electronic Trading and Market Making	750	736	753
Visant Corporation, Base Rate of 1.25% Plus 4.00%, Current Coupon 5.25%, Secured Debt (Maturity – December 22, 2016) (6)	School Affinity Products	712	712	670
Zieglers NYPD, LLC, 13.00% Current / Plus 5.00% PIK Secured Debt (Maturity – October 1, 2013) (7)	Casual Restaurant Group	750	750	750
Total Non-Control/Non Affiliate Investments (2) (3) (4) - 100%			$16,423	$16,387

(1) See Note 3 – *Fair Value Hierarchy for Investments* for summary geographic location of portfolio companies.
(2) Control investments are defined by the Investment Company Act of 1940, as amended ("1940 Act") as investments in which more than 25% of the voting securities are owned or where the ability to nominate greater than 50% of the board representation is maintained. As of December 31, 2011, the Company did not own any control investments.
(3) Affiliate investments are defined by the 1940 Act as investments in which between 5% and 25% of the voting securities are owned and the investments are not classified as Control investments. As of December 31, 2011 the Company did not own any affiliate investments.
(4) Non-Control/Non-Affiliate investments are defined by the 1940 Act as investments that are neither Control Investments nor Affiliate Investments.
(5) Principal is net of payments. Cost is net of payments and accumulated unearned income.
(6) Index based floating interest rate is subject to contractual minimum interest rates.
(7) Olympus Building Services Inc, and Ziegler's NYPD LLC, include $1 and $2 respectively of PIK interest revenue.

See notes to the financial statements.

HMS Income LLC
Notes to the Financial Statements
(Unaudited)

Note 1. Principal Business and Organization

HMS Income LLC (the "Company") was formed under the limited liability company act of the State of Maryland on November 22, 2011. The Company is a newly organized specialty finance company formed to make debt and equity investments in middle market companies. On December 12, 2011, an affiliate of Hines Interests Limited Partnership ("Hines") and an unaffiliated investor purchased 1,111,111 units of membership interest in the Company for a price of $9.00 per unit which represents the anticipated public offering price in the Offering of $10.00 per share minus selling commissions of $0.70 per share and dealer manager fees of $0.30 per share, pursuant to a private placement, for an aggregate of $10.0 million. Simultaneous with that initial capitalization, the Company entered into a senior secured single advance term loan credit facility with Main Street Capital Corporation ("Main Street") in the committed principal amount of $7.5 million (the "Main Street Facility"). On December 12, 2011, the Company fully drew the entire amount of the committed principal amount under the credit facility and acquired from Main Street approximately $16.5 million of investments utilizing its initial equity investment and proceeds from the credit facility.

The Company expects to merge with and into HMS Income Fund Inc., a Maryland corporation ("HMS Inc.") immediately prior to the commencement of HMS Inc.'s initial public offering (the "Offering"). HMS Inc. will be the surviving entity following this merger, pursuant to the Agreement of Plan and Merger and the Articles of Merger. HMS Inc. intends to be an externally managed, non-diversified closed-end investment company that intends to elect to be treated as a business development company ("BDC"), under the Investment Company Act of 1940 (the "1940 Act"), and that intends to elect to be treated for U.S. federal income tax purposes, and to qualify annually thereafter, as a regulated investment company ("RIC") under the Internal Revenue Code of 1986, as amended (the "Code").

The Articles of Merger provide that within 48 hours prior to the merger a properly-constituted board of directors (with a majority of non-interested members) of HMS Inc. will determine the fair value of the initial portfolio held by HMS Income LLC. The Agreement of Plan and Merger also provides that the outstanding HMS Income LLC units of membership interest will be converted into the number of shares of common stock in HMS Inc. that will equal $9.00 per share (based on the $10.00 per share initial offering price less the 10% sales load not incurred) based on net asset value of HMS Income LLC determined at the time of the merger transaction by the board of directors of HMS Inc.

The business of HMS Inc. is expected to be managed by HMS Adviser LP ("The Adviser"), an affiliate of Hines pursuant to an Investment Advisory Agreement that is expected to be entered into prior to the commencement of the Offering. The Adviser expects to engage a subsidiary of Main Street Capital Corporation ("The Sub-Adviser") to perform certain responsibilities pursuant to an Investment Sub-Advisory Agreement that is expected to be entered into prior to the commencement of the Offering.

Note 2. Basis of Presentation and Summary of Significant Accounting Policies

Basis of Presentation

The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). Under the investment company rules and regulations pursuant to Article 6 of Regulation S-X , the Company is precluded from consolidating portfolio company investments, including those in which it has a controlling interest, unless the portfolio company is another investment company. An exception to this general principle occurs if the Company owns a controlled operating company that provides all or substantially all of its services directly to the Company or an investment

company of the Company. None of the investments made by the Company qualify for this exception. Therefore, the Company's portfolio investments are carried on the balance sheet at fair value, as discussed below, with any adjustments to fair value recognized as "Net Unrealized Appreciation (Depreciation)" on the Statement of Operations until the investment is realized, usually upon exit, resulting in any gain or loss on exit being recognized as a "Net Realized Gain (Loss) from Investments."

Use of Estimates

The preparation of the financial statements require the Company to make estimates and judgments that affect the reported amounts and disclosures of assets, liabilities and contingencies as of the date of the financial statements and accompanying notes. The Company evaluates its assumptions and estimates on an ongoing basis. The Company bases its estimates on historical experience and on various other assumptions that the Company believes to be reasonable under the circumstances. Additionally, application of the Company's accounting policies involves exercising judgments regarding assumptions as to future uncertainties. Actual results may differ from these estimates under different assumptions or conditions.

Investment Classification

The Company classifies its investments in accordance with the requirements of the 1940 Act. Under the 1940 Act, (a) "Control Investments" are defined as investments in companies in which the Company owns more than 25% of the voting securities or has rights to nominate greater than 50% of the board representation, (b) "Affiliate Investments" are defined as investments in which the Company owns between 5% and 25% of the voting securities and does not have rights to nominate greater than 50% of the board representation, (c) Non-Control/Non-Affiliate Investments are defined as investments that are neither Control Investments nor Affiliated Investments. As of March 31, 2012 and December 31, 2011, all of the Company's investments were classified as Non-Control / Non-Affiliate Investments.

Valuation of Portfolio Investments

The Company accounts for its portfolio investments at fair value under the provisions of the Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("Codification" or "ASC") 820, *Fair Value Measurements and Disclosures* ("ASC 820"). ASC 820 defines fair value, establishes a framework for measuring fair value, establishes a fair value hierarchy based on the quality of inputs used to measure fair value and enhances disclosure requirements for fair value measurements. ASC 820 requires the Company to assume that the portfolio investment is to be sold in the principal market to independent market participants. Market participants are defined as buyers and sellers in the principal that are independent, knowledgeable, and willing and able to transact. For those investments in which there is an absence of a principal market, the Company incorporates the income approach to estimate the fair value of its portfolio debt investments primarily through the use of a yield to maturity model.

The Company's portfolio strategy calls for it to invest in moderately liquid securities issued by private companies. These securities are also defined herein as lower middle market investments ("LMM"). These portfolio investments may be subject to restrictions on resale and will generally have no established trading market or generally have established markets that are inactive. The Company determines in good faith the fair value of its portfolio investments pursuant to a valuation policy in accordance with ASC 820. The Company reviews external events, including private mergers, sales and acquisitions involving comparable companies, and includes these events in the valuation process. In addition, the Company generally uses observable inputs such as quoted prices in the valuation process. The Company's valuation policy and process are intended to provide a consistent basis for determining the fair value of the portfolio.

For valuation purposes, "control" investments represent equity and debt securities for which the Company has a controlling interest in the portfolio company or has the ability to nominate a majority of the portfolio company's board of directors. As of March 31, 2012, the Company has not made any investments which it believes are "control investments".

For valuation purposes, "non-control" portfolio investments are composed of debt and equity securities for which the Company does not have a controlling interest in the portfolio company or the ability to nominate a majority of the portfolio company's board of directors. For those non-control portfolio investments in which market quotations are generally readily available, the Company primarily uses observable inputs such as third party quotes or other independent pricing to determine the fair value of those investments. As of March 31, 2012, the Company has not made any investments in equity securities.

For those non-control portfolio investments in which market quotations are generally not readily available, the Company uses the income approach to value its debt investments. For non-control debt investments, the Company determines the fair value primarily using a yield approach that analyzes the discounted cash flows of interest and principal for the debt security, as set forth in the associated loan agreements, as well as the financial position and credit risk of each of these portfolio investments. The Company's estimate of the expected repayment date of a debt security is generally the legal repayment date of the instrument as the Company generally intends to hold its loans to maturity. The yield analysis considers changes in leverage levels, credit quality, portfolio company performance and other factors. The Company will use the value determined by the yield analysis as the fair value for that security. Additionally, it is the Company's position that assuming a borrower is outperforming underwriting expectations and because these respective investments do not contain pre-payment penalties, the borrower would most likely prepay or refinance the borrowing at a lower rate. Therefore, the Company does not believe that a market participant would pay a premium for the investment. Also, because of the Company's general intent to hold its loans to repayment, the Company does not believe that the fair value of the investment should be adjusted in excess of the face amount.

For valuation purposes, all of the Company's portfolio investments made to date are non-control investments and are comprised of securities for which the Company does not have a controlling interest in the portfolio company, or the ability to nominate a majority of the portfolio company's board of directors. For those non-control portfolio investments in which market quotations are generally readily available, the Company primarily uses observable inputs such as third party quotes or other independent pricing of identical or similar assets in non-active markets to determine the fair value of those investments. For those non-control portfolio investments in which market quotations are generally not readily available, the Company uses a combination of the market and income approaches to value its equity investments and uses the income approach to value its debt investments.

Due to the inherent uncertainty in the valuation process, the Company's estimate of fair value may differ materially from the values that would have been used had a ready market for the securities existed. In addition, changes in the market environment, portfolio company performance and other events that may occur over the lives of the investments may cause the gains or losses ultimately realized on these investments to be materially different than the valuations currently assigned. The Company estimates the fair value of each individual investment and records changes in fair value as unrealized appreciation or depreciation.

The Company uses a standard internal portfolio investment rating system in connection with its investment oversight, portfolio management/analysis and investment valuation procedures. This system takes into account both quantitative and qualitative factors of the portfolio company and the investments held therein.

The Company believes its portfolio investments as of March 31, 2012 and December 31, 2011 approximate fair value based on the market in which the Company operates and other conditions in existence at those reporting periods.

Cash and Cash Equivalents

Cash and cash equivalents consist of highly liquid investments with an original maturity of three months or less at the date of purchase. Cash and cash equivalents are carried at cost, which approximates fair value.

Interest Income

Interest income is recorded on the accrual basis to the extent amounts are expected to be collected. Accrued interest is evaluated periodically for collectability. When a debt security becomes 90 days or more past due, and the Company does not expect the debtor to be able to service all of its debt or other obligations, the debt security will generally be placed on non-accrual status and the Company will cease recognizing interest income on that debt security until the borrower has demonstrated the ability and intent to pay contractual amounts due. If a debt security's status significantly improves regarding the debtor's ability to service the debt or other obligations, or if a debt security is fully impaired, sold or written off, it will be removed from non-accrual status.

The Company holds two debt instruments in its investment portfolio that contain a payment-in-kind ("PIK") interest provision. The PIK interest, computed at the contractual rate specified in each debt agreement, is periodically added to the principal balance of the debt and is recorded as interest income. Thus, the actual collection of this interest may be deferred until the time of debt principal repayment. Subsequent to the Company being merged into HMS Inc. and to maintain HMS Inc.'s RIC treatment this non-cash source of income may need to be paid out to stockholders in the form of distributions, even though HMS Inc. may not have collected the PIK interest in cash.

As of March 31, 2012 and December 31, 2011, the Company did not have any investments on non-accrual status. Additionally, the Company is not aware of any material changes to the creditworthiness of the borrowers. Moreover, to date no investment has been restructured in any way.

Unearned Income – Original Issue Discount

The Company purchased some of its debt investments for less than their respective principal values. At acquisition, a discount is recorded and accreted into interest income using the effective interest method over the life of the debt. The actual collection of this discount may be deferred until the time of debt principal repayment. For the three month period ended March 31, 2012, the Company accreted $8,000 into interest income.

Net Unrealized Appreciation

The net unrealized appreciation reflects the net change in the valuation of the investment portfolio.

Deferred Financing Costs

Financing costs incurred in connection with the Company's revolving credit facility have been capitalized and amortized to interest expense using the straight-line method over the life of the facility, which the Company believes is materially consistent with the effective interest method of amortization of the costs. Further, additional financing costs have been incurred in connection with a potential future credit facility, which have also been capitalized. For the three months ended March 31, 2012, the Company amortized $7,000 to interest expense related to deferred financing costs.

Organizational and Offering Costs

Upon the execution of the Investment Advisory Agreement and the Investment Sub-Advisory Agreement, HMS Inc. will reimburse the Adviser and Sub-Adviser for any organizational expenses and offering costs that are paid on HMS Inc.'s behalf, which consist of, among other costs, expenses of our organization, actual legal, accounting, bona fide out-of-pocket itemized and detailed due diligence costs, printing, filing fees, transfer agent costs, postage, escrow fees, data processing fees, advertising and sales literature and other offering-related costs. Pursuant to the terms of the Investment Advisory Agreement and Investment Sub-Advisory Agreement, the Adviser will be responsible for the payment of offering costs to the extent they exceed 1.5% of the aggregate

gross proceeds from offerings of HMS Inc.'s common stock during the offering period. Therefore, HMS Inc. does not have an obligation to reimburse the Adviser and Sub-Advisor for any offering costs until the Investment Advisory Agreement and Investment Sub-Advisory Agreements are executed and it achieves its minimum offering requirements and will not record offering costs within its financial statements until that time. Organizational expenses, such as costs associated with the formation of HMS Inc. and its board of directors are expensed as incurred. Offering costs will be recorded as an offset to additional paid-in capital. As of March 31, 2012 and December 31, 2011, the Adviser and Sub-Adviser incurred approximately $1.1 million and $911,000, respectively, of offering costs on HMS Inc.'s behalf, which were not recorded in the Company's financial statements.

Concentration of Credit Risk

The Company has cash and cash equivalents deposited in a financial institution in excess of federally insured levels. Management regularly monitors the financial stability of these financial institutions in an effort to manage the Company's exposure to any significant credit risk in cash and cash equivalents. The Federal Deposit Insurance Corporation (the "FDIC") generally only insures limited amounts per depositor per insured bank, however, the FDIC provides for an unlimited amount of insurance on non-interest bearing accounts.

Fair Value of Financial Instruments

Fair value estimates are made at discrete points in time based on relevant information. These estimates may be subjective in nature and involve uncertainties and matters of significant judgment and, therefore, cannot be determined with precision. The Company believes that the carrying amounts of its financial instruments, consisting of cash and cash equivalents, accounts receivable from affiliates, interest payable to affiliates and other accrued expenses and liabilities approximate the fair values of such items.

Recent Accounting Pronouncements

In May 2011, the FASB issued guidance that expands the existing disclosure requirements for fair value measurements, primarily for Level 3 measurements, which are measurements based on unobservable inputs such as the Company's own data. This guidance is largely consistent with current fair value measurement principles with few exceptions that do not result in a change in general practice. The Company adopted this guidance beginning January 1, 2012 which resulted in enhanced fair value disclosures presented in Note 3. The adoption of this guidance did not have a significant impact on the Company's financial condition and results of operations.

Note 3 — Fair Value Hierarchy for Investments

Fair Value Hierarchy

ASC 820 establishes a hierarchal disclosure framework which prioritizes and ranks the level of market price observability of inputs used in measuring investments at fair value. Market price observability is affected by a number of factors, including the type of investment and the characteristics specific to the investment. Investments with readily available active quoted prices or for which fair value can be measured from actively quoted prices generally will have a higher degree of market price observability and a lesser degree of judgment used in measuring fair value.

Based on the observability of the inputs used in the valuation techniques, the Company is required to provide disclosures on fair value measurements according to the fair value hierarchy. The fair value hierarchy ranks the observability of the inputs used to determine fair values. Investments carried at fair value are classified and disclosed in one of the following three categories:

- Level 1—Valuations based on quoted prices in active markets for identical assets or liabilities that the Company has the ability to access.

- Level 2—Valuations based on inputs other than quoted prices in active markets, which are either directly or indirectly observable.
- Level 3—Valuations based on inputs that are unobservable and significant to the overall fair value measurement. The inputs used in the determination of fair value may require significant judgment or estimation. Such information may be the result of consensus pricing information or broker quotes which include a disclaimer that the broker would not be held to such a price in an actual transaction. The non-binding nature of consensus pricing and/or quotes accompanied by disclaimer would result in classification as a Level 3 asset, assuming no additional corroborating evidence.

As required by ASC 820, when the inputs used to measure fair value fall within different levels of the hierarchy, the level within which the fair value measurement is categorized is based on the lowest level input that is significant to the fair value measurement in its entirety. For example, a Level 3 fair value measurement may include inputs that are observable (Levels 1 and 2) and unobservable (Level 3). Therefore, gains and losses for such investments categorized within the Level 3 table below may include changes in fair value that are attributable to both observable inputs (Levels 1 and 2) and unobservable inputs (Level 3). The Company conducts reviews of fair value hierarchy classifications on a quarterly basis. Changes in the observability of valuation inputs may result in a reclassification for certain investments.

The Company's investment portfolio at March 31, 2012 and December 31, 2011 was comprised exclusively of debt securities. The fair value determination for these investments primarily consisted of both observable (Level 2) and unobservable inputs (Level 3). The fair value determination of the Level 3 securities required one or more of the following unobservable inputs:

- Financial information obtained from each portfolio company, including unaudited statements of operations and balance sheets for the most recent period available as compared to budgeted numbers;
- Current and projected financial condition of the portfolio company;
- Current and projected ability of the portfolio company to service its debt obligations;
- Type and amount of collateral, if any, underlying the investment;
- Current financial ratios (e.g., fixed charge coverage ratio, interest coverage ratio, and net debt/EBITDA ratio) applicable to the investment;
- Current liquidity of the investment and related financial ratios (e.g., current ratio and quick ratio);
- Pending debt or capital restructuring of the portfolio company;
- Projected operating results of the portfolio company;
- Current information regarding any offers to purchase the investment;
- Current ability of the portfolio company to raise any additional financing as needed;
- Changes in the economic environment which may have a material impact on the operating results of the portfolio company;
- Internal occurrences that may have an impact (both positive and negative) on the operating performance of the portfolio company;
- Qualitative assessment of key management;
- Contractual rights, obligations or restrictions associated with the investment; and
- Other factors deemed relevant.

The following table presents fair value measurements of investments, by major class, as of at March 31, 2012 according to the fair value hierarchy (in thousands).

	Fair Value Measurements			
	Level 1	Level 2	Level 3	Total
First Lien Secured Debt	$ —	$11,221	$4,484	$15,705
Subordinated Debt	—	735	—	735
Total	$ —	$11,956	$4,484	$16,440

The following table presents fair value measurements of investments, by major class, as of at December 31, 2011 according to the fair value hierarchy (in thousands).

	Fair Value Measurements			
	Level 1	Level 2	Level 3	Total
First Lien Secured Debt	$ —	$11,152	$4,500	$15,652
Subordinated Debt	—	735	—	735
Total	$ —	$11,887	$4,500	$16,387

The following table presents fair value measurements of investments segregated by the level within the fair value hierarchy as of March 31, 2012 (in thousands).

	Fair Value	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
LMM portfolio investments	$ 4,484	$ —	$ —	$ 4,484
Private placement investments	11,956	—	11,956	—
Total portfolio investments	$ 16,440	$ —	$ 11,956	$ 4,484

The following table presents fair value measurements of investments segregated by the level within the fair value hierarchy, as of December 31, 2011 (in thousands).

	Fair Value	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
LMM portfolio investments	$ 4,500	$ —	$ —	$ 4,500
Private placement investments	11,887	—	11,887	—
Total portfolio investments	$ 16,387	$ —	$ 11,887	$ 4,500

The following table presents the significant unobservable input of the Level 3 investments as of March 31, 2012 (in thousands).

	Fair Value	Valuation Technique	Significant Unobservable Input
LMM portfolio investments	$4,484	Discounted Cash Flow	Weighted Average Discount Rate - 13.7%
			Expected Principal Recovery – 100%

The following table presents the significant unobservable input of the Level 3 investments as of December 31, 2011 (in thousands).

	Fair Value	Valuation Technique	Significant Unobservable Input
LMM portfolio investments	$4,500	Discounted Cash Flow	Weighted Average Discount Rate - 13.7%
			Expected Principal Recovery – 100%

The significant unobservable input utilized in the determination of the fair value of the LMM portfolio investments is the discount rate utilized in the discounted cash flow approach. The use of a higher discount rate would result in a lower fair value, and conversely the use of a lower discount rate would result in a higher fair value. Please see the discussion above regarding the factors that were considered in the determination of the appropriate discount to utilize in the valuation of these securities.

The following table provides a summary of changes in fair value of the Company's Level 3 portfolio investments for the three months ended March 31, 2012 (in thousands):

	January 1, 2012 Fair Value	Payment-in-Kind Interest Accrual	New Investments	Redemptions/ Repayments/ Exits	Net Unrealized Appreciation (Depreciation)	March 31, 2012 Fair Value
LMM portfolio investments	$ 4,500	$ 16	$ —	$ (32)	$ —	$ 4,484
Total	$ 4,500	$ 16	$ —	$ (32)	$ —	$ 4,484

For the three months ended March 31, 2012, there were no transfers between Level 2 and Level 3 portfolio investments.

Portfolio Investment Composition

The composition of the Company's investments as of March 31, 2012, at cost and fair value were as follows (in thousands):

	Investments at Cost	Cost of Percentage of Total Portfolio	Investments at Fair Value	Fair Value Percentage of Total Portfolio
First Lien Secured Debt	$ 15,562	95.5%	$ 15,705	95.5%
Subordinated Debt	735	4.5%	735	4.5%
Total	$ 16,297	100.0%	$ 16,440	100.0%

The composition of the Company's investments as of December 31, 2011, at cost and fair value were as follows (in thousands):

	Investments at Cost	Cost of Percentage of Total Portfolio	Investments at Fair Value	Fair Value Percentage of Total Portfolio
First Lien Secured Debt	$ 15,688	95.5%	$ 15,652	95.5%
Subordinated Debt	735	4.5%	735	4.5%
Total	$ 16,423	100.0%	$ 16,387	100.0%

The composition of the Company's investments by geographic region of the United States as of March 31, 2012, at cost and fair value were as follows (in thousands):

	Investments at Cost	Cost of Percentage of Total Portfolio	Investments at Fair Value	Fair Value Percentage of Total Portfolio
Northeast	$ 7,690	47.2%	$ 7,750	47.2%
Southwest	4,954	30.4%	5,001	30.4%
West	1,468	9.0%	1,468	8.9%
Southeast	1,446	8.9%	1,476	9.0%
Midwest	739	4.5%	745	4.5%
Total	$ 16,297	100.0%	$ 16,440	100.0%

The composition of the Company's investments by geographic region of the United States as of December 31, 2011, at cost and fair value were as follows (in thousands):

	Investments at Cost	Cost of Percentage of Total Portfolio	Investments at Fair Value	Fair Value Percentage of Total Portfolio
Northeast	$ 7,763	47.3%	$ 7,722	47.1%
Southwest	4,969	30.3%	4,960	30.2%
West	1,500	9.1%	1,500	9.2%
Southeast	1,448	8.8%	1,459	8.9%
Midwest	743	4.5%	746	4.6%
Total	$ 16,423	100.0%	$ 16,387	100.0%

The composition of the Company's total investments by industry as of March 31, 2012, at cost and fair value were as follows:

Cost:	March 31, 2012
Construction & Engineering	25.4%
Professional & Business Services	13.2%
Retailing	12.2%
Oil & Gas Equipment & Services	9.0%
Diversified Support Services	4.6%
Insurance Brokers	4.6%
Restaurants	4.6%
Chemicals	4.5%
Managed Health Care	4.5%
Textile and Apparel Manufacturing	4.4%
Health Care Facilities	4.4%
Health Care Services	4.4%
Financial Services	4.2%
	100.0%

Fair Value:	March 31, 2012
Construction & Engineering	25.4%
Professional & Business Services	13.2%
Retailing	12.2%
Oil & Gas Equipment & Services	9.0%
Diversified Support Services	4.6%
Insurance Brokers	4.6%
Restaurants	4.6%
Chemicals	4.5%
Managed Health Care	4.5%
Health Care Facilities	4.5%
Health Care Services	4.4%
Financial Services	4.3%
Textile and Apparel Manufacturing	4.2%
	100.0%

The composition of the Company's total investments by industry as of December 31, 2011, at cost and fair value were as follows:

Cost:	December 31, 2011
Construction & Engineering	25.2%
Professional & Business Services	13.2%
Retailing	12.1%
Oil & Gas Equipment & Services	9.0%
Health Care Services	4.6%
Diversified Support Services	4.6%
Insurance Brokers	4.6%
Restaurants	4.6%
Chemicals	4.5%
Managed Health Care	4.5%
Financial Services	4.5%
Textile and Apparel Manufacturing	4.3%
Health Care Facilities	4.3%
	100.0%

Fair Value:	December 31, 2011
Construction & Engineering	25.4%
Professional & Business Services	13.0%
Retailing	12.1%
Oil & Gas Equipment & Services	9.0%
Financial Services	4.6%
Health Care Services	4.6%
Diversified Support Services	4.6%
Insurance Brokers	4.6%
Restaurants	4.6%
Chemicals	4.5%
Managed Health Care	4.5%
Health Care Facilities	4.4%
Textile and Apparel Manufacturing	4.1%
	100.0%

Note 4 — Borrowings

The Company entered into a loan agreement with Main Street for a $7.5 million senior secured single advance term loan credit facility on December 12, 2011. Interest on outstanding borrowings is payable at a floating rate equal to LIBOR plus a margin of 3.0%. As of March 31, 2012 and December 31, 2011, this rate was 3.2% and 3.3%, respectively. Borrowings under the credit facility are secured by all of the Company's assets and a pledge of equity ownership interests of any future subsidiaries of the Company. As of March 31, 2012, the Company estimated that the fair value of its notes payable, which had a carrying value of $7.5 million was $7.5 million.

The loan agreement contains affirmative and negative covenants usual and customary for leveraged financings, including covenants to provide information to Main Street on a regular basis, preserve the Company's corporate existence, comply with applicable laws, including the 1940 Act, pay obligations when they become due, and invest the proceeds of the Offering in accordance with its investment objectives and strategies. Additionally, the loan agreement contains usual and customary default provisions including, without limitation: (i) a default in the payment of interest and principal; (ii) insolvency or bankruptcy of the borrower; (iii) a material adverse change in the Company's business; or (iv) breach of any covenant, representation or warranty in the loan agreement or other credit documents and failure to cure such breach within defined periods. The Company is not aware of any instances of noncompliance with covenants related to this loan agreement as of March 31, 2012.

On May 24, 2012, the Company entered into a $15 million senior secured revolving credit facility with Capital One, National Association ("Capital One") and immediately borrowed $7 million under the facility. The proceeds were used to repay the Main Street Facility.

Note 5 — Financial Highlights

	Period Ending	
Per Share Data:	3/31/2012	12/31/2011
Net asset value at beginning of period	$ 9.02	$ 9.00
Net investment income	0.30	0.05
Net change in unrealized appreciation (depreciation) (1)	0.14	(0.03)
Net increase in net assets resulting from operations	0.44	0.02
Net asset value at end of the period	$ 9.46	$ 9.02
Shares outstanding at end of period	1,111,111	1,111,111

(1) Net change in appreciation (depreciation) can change significantly from period to period.

Note 6 — Membership Interest Units

On December 12, 2011, affiliates of Hines purchased 833,333 units of membership interests at $9.00 per unit, which represents the anticipated public offering price in the Offering of $10.00 per share minus selling commissions of $0.70 per share and dealer manager fees of $0.30 per share, pursuant to a private placement, which contributed an aggregate of $7.5 million to the Company. Additionally, an unaffiliated investor purchased 277,778 units of membership interests at $9.00 per share, which contributed an aggregate of $2.5 million to the Company.

Note 7 — Related Party Transactions and Arrangements

Investment Advisory Agreement

As described in *Note 1 – Principal Business and Organization*, the business of HMS Inc. is expected to be managed by the Adviser (an affiliate of Hines), pursuant to an Investment Advisory Agreement that is expected to be entered into prior to the commencement of the Offering. This agreement states that the Adviser will oversee

the management of HMS Inc.'s activities and will have responsibility for making investment decisions with respect to and providing day-to-day management and administration of HMS Inc.'s investment portfolio. Additionally, the Adviser is expected to engage a subsidiary of Main Street pursuant to a Sub-Advisory Agreement to identify, evaluate, negotiate and structure HMS Inc.'s prospective investments, make investment and portfolio management recommendations for approval by the Adviser, monitor HMS Inc.'s investment portfolio and provide certain ongoing administrative services to the Adviser and shall pay Main Street fifty percent (50%) of the management fee and incentive fees described below as compensation for its services.

Pursuant to the Investment Advisory Agreement, HMS Inc. will pay to the Adviser a management fee and incentive fees as compensation for the services described above. The management fee will be calculated at an annual rate of 2% of HMS Inc.'s average gross assets. The management fee will be payable quarterly in arrears, and shall be calculated based on the average value of HMS Inc.'s gross assets at the end of the two most recently completed calendar quarters. The management fee will be expensed as incurred.

The incentive fee will consist of two parts. The first part, referred to as the subordinated incentive fee on income, will be calculated and payable quarterly in arrears based on pre-incentive fee net investment income for the immediately preceding quarter. The subordinated incentive fee on income will be equal to 20% of HMS Inc.'s pre-incentive fee net investment income for the immediately preceding quarter, expressed as a quarterly rate of return on adjusted capital at the beginning of the most recently completed calendar quarter, exceeding 1.875% (7.5% annualized), subject to a "catch up" feature. For purposes of this fee and the subordinated liquidation incentive fee below, adjusted capital means cumulative gross proceeds generated from sales of HMS Inc.'s common stock (including proceeds from HMS Inc.'s distribution reinvestment plan) reduced for non-liquidating distributions, other than distributions of profits, paid to HMS Inc.'s stockholders and amounts paid for share repurchases pursuant to HMS Inc.'s share repurchase program. The subordinated incentive fee on income will be expensed in the quarter in which it is incurred.

The second part of the incentive fee, referred to as the incentive fee on capital gains, shall be an incentive fee on capital gains earned from the portfolio of HMS Inc. and shall be determined and payable in arrears as of the end of each calendar year (or upon termination of the Investment Advisory Agreement). This fee shall equal 20.0% of HMS Inc.'s incentive fee capital gains, which shall equal HMS Inc's. realized capital gains on a cumulative basis from inception, calculated as of the end of each calendar year, computed net of all realized capital losses and unrealized capital depreciation on a cumulative basis, less the aggregate amount of any previously paid capital gain incentive fees. During the course of the year, an estimate of the incentive fee on capital gains will be calculated. If it is determined that the incentive fee on capital gains has been earned, it will be expensed as incurred.

As discussed in *Note 2 – Organizational and Offering Costs,* As of March 31, 2012 and December 31, 2011, the Adviser and Sub-Adviser incurred approximately $1.1 million and $911,000, respectively of offering costs on HMS Inc.'s behalf, which were not recorded in the Company's financial statements. Pursuant to the terms of the Investment Advisory Agreement and Investment Sub-Advisory Agreement, the Adviser and Sub-Adviser will be responsible for the payment of organizational and offering expenses to the extent they exceed 1.5% of gross proceeds from the Offering. Additionally, and in accordance with the terms of a Sub-Advisory Agreement, the Adviser and Main Street will share equally all non-reimbursed, organization and offering expenses in excess of $2 million, exclusive of sales and marketing costs incurred by the Adviser and its affiliates. For purposes of this paragraph, sales and marketing costs shall include, among other things, all costs and expenses relating to advertisements and selling literature or brochures, sales meetings, sales training sessions, investor meetings, website hosting and other expenses directly related to the offer and sale of securities by HMS Inc. pursuant to the Offering. Further, the Advisor is providing certain accounting and administrative services on behalf of the Company at no charge.

Note 8 — Subsequent Events

On May 24, 2012, the Company entered into a $15 million senior secured revolving credit facility with Capital One and borrowed $7 million under the facility, which proceeds were used in the repayment of the Main Street Facility. The Capital One facility has an accordion provision allowing increases in borrowings of up to $60 million, for a total facility of up to $75 million, subject to certain conditions. The credit facility is secured by all of the Company's assets (owned at the time we entered into the facility and those to be subsequently acquired) as well as all of the assets, and a pledge of equity ownership interests, of any future subsidiaries of the Company, which would be joined as guarantors. The facility has a maturity date of May 23, 2015. Interest under the facility will be payable monthly based on either the Base Rate plus 1.50% or LIBOR plus 2.75%, subject to our election. The Base Rate is equal to the greater of: a) the Prime Rate or b) Federal Funds Rate plus .50%

On May 29, 2012, the Company sold to Main Street three first lien senior secured LMM portfolio investments, Zieglers NYPD, LLC, Olympus Building Services, Inc. and Van Gilder Insurance Corporation. These assets were sold at the proportional face amount or par value plus any accrued PIK.

On May 29, 2012, the Company acquired from Main Street three first lien senior secured LMM portfolio investments, AmeriTech College Operations, LLC ("AmeriTech"), California Healthcare Medical Billing, Inc. ("CHMB") and IRTH Holdings, LLC ("IRTH"), each for $750 thousand. AmeriTech is a technical school focused on training for nursing, medical billing, healthcare administration, and dental assistants. CHMB provides outsourced billing, revenue cycle management, business services, IT and electronic health record technology to physician practices, clinics, and multi-specialty organizations. IRTH is a leading provider of software and services to the underground utility damage prevention industry.

With the authorization of its managers, in May 2012, the Company declared and paid a distribution to its members for the period of April 1, 2012 – May 31, 2012 in the amount of $300 thousand.

The Company has evaluated subsequent events through May 31, 2012 and determined that there have been no other events that have occurred that would require adjustments to the Company's disclosures in the financial statements.

Report of Independent Registered Public Accounting Firm

Board of Directors
HMS Income LLC

We have audited the accompanying balance sheet of HMS Income LLC (a Maryland Limited Liability Company)(the "Company"), including the schedule of investments, as of December 31, 2011 and the related statements of operations, changes in net assets, and cash flows for the period from inception (November 22, 2011) to December 31, 2011. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. Our procedures included verification by confirmation of securities as of December 31, 2011, or by other appropriate auditing procedures where replies were not received. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of HMS Income LLC as of December 31, 2011, and the results of its operations and its cash flows for the period from inception (November 22, 2011) to December 31, 2011, in conformity with accounting principles generally accepted in the United States of America.

/s/ GRANT THORNTON LLP

Houston, Texas

April 27, 2012

HMS Income LLC
Balance Sheet
December 31, 2011
(in thousands, except per unit amounts)

ASSETS	
Portfolio investments at fair value:	
Non-Control/Non-Affiliate investments (cost: $16,423 as of December 31, 2011)	$16,387
Total portfolio investments (cost $16,423 as of December 31, 2011)	16,387
Cash and cash equivalents	942
Interest receivable	26
Due from affiliate	170
Deferred financing costs (net of accumulated amortization of $2 as of December 31, 2011)	27
Total assets	$17,552
LIABILITIES	
Accrued organizational expenses	$ 18
Interest payable to affiliate	14
Note payable to affiliate	7,500
Total liabilities	$ 7,532
Commitments and contingencies	—
NET ASSETS	
Membership interest units $.001 par value, 1,111,111 units authorized, issued and outstanding	1
Additional paid in capital	9,999
Accumulated net investment income	56
Net unrealized depreciation	(36)
Total net assets	$10,020
Total liabilities and net assets	$17,552
Net asset value per unit	$ 9.02

See notes to the financial statements.

HMS Income LLC
Statement of Operations
For the Period from inception (November 22, 2011) through December 31, 2011
(in thousands)

INVESTMENT INCOME:	
Interest income:	
Non-Control/Non-Affiliate investments	$ 90
Total interest income	90
EXPENSES:	
Interest expense	16
Organizational expenses	18
Total expenses	34
NET INVESTMENT INCOME	56
NET UNREALIZED DEPRECIATION	
Portfolio investments	(36)
Total net unrealized depreciation	(36)
NET INCREASE IN NET ASSETS RESULTING FROM OPERATIONS	$ 20

See notes to the financial statements.

HMS Income LLC
Statement of Changes in Net Assets
For the Period from inception (November 22, 2011) through December 31, 2011
(in thousands, except number of units)

	Membership Interests		Additional Paid-In Capital	Accumulated Net Investment Income	Net Unrealized Depreciation	Total Net Assets
	Number of Units	Par Value				
Balance at inception (November 22, 2011)	—	$—	$ —	$ —	$ —	$ —
Membership interest purchase	1,111,111	1	9,999	—	—	10,000
Net change resulting from operations	—	—	—	56	(36)	20
Balance at December 31, 2011	1,111,111	$ 1	$ 9,999	$ 56	$ (36)	$10,020

See notes to the financial statements.

HMS Income LLC
Statement of Cash Flows
For the period from inception (November 22, 2011) through December 31, 2011
(in thousands)

CASH FLOWS FROM OPERATING ACTIVITIES	
Net increase in net assets resulting from operations	$ 20
Adjustments to reconcile net increase in net assets resulting from operations to net cash used in operating activities:	
Net unrealized depreciation	36
Amortization of deferred financing costs	2
Changes in other assets and liabilities	
Interest Receivable	(26)
Due from affiliate	(170)
Interest payable to affiliate	14
Accrued expenses	18
Net cash used in operating activities	(106)
CASH FLOWS FROM INVESTING ACTIVITIES	
Purchase of investments in portfolio companies from affiliate	(9,029)
Principal payments received on loans and debt securities in portfolio companies	106
Net cash used in investing activities	(8,923)
CASH FLOWS FROM FINANCING ACTIVITIES	
Proceeds from membership interests purchase	10,000
Payment of deferred financing costs	(29)
Net cash provided by financing activities	9,971
Net increase in cash and cash equivalents	942
CASH AND CASH EQUIVALENTS AT THE BEGINNING OF PERIOD	—
CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD	$ 942
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION	
Incurrence of note payable upon acquisition of investments	$ 7,500

See notes to the financial statements.

HMS Income LLC
Schedule of Investments
As of December 31, 2011
(dollars in thousands)

Portfolio Company / Type of Investment (1)	Industry	Principal (5)	Cost (5)	Fair Value
Academy, Ltd, LIBOR Plus 4.50%, Current Coupon 6.00%, Secured Debt (Maturity – August 3, 2018) (6)	Sporting Goods Retailer	$ 2,000	$ 1,992	$ 1,984
Ipreo Holdings LLC, LIBOR Plus 6.50%, Current Coupon 8.00%, Secured Debt (Maturity – August 5, 2017) (6)	Software Solutions	748	734	731
Metropolitan Health Networks, Inc., LIBOR Floor of 1.75% Plus 11.75%, Current Coupon 13.50%, Subordinated Debt (Maturity – October 4, 2017) (6)	Primary Care Network	750	735	735
Multiplan, Inc., LIBOR Plus 3.25%, Current Coupon 4.75%, Secured debt (Maturity – August 26, 2017) (6)	Healthcare Preferred Provider Organization	747	747	713
NAPCO Precast, LLC, 18.00% Secured Debt (Maturity – February 1, 2013)	Precast Concrete Manufacturing	750	750	750
National Healing Corporation, LIBOR Plus 6.75%, Current Coupon 8.25%, Secured Debt (Maturity – November 30, 2017) (6)	Wound Care Services	750	713	724
NRI Clinical Research, LLC, 14.00% Secured Debt (Maturity – September 8, 2016)	Clinical Research	750	750	750
Olympus Building Services, Inc., 12.00% Secured Debt (Including PIK) (Maturity – March 27, 2014) (7)	Custodial/Facilities Services	750	750	750
Pacific Architects and Engineers Incorporated, LIBOR Plus 6.00%, Current Coupon 7.50%, Secured Debt (Maturity – April 4, 2017) (6)	Architecture and Engineering Services	705	691	684
Phillips Plastics Corporation, LIBOR Plus 5.00%, Current Coupon 6.50%, Secured Debt (Maturity – February 12, 2017) (6)	Custom Plastic and Metal Services	750	743	746
Principle Environmental, LLC, 12.00% Secured Debt (Maturity – February 1, 2016)	Noise Abatement Product/Services	750	750	750
Ulterra Drilling Technologies, L.P., LIBOR Floor of 2% Plus 7.50%, Current Coupon 9.50%, Secured Debt (Maturity – June 9, 2016) (6)	Oilfield Services	741	727	726
UniTek Global Services, Inc., LIBOR Plus 7.50%, Current Coupon 9.00%, Secured Debt (Maturity – April 15, 2018) (6)	Telecommunications	3,491	3,393	3,421
Van Gilder Insurance Corporation, 13.00% Secured Debt (Maturity – January 31, 2016)	Insurance Brokerage	750	750	750
VFH Parent LLC, LIBOR Plus 6.00%, Current Coupon 7.50%, Secured Debt (Maturity – July 8, 2016) (6)	Electronic Trading and Market Making	750	736	753
Visant Corporation, Base Rate of 1.25% Plus 4.00%, Current Coupon 5.25%, Secured Debt (Maturity – December 22, 2016) (6)	School Affinity Products	712	712	670
Zieglers NYPD, LLC, 13.00% Current / Plus 5.00% PIK Secured Debt (Maturity – October 1, 2013) (7)	Casual Restaurant Group	750	750	750
Total Non-Control/Non Affiliate Investments (2) (3) (4) - 100%			$16,423	$16,387

(1) See Note 3 – *Fair Value Hierarchy for Investments* for summary geographic location of portfolio companies.
(2) Control investments are defined by the Investment Company Act of 1940, as amended ("1940 Act") as investments in which more than 25% of the voting securities are owned or where the ability to nominate greater than 50% of the board representation is maintained. As of December 31, 2011, the Company did not own any control investments.
(3) Affiliate investments are defined by the 1940 Act as investments in which between 5% and 25% of the voting securities are owned and the investments are not classified as Control investments. As of December 31, 2011, the Company did not own any affiliate investments.
(4) Non-Control/Non-Affiliate investments are defined by the 1940 Act as investments that are neither Control Investments nor Affiliate Investments.
(5) Principal is net of prepayments. Cost is net of prepayments and accumulated unearned income.
(6) Index based floating interest rate is subject to contractual minimum interest rates.
(7) Olympus Building Services Inc, and Ziegler's NYPD LLC, include $1, and $2 respectively of PIK interest revenue.

See notes to the financial statements.

HMS Income LLC
Notes to the Financial Statements
(in thousands, except per unit / share information)

Note 1. Principal Business and Organization

HMS Income LLC (the "Company") was formed under the limited liability company act of the State of Maryland on November 22, 2011. The Company is a newly organized specialty finance company formed to make debt and equity investments in middle market companies. On December 12, 2011, an affiliate of Hines Interests Limited Partnership ("Hines") and an unaffiliated investor purchased 1,111,111 units of membership interest in the Company for a price of $9.00 per unit which represents the anticipated public offering price in the Offering of $10.00 per share minus selling commissions of $0.70 per share and dealer manager fees of $0.30 per share, pursuant to a private placement, or an aggregate of $10,000. Simultaneous with that initial capitalization, the Company entered into a senior secured single advance term loan credit facility with Main Street Capital Corporation ("Main Street") in the committed principal amount of $7,500. On December 12, 2011, the Company fully drew the entire amount of the committed principal amount under the credit facility and acquired from Main Street approximately $16,500 of investments utilizing its initial equity investment and proceeds from the credit facility.

The Company expects to merge with and into HMS Income Fund Inc., a Maryland corporation ("HMS Inc.") immediately prior to the commencement of HMS Inc.'s initial public offering (the "Offering"). HMS Inc. will be the surviving entity following this merger, pursuant to the Agreement of Plan and Merger and the Articles of Merger. HMS Inc. intends to be an externally managed, non-diversified closed-end investment company that intends to elect to be treated as a business development company ("BDC"), under the Investment Company Act of 1940 (the "1940 Act"), and that intends to elect to be treated for U.S. federal income tax purposes, and to qualify annually thereafter, as a regulated investment company ("RIC") under the Internal Revenue Code of 1986, as amended (the "Code").

The Articles of Merger provide that within 48 hours prior to the merger a properly-constituted board of directors (with a majority of non-interested members) of HMS Inc. will determine the fair value of the initial portfolio held by HMS Income LLC. The Agreement of Plan and Merger also provides that the outstanding HMS Income LLC units of membership interest will be converted into the number of shares of common stock in HMS Inc. that will equal $9.00 per share (based on the $10.00 per share initial offering price less the 10% sales load not incurred) based on net asset value of HMS Income LLC determined at the time of the merger transaction by the board of directors of HMS Inc.

The business of HMS Inc. is expected to be managed by HMS Adviser LP ("The Adviser"), an affiliate of Hines pursuant to an Investment Advisory Agreement that is expected to be entered into prior to the commencement of the Offering. The Adviser has engaged a subsidiary of Main Street Capital Corporation ("The Sub-Adviser") to perform certain responsibilities pursuant to an Investment Sub-Advisory Agreement that is expected to be entered into prior to the commencement of the Offering.

Note 2. Basis of Presentation and Summary of Significant Accounting Policies

Basis of Presentation

The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). Under the investment company rules and regulations pursuant to Article 6 of Regulation S-X , the Company is precluded from consolidating portfolio company investments, including those in which it has a controlling interest, unless the portfolio company is another investment company. An exception to this general principle occurs if the Company owns a controlled operating company that provides all or substantially all of its services directly to the Company or an investment

company of the Company. None of the investments made by the Company qualify for this exception. Therefore, the Company's portfolio investments are carried on the balance sheet at fair value, as discussed below, with any adjustments to fair value recognized as "Net Unrealized Depreciation" on the Statement of Operations until the investment is realized, usually upon exit, resulting in any gain or loss on exit being recognized as a "Net Realized Gain (Loss) from Investments."

Use of Estimates

The preparation of the financial statements require the Company to make estimates and judgments that affect the reported amounts and disclosures of assets, liabilities and contingencies as of the date of the financial statements and accompanying notes. The Company evaluates its assumptions and estimates on an ongoing basis. The Company bases its estimates on historical experience and on various other assumptions that the Company believes to be reasonable under the circumstances. Additionally, application of the Company's accounting policies involves exercising judgments regarding assumptions as to future uncertainties. Actual results may differ from these estimates under different assumptions or conditions.

Investment Classification

The Company classifies its investments in accordance with the requirements of the 1940 Act. Under the 1940 Act, (a) "Control Investments" are defined as investments in companies in which the Company owns more than 25% of the voting securities or has rights to nominate greater than 50% of the board representation, (b) "Affiliate Investments" are defined as investments in which the Company owns between 5% and 25% of the voting securities and does not have rights to nominate greater than 50% of the board representation, (c) Non-Control/Non-Affiliate Investments are defined as investments that are neither Control Investments nor Affiliated Investments. As of December 31, 2011, all of the Company's investments were classified as Non-Control / Non-Affiliate Investments.

Valuation of Portfolio Investments

The Company accounts for its portfolio investments at fair value under the provisions of the Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("Codification" or "ASC") 820, *Fair Value Measurements and Disclosures* ("ASC 820"). ASC 820 defines fair value, establishes a framework for measuring fair value, establishes a fair value hierarchy based on the quality of inputs used to measure fair value and enhances disclosure requirements for fair value measurements. ASC 820 requires the Company to assume that the portfolio investment is to be sold in the principal market to independent market participants. Market participants are defined as buyers and sellers in the principal that are independent, knowledgeable, and willing and able to transact. For those investments in which there is an absence of a principal market, the Company incorporates the income approach to estimate the fair value of its portfolio debt investments primarily through the use of a yield to maturity model.

The Company's portfolio strategy calls for it to invest in moderately liquid securities issued by private companies. These portfolio investments may be subject to restrictions on resale and will generally have no established trading market or generally have established markets that are inactive. The Company determines in good faith the fair value of its portfolio investments pursuant to a valuation policy in accordance with ASC 820. The Company reviews external events, including private mergers, sales and acquisitions involving comparable companies, and includes these events in the valuation process. In addition, the Company generally uses observable inputs such as quoted prices in the valuation process. The Company's valuation policy and process are intended to provide a consistent basis for determining the fair value of the portfolio.

For valuation purposes, "control" investments represent equity and debt securities for which the Company has a controlling interest in the portfolio company or has the ability to nominate a majority of the portfolio company's board of directors. As of December 31, 2011, the Company has not made any investments which it believes are "control investments".

For valuation purposes, "non-control" portfolio investments are composed of debt and equity securities for which the Company does not have a controlling interest in the portfolio company or the ability to nominate a majority of the portfolio company's board of directors. For those non-control portfolio investments in which market quotations are generally readily available, the Company primarily uses observable inputs such as third party quotes or other independent pricing to determine the fair value of those investments. As of December 31, 2011, the Company has not made any investments in equity securities.

For those non-control portfolio investments in which market quotations are generally not readily available, the Company uses the income approach to value its debt investments. For non-control debt investments, the Company determines the fair value primarily using a yield approach that analyzes the discounted cash flows of interest and principal for the debt security, as set forth in the associated loan agreements, as well as the financial position and credit risk of each of these portfolio investments. The Company's estimate of the expected repayment date of a debt security is generally the legal repayment date of the instrument as the Company generally intends to hold its loans to maturity. The yield analysis considers changes in leverage levels, credit quality, portfolio company performance and other factors. The Company will use the value determined by the yield analysis as the fair value for that security. Additionally, it is the Company's position that assuming a borrower is outperforming underwriting expectations and because these respective investments do not contain pre-payment penalties, the borrower would most likely prepay or refinance the borrowing at a lower rate. Therefore, the Company does not believe that a market participant would pay a premium for the investment. Also, because of the Company's general intent to hold its loans to repayment, the Company does not believe that the fair value of the investment should be adjusted in excess of the face amount.

A change in the assumptions that the Company uses to estimate the fair value of its debt securities using the yield analysis could have a significant impact on the determination of fair value. If there is deterioration in credit quality or a debt security is in workout status, the Company may consider other factors in determining the fair value of the debt security such as the value attributable to the debt security from the enterprise value of the portfolio company or the proceeds that would be received in a liquidation analysis. For valuation purposes, as of December 31, 2011, all of the Company's portfolio investments are non-control investments and are comprised of securities for which the Company does not have a controlling interest in the portfolio company, or the ability to nominate a majority of the portfolio company's board of directors. For those non-control portfolio investments in which market quotations are generally readily available, the Company primarily uses observable inputs such as third party quotes or other independent pricing of identical or similar assets in non-active markets to determine the fair value of those investments. For those non-control portfolio investments in which market quotations are generally not readily available, the Company uses a combination of the market and income approaches to value its equity investments and uses the income approach to value its debt investments.

Due to the inherent uncertainty in the valuation process, the Company's estimate of fair value may differ materially from the values that would have been used had a ready market for the securities existed. In addition, changes in the market environment, portfolio company performance and other events that may occur over the lives of the investments may cause the gains or losses ultimately realized on these investments to be materially different than the valuations currently assigned. The Company estimates the fair value of each individual investment and records changes in fair value as unrealized appreciation or depreciation.

The Company uses a standard internal portfolio investment rating system in connection with its investment oversight, portfolio management/analysis and investment valuation procedures. This system takes into account both quantitative and qualitative factors of the portfolio company and the investments held therein.

The Company believes its portfolio investments as of December 31, 2011 approximate fair value as of this date based on the market in which the Company operates and other conditions in existence at those reporting periods.

Cash and Cash Equivalents

Cash and cash equivalents consist of highly liquid investments with an original maturity of three months or less at the date of purchase. Cash and cash equivalents are carried at cost, which approximates fair value.

Interest Income

Interest income is recorded on the accrual basis to the extent amounts are expected to be collected. Accrued interest is evaluated periodically for collectability. When a debt security becomes 90 days or more past due, and the Company does not expect the debtor to be able to service all of its debt or other obligations, the debt security will generally be placed on non-accrual status and the Company will cease recognizing interest income on that debt security until the borrower has demonstrated the ability and intent to pay contractual amounts due. If a debt security's status significantly improves regarding the debtor's ability to service the debt or other obligations, or if a debt security is fully impaired, sold or written off, it will be removed from non-accrual status.

The Company holds two debt instruments in its investment portfolio that contain a payment-in-kind ("PIK") interest provision. The PIK interest, computed at the contractual rate specified in each debt agreement, is periodically added to the principal balance of the debt and is recorded as interest income. Thus, the actual collection of this interest may be deferred until the time of debt principal repayment. Subsequent to the Company being merged into HMS Inc. and to maintain HMS Inc.'s RIC treatment this non-cash source of income may need to be paid out to stockholders in the form of distributions, even though HMS Inc. may not have collected the PIK interest in cash.

As of December 31, 2011, the Company did not have any investments on non-accrual status. Additionally, the Company is not aware of any material changes to the creditworthiness of the borrowers. Moreover, no investment has been restructured in any way since December 12, 2011.

Net Unrealized Depreciation

The net unrealized depreciation reflects the net change in the valuation of the investment portfolio.

Deferred Financing Costs

Financing costs incurred in connection with the Company's revolving credit facility have been capitalized and amortized to interest expense using the straight-line method over the life of the facility. For the period from inception (November 22, 2011) through December 31, 2011, the Company amortized $2 to interest expense related to deferred financing costs.

Organizational and Offering Costs

Upon the execution of the Investment Advisory Agreement and the Investment Sub-Advisory Agreement, HMS Inc. will reimburse the Adviser and Sub-Adviser for any organizational expenses and offering costs that are paid on HMS Inc.'s behalf, which consist of, among other costs, expenses of our organization, actual legal, accounting, bona fide out-of-pocket itemized and detailed due diligence costs, printing, filing fees, transfer agent costs, postage, escrow fees, data processing fees, advertising and sales literature and other offering-related costs. Pursuant to the terms of the Investment Advisory Agreement and Investment Sub-Advisory Agreement, the Adviser will be responsible for the payment of offering costs to the extent they exceed 1.5% of the aggregate gross proceeds from offerings of HMS Inc.'s common stock during the offering period. Therefore, HMS Inc. does not have an obligation to reimburse the Adviser and Sub-Advisor for any offering costs until the Investment Advisory Agreement and Investment Sub-Advisory Agreements are executed and it achieves its minimum offering requirements and will not record offering costs within its financial statements until that time. Organizational expenses, such as costs associated with the formation of HMS Inc. and its board of directors are

expensed as incurred. Offering costs will be recorded as an offset to additional paid-in capital. As of December 31, 2011, the Adviser and Sub-Adviser incurred approximately $911 of offering costs on HMS Inc.'s behalf, which were not recorded in the Company's financial statements.

Concentration of Credit Risk

The Company has cash and cash equivalents deposited in a financial institution in excess of federally insured levels. Management regularly monitors the financial stability of these financial institutions in an effort to manage the Company's exposure to any significant credit risk in cash and cash equivalents. The Federal Deposit Insurance Corporation (the "FDIC") generally only insures limited amounts per depositor per insured bank, however, the FDIC provides for an unlimited amount of insurance on non-interest bearing accounts.

Fair Value of Financial Instruments

Fair value estimates are made at discrete points in time based on relevant information. These estimates may be subjective in nature and involve uncertainties and matters of significant judgment and, therefore, cannot be determined with precision. The Company believes that the carrying amounts of its financial instruments, consisting of cash and cash equivalents, accounts receivable from affiliates, interest payable to affiliates and other accrued expenses and liabilities approximate the fair values of such items.

Recent Accounting Pronouncements

In May 2011, the FASB issued guidance that expands the existing disclosure requirements for fair value measurements, primarily for Level 3 measurements, which are measurements based on unobservable inputs such as the Company's own data. This guidance is largely consistent with current fair value measurement principles with few exceptions that do not result in a change in general practice. The guidance will be applied prospectively and will be effective for interim and annual reporting periods beginning after December 15, 2011. The adoption of this guidance is expected to result in enhanced disclosures of our fair value measurements.

Note 3 — Fair Value Hierarchy for Investments

Fair Value Hierarchy

ASC 820 establishes a hierarchal disclosure framework which prioritizes and ranks the level of market price observability of inputs used in measuring investments at fair value. Market price observability is affected by a number of factors, including the type of investment and the characteristics specific to the investment. Investments with readily available active quoted prices or for which fair value can be measured from actively quoted prices generally will have a higher degree of market price observability and a lesser degree of judgment used in measuring fair value.

Based on the observability of the inputs used in the valuation techniques, the Company is required to provide disclosures on fair value measurements according to the fair value hierarchy. The fair value hierarchy ranks the observability of the inputs used to determine fair values. Investments carried at fair value are classified and disclosed in one of the following three categories:

- Level 1—Valuations based on quoted prices in active markets for identical assets or liabilities that the Company has the ability to access.
- Level 2—Valuations based on inputs other than quoted prices in active markets, which are either directly or indirectly observable.
- Level 3—Valuations based on inputs that are unobservable and significant to the overall fair value measurement. The inputs used in the determination of fair value may require significant judgment or estimation. Such information may be the result of consensus pricing information or broker quotes

which include a disclaimer that the broker would not be held to such a price in an actual transaction. The non-binding nature of consensus pricing and/or quotes accompanied by disclaimer would result in classification as a Level 3 asset, assuming no additional corroborating evidence.

As required by ASC 820, when the inputs used to measure fair value fall within different levels of the hierarchy, the level within which the fair value measurement is categorized is based on the lowest level input that is significant to the fair value measurement in its entirety. For example, a Level 3 fair value measurement may include inputs that are observable (Levels 1 and 2) and unobservable (Level 3). Therefore, gains and losses for such investments categorized within the Level 3 table below may include changes in fair value that are attributable to both observable inputs (Levels 1 and 2) and unobservable inputs (Level 3). The Company conducts reviews of fair value hierarchy classifications on a quarterly basis. Changes in the observability of valuation inputs may result in a reclassification for certain investments.

The Company's investment portfolio at December 31, 2011 was comprised exclusively of debt securities. The fair value determination for these investments primarily consisted of both observable (Level 2) and unobservable inputs (Level 3). The fair value determination of the Level 3 securities required one or more of the following unobservable inputs:

- Financial information obtained from each portfolio company, including unaudited statements of operations and balance sheets for the most recent period available as compared to budgeted numbers;
- Current and projected financial condition of the portfolio company;
- Current and projected ability of the portfolio company to service its debt obligations;
- Type and amount of collateral, if any, underlying the investment;
- Current financial ratios (e.g., fixed charge coverage ratio, interest coverage ratio, and net debt/EBITDA ratio) applicable to the investment;
- Current liquidity of the investment and related financial ratios (e.g., current ratio and quick ratio);
- Pending debt or capital restructuring of the portfolio company;
- Projected operating results of the portfolio company;
- Current information regarding any offers to purchase the investment;
- Current ability of the portfolio company to raise any additional financing as needed;
- Changes in the economic environment which may have a material impact on the operating results of the portfolio company;
- Internal occurrences that may have an impact (both positive and negative) on the operating performance of the portfolio company;
- Qualitative assessment of key management;
- Contractual rights, obligations or restrictions associated with the investment; and
- Other factors deemed relevant.

The following table presents fair value measurements of investments, by major class, as of at December 31, 2011 according to the fair value hierarchy (dollars in thousands).

	Fair Value Measurements			
	Level 1	Level 2	Level 3	Total
First Lien Secured Debt	$ —	$11,152	$4,500	$15,652
Subordinated Debt	—	735	—	735
Total	$ —	$11,887	$4,500	$16,387

The following table provides a summary of changes in fair value of the Company's Level 3 portfolio investments for the period from inception (November 22, 2011) through December 31, 2011:

	November 22, 2011 Fair Value	Accretion of Unearned Income	New Investments	Redemptions/ Repayments/ Exits	Net Unrealized Appreciation (Depreciation)	December 31, 2011 Fair Value
Debt	$ —	$ —	$ 4,500	$ —	$ —	$ 4,500
Total	$ —	$ —	$ 4,500	$ —	$ —	$ 4,500

Portfolio Investment Composition

The composition of the Company's investments as of December 31, 2011, at cost and fair value were as follows:

	Investments at Cost	Cost of Percentage of Total Portfolio	Investments at Fair Value	Fair Value Percentage of Total Portfolio
First Lien Secured Debt	$ 15,688	95.5%	$ 15,652	95.5%
Subordinated Debt	735	4.5%	735	4.5%
Total	$ 16,423	100.0%	$ 16,387	100.0%

The composition of the Company's investments by geographic region of the United States as of December 31, 2011, at cost and fair value were as follows:

	Investments at Cost	Cost of Percentage of Total Portfolio	Investments at Fair Value	Fair Value Percentage of Total Portfolio
Northeast	$ 7,763	47.3%	$ 7,722	47.1%
Southwest	4,969	30.3%	4,960	30.2%
West	1,500	9.1%	1,500	9.2%
Southeast	1,448	8.8%	1,459	8.9%
Midwest	743	4.5%	746	4.6%
Total	$ 16,423	100.0%	$ 16,387	100.0%

The composition of the Company's total investments by industry as of December 31, 2011, at cost and fair value were as follows:

Cost:	December 31, 2011
Professional & Business Services	13.2%
Chemicals	4.5%
Managed Health Care	4.5%
Oil & Gas Equipment & Services	9.0%
Financial Services	4.5%
Textile and Apparel Manufacturing	4.3%
Health Care Facilities	4.3%
Retailing	12.1%
Construction & Engineering	25.2%
Health Care Services	4.6%
Diversified Support Services	4.6%
Insurance Brokers	4.6%
Restaurants	4.6%
	100.0%

Fair Value:	December 31, 2011
Professional & Business Services	13.0%
Chemicals	4.5%
Managed Health Care	4.5%
Oil & Gas Equipment & Services	9.0%
Financial Services	4.6%
Textile and Apparel Manufacturing	4.1%
Health Care Facilities	4.4%
Retailing	12.1%
Construction & Engineering	25.4%
Health Care Services	4.6%
Diversified Support Services	4.6%
Insurance Brokers	4.6%
Restaurants	4.6%
	100.0%

Note 4 — Borrowings

The Company entered into a loan agreement with Main Street for a $7,500 senior secured single advance term loan credit facility on December 12, 2011. Interest on outstanding borrowings is payable at a floating rate equal to LIBOR plus a margin of 3.0%. At December 31, 2011, this rate was 3.28%. Borrowings under the credit facility are secured by all of the Company's assets and a pledge of equity ownership interests of any future subsidiaries of the Company. The loan matures December 12, 2012 unless the parties mutually agree to an extension. On April 27, 2012, Main Street extended the maturity date of the credit facility through April 30, 2013. As of December 31, 2011, the Company estimates that the fair value of its notes payable, which had a carrying value of $7,500 was $7,500.

The loan agreement contains affirmative and negative covenants usual and customary for leveraged financings, including covenants to provide information to Main Street on a regular basis, preserve the Company's corporate existence, comply with applicable laws, including the 1940 Act, pay obligations when they become due, and invest the proceeds of the Offering in accordance with its investment objectives and strategies. Additionally, the loan agreement contains usual and customary default provisions including, without limitation:

(i) a default in the payment of interest and principal; (ii) insolvency or bankruptcy of the borrower; (iii) a material adverse change in the Company's business; or (iv) breach of any covenant, representation or warranty in the loan agreement or other credit documents and failure to cure such breach within defined periods. The Company is not aware of any instances of noncompliance with covenants related to this loan agreement as of December 31, 2011.

Note 5 — Membership Interest Units

On December 12, 2011, affiliates of Hines purchased 833,333 units of membership interests at $9.00 per unit, which represents the anticipated public offering price in the Offering of $10.00 per share minus selling commissions of $0.70 per share and dealer manager fees of $0.30 per share, pursuant to a private placement, which contributed an aggregate of $7.5 million to the Company. Additionally, an unaffiliated investor purchased 277,778 units of membership interests at $9.00 per share, which contributed an aggregate of $2.5 million to the Company.

Note 6 — Related Party Transactions and Arrangements

Investment Advisory Agreement

As described in *Note 1 – Principal Business and Organization*, the business of HMS Inc. is expected to be managed by the Adviser (an affiliate of Hines), pursuant to an Investment Advisory Agreement that is expected to be entered into prior to the commencement of the Offering. This agreement states that the Adviser will oversee the management of HMS Inc.'s activities and will have responsibility for making investment decisions with respect to and providing day-to-day management and administration of HMS Inc.'s investment portfolio. Additionally, the Adviser is expected to engage a subsidiary of Main Street pursuant to a Sub-Advisory Agreement to identify, evaluate, negotiate and structure HMS Inc.'s prospective investments, make investment and portfolio management recommendations for approval by the Adviser, monitor HMS Inc.'s investment portfolio and provide certain ongoing administrative services to the Adviser and shall pay Main Street fifty percent (50%) of the management fee and incentive fees described below as compensation for its services.

Pursuant to the Investment Advisory Agreement, HMS Inc. will pay to the Adviser a management fee and incentive fees as compensation for the services described above. The management fee will be calculated at an annual rate of 2% of HMS Inc.'s average gross assets. The management fee will be payable quarterly in arrears, and shall be calculated based on the average value of HMS Inc.'s gross assets at the end of the two most recently completed calendar quarters. The management fee will be expensed as incurred.

The incentive fee will consist of two parts. The first part, referred to as the subordinated incentive fee on income, will be calculated and payable quarterly in arrears based on pre-incentive fee net investment income for the immediately preceding quarter. The subordinated incentive fee on income will be equal to 20% of HMS Inc.'s pre-incentive fee net investment income for the immediately preceding quarter, expressed as a quarterly rate of return on adjusted capital at the beginning of the most recently completed calendar quarter, exceeding 1.875% (7.5% annualized), subject to a "catch up" feature. For purposes of this fee, adjusted capital means cumulative gross proceeds generated from sales of HMS Inc.'s common stock (including proceeds from HMS Inc.'s distribution reinvestment plan) reduced for non-liquidating distributions, other than distributions of profits, paid to HMS Inc.'s stockholders and amounts paid for share repurchases pursuant to HMS Inc.'s share repurchase program. The subordinated incentive fee on income will be expensed in the quarter in which it is incurred.

The second part of the incentive fee, referred to as the incentive fee on capital gains , shall be an incentive fee on realized capital gains earned from the portfolio and shall be determined and payable in arrears as of the end of each calendar year (or upon termination of the Investment Advisory Agreement). This fee shall equal 20.0% of HMS Inc.'s incentive fee capital gains, which shall equal HMS Inc's. realized capital gains on a

cumulative basis from inception, calculated as of the end of each calendar year, computed net of all realized capital losses and unrealized capital depreciation on a cumulative basis, less the aggregate amount of any previously paid capital gain incentive fees. During the course of the year, an estimate of the incentive fee on capital gains will be calculated. If it is determined that the incentive fee on capital gains has been earned, it will be expensed as incurred.

As discussed in *Note 2 – Organizational and Offering Costs,* as of December 31, 2011, the Adviser and Sub-Adviser have incurred approximately $911 of offering costs on behalf of HMS Inc. Pursuant to the terms of the Investment Advisory Agreement and Investment Sub-Advisory Agreement, the Adviser and Sub-Adviser will be responsible for the payment of organizational and offering expenses to the extent they exceed 1.5% of gross proceeds from the Offering. Additionally, and in accordance with the terms of a Sub-Advisory Agreement, the Adviser and Main Street will share equally all non-reimbursed, organization and offering expenses in excess of $2 million, exclusive of sales and marketing costs incurred by the Adviser and its affiliates. For purposes of this paragraph, sales and marketing costs shall include, among other things, all costs and expenses relating to advertisements and selling literature or brochures, sales meetings, sales training sessions, investor meetings, website hosting and other expenses directly related to the offer and sale of securities by HMS Inc. pursuant to the Offering. Further, the Advisor is providing certain accounting and administrative services on behalf of the Company at no charge.

Note 7 – Subsequent Events

The Company has evaluated subsequent events through April 27, 2012 and determined that there have been no other events that have occurred that would require adjustments to the Company's financial statements.

With the authorization of its managers, in April 2012, the Company declared and paid a distribution to its members for the period of inception (November 22, 2011) through December 31, 2011 in the amount of $300.

On April 27, 2012, Main Street extended the maturity date of the credit facility referred to in Note 4 through April 30, 2013.

Appendix A: Form of Subscription Agreement

HMS INCOME FUND, INC.
SUBSCRIPTION AGREEMENT

HMS Income Fund, Inc.

SUBSCRIPTION AGREEMENT

Hines

SUBSCRIPTION AGREEMENT FOR SHARES OF HMS INCOME FUND INC.

YOUR INITIAL INVESTMENT Make all checks* payable to: HMS Income Fund Inc.

** Cash, cashier's checks/official bank checks, temporary checks, foreign checks, money orders, third party checks, or travelers checks are not accepted.*

Investment Amount $ (The minimum investment is $2,500)	☐ Initial Purchase ☐ Subsequent Purchase

☐ **A. Rights of Accumulation** Please link the tax identification numbers or account numbers listed below for rights of accumulation privileges, so that this and future purchases will receive any discount for which they are eligible.

Tax ID/SSN or Account Number	Tax ID/SSN or Account Number	Tax ID/SSN or Account Number

☐ **B. Net Commission Purchases** Please check this box if you are eligible for a Net Commission Purchase. See prospectus for details to determine if you qualify.

OWNERSHIP TYPE *(Select only one)*

Non-Custodial Account Type	***Third Party Custodial Account Type***
BROKERAGE ACCOUNT NUMBER _____ ☐ INDIVIDUAL OR JOINT TENANT WITH RIGHTS OF SURVIVORSHIP ☐ TRANSFER ON DEATH *Optional designation . Not available for Louisiana or Puerto Rico residents. See Section 3D.* ☐ TENANTS IN COMMON ☐ COMMUNITY PROPERTY ☐ UNIFORM GIFT/TRANSFER TO MINORS State of _____ ☐ PENSION PLAN *Include Certification of Investment Powers Form* ☐ TRUST *Include Certification of Investment Powers Form* ☐ CORPORATION/PARTNERSHIP/OTHER *CorporateResolution or Partnership Agreement Required*	CUSTODIAN ACCOUNT NUMBER _____ ☐ IRA ☐ ROTH IRA ☐ SEP IRA ☐ SIMPLE IRA ☐ OTHER _____ CUSTODIAN INFORMATION *(To be completed by Custodian)* CUSTODIAN NAME _____ CUSTODIAN TAX ID # _____ CUSTODIAN PHONE # _____

INVESTOR INFORMATION

A. Investor Name *(Investor/Trustee/Executor/Authorized Signatory Information)*
*(Residential street address **MUST** be provided. See Section 4 if mailing address is different than residential street address.)*

First Name	(MI)	Last Name	Gender

Social Security Number	Date of Birth (MM/DD/YYYY)	Daytime Phone Number

Residential Street Address	City	State	Zip Code

If Non-U.S. Citizen, Specify Country of Citizenship and Select One below ***(required)***
☐ Resident Alien ☐ Non-Resident Alien *(Attach a completed Form W8-BEN)* Country of Citizenship

B. Co-Investor Name *(Co-Investor/Co-Trustee/Co-Authorized Signatory Information, if applicable)*

First Name	(MI)	Last Name	Gender

Social Security Number	Date of Birth (MM/DD/YYYY)	Daytime Phone Number

Residential Street Address	City	State	Zip Code

If Non-U.S. Citizen, Specify Country of Citizenship and Select One below ***(required)***
☐ Resident Alien ☐ Non-Resident Alien *(Attach a completed Form W8-BEN)* Country of Citizenship

C. Entity Name - Retirement Plan/Trust/Corporation/Partnership/Other
*(Trustee(s) and/or authorized signatory(s) information **MUST** be provided in Sections 3A and 3B)*

Entity Name	Tax ID Number	Date of Trust

Entity Type *(Select one. **Required**)*
☐ Retirement Plan ☐ Trust ☐ S-Corp ☐ C-Corp ☐ LLC ☐ Partnership ☐ Other _____

D. Transfer on Death Beneficiary Information *(Individual or Joint Account with rights of survivorship only.) (Not available for Louisiana or Puerto Rico residents.) (Beneficiary Date of Birth required. Whole percentages only; must equal 100%.)*

First Name	(MI)	Last Name	SSN:	Date of Birth (MM/DD/YYYY)	☐ Primary ☐ Secondary ____%
First Name	(MI)	Last Name	SSN:	Date of Birth (MM/DD/YYYY)	☐ Primary ☐ Secondary ____%
First Name	(MI)	Last Name	SSN:	Date of Birth (MM/DD/YYYY)	☐ Primary ☐ Secondary ____%
First Name	(MI)	Last Name	SSN:	Date of Birth (MM/DD/YYYY)	☐ Primary ☐ Secondary ____%

☐ **MAILING ADDRESS** *(If different than residential street address provided in Section 3A)*

Address	City	State	Zip Code

☐ **SELECT HOW YOU WANT TO RECEIVE YOUR DISTRIBUTIONS***(Select only one)*

Complete this section to enroll in the Distribution Reinvestment Plan or to elect to receive cash distributions.
I hereby subscribe for Share of HMS Income Fund Inc. and elect the distribution option indicated below:

A. ☐ **Distribution Reinvestment Plan** *(See Prospectus for details)*
For Custodial held accounts, if you elect cash distributions the funds must be sent to the Custodian.

B. ☐ **Cash/Check Mailed to the address set forth above** *(Available for Non-Custodial Investors only.)*

C. ☐ **Cash/Check Mailed to Third-Party/Custodian**

Name/Entity Name/Financial Institution	Mailing Address

City	State	Zip Code	Account Number *(Required)*

D. ☐ **Cash/Direct Deposit** Attach a **pre-printed voided check**. *(Non-Custodian Investors Only)*

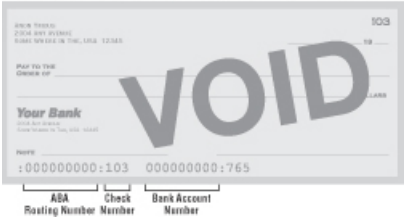
I authorize HMS Income Fund Inc. or its agent to deposit my distribution into my checking or savings account. This authority wil l remain in force until I notify HMS Income Fund Inc. in writing to cancel it. In the event that HMS Income Fund Inc. deposits funds erroneously into my account, they are authorized to debit my account for an amount not to exceed the amount of the erroneous deposit.

Name/Entity Name/Financial Institution	Mailing Address

City	State	Zip Code

Your Bank's ABA Routing Number	Your Bank Account Number	☐ Checking Account	☐ Savings Account

Please Attach a Pre-printed Voided Check



☐ BROKER-DEALER/FINANCIAL ADVISOR INFORMATION *(Required Information. All fields must be completed)*

The Financial Advisor must sign below to complete the order. The Financial Advisor hereby warrants that he/she is duly licensed and may lawfully sell Shares in the state designated as the investor's legal residence.

Broker-Dealer		Financial Advisor Name	
Advisor Mailing Address			
City		State	Zip Code
Financial Advisor Number	Branch Number	Telephone Number	
E-mail Address		Fax Number	

Please note that unless previously agreed to in writing by HMS Income Fund Inc., all sales of securities must be made through a Broker-Dealer, including when an RIA has introduced the sale. In all cases, Section 6 must be completed.

The undersigned confirm(s) which confirmation is made on behalf of the Broker-Dealer with respect to sales of securities made through a Broker-Dealer, that they (i) have reasonable grounds to believe that the information and representations concerning the investor identified herein are true, correct and complete in all respects; (ii) have discussed such investor's prospective purchase of Shares with such investor; (iii) have advised such investor of all pertinent facts with regard to the lack of liquidity and marketability of the Shares; (iv) have delivered or made available a current Prospectus and related supplements, if any, to such investor; (v) have reasonable grounds to believe that the investor is purchasing these Shares for his or her own account; and (vi) have reasonable grounds to believe that the purchase of Shares is a suitable investment for such investor, that such investor meets the suitability standards applicable to such investor set forth in the Prospectus and related supplements, if any, and that such investor is in a financial position to enable such investor to realize the benefits of such an investment and to suffer any loss that may occur with respect thereto.

The undersigned Financial Advisor further represents and certifies that, in connection with this subscription for Shares, he or she has complied with and has followed all applicable policies and procedures under his or her firm's existing Anti-Money Laundering Program and Customer Identification Program.

×			×		
Financial Advisor Signature		*Date*	*Branch Manager Signature (If required by Broker-Dealer)*		*Date*

☐ SUBSCRIBER SIGNATURES

HMS Income Fund Inc. is required by law to obtain, verify and record certain personal information from you or persons on your behalf in order to establish the account. Required information includes name, date of birth, permanent residential address and social security/taxpayer identification number. We may also ask to see other identifying documents. If you do not provide the information, HMS Income Fund Inc. may not be able to open your account. By signing the Subscription Agreement, you agree to provide this information and confirm that this information is true and correct. If we are unable to verify your identity, or that of another person(s) authorized to act on your behalf, or if we believe we have identified potentially criminal activity, we reserve the right to take action as we deem appropriate which may include closing your account.

Please separately initial each of the representations below. Except in the case of fiduciary accounts, you may not grant any person a power of attorney to make the representations on your behalf. In order to induce HMS Income Fund Inc. to accept this subscription, I hereby represent and warrant to you as follows:

PLEASE NOTE: ALL ITEMS MUST BE READ AND INITIALED

(a) A copy of the Prospectus of HMS Income Fund Inc. has been delivered or made available to me.	***Initials***	***Initials***
(b) I/We have (i) a minimum net worth (not including home, home furnishings and personal automobiles) of at least $250,000, or (ii) a minimum net worth (as previously described) of at least $70,000 and a minimum annual gross income of at least $70,000, or that I meet the higher suitability requirements imposed by my state of primary residence as set forth in the Prospectus under "SUITABILITY STANDARDS."	***Initials***	***Initials***
(c) I acknowledge that there is no public market for the Shares and, thus, my investment in Shares is not liquid.	***Initials***	***Initials***
(d) I am purchasing the Shares for my own account.	***Initials***	***Initials***
(e) If I am a Kansas resident, I acknowledge that it is recommended by the Office of the Kansas Securities Commissioner that my aggregate investment in the Shares and similar investments should not exceed 10% of my "liquid net worth" which is that portion of the net worth (assets minus liabilities) that is comprised of cash, cash equivalents and readily marketable securities.	***Initials***	***Initials***

I declare that the information supplied above is true and correct and may be relied upon by the Company. I acknowledge that the Broker-Dealer/Financial Advisor (Broker-Dealer/Financial Advisor of record) indicated in Section 6 of this Subscription Agreement and its designated clearing agent, if any, will have full access to my account information, including the number of shares I own, tax information (including the Form 1099) and redemption information. Investors may change the Broker-Dealer/Financial Advisor of record at any time by contacting HMS Income Fund Inc. Investor Relations at the number indicated below.

TAXPAYER IDENTIFICATION/SOCIAL SECURITY NUMBER CONFIRMATION (required): The investor signing below, under penalties of perjury, certifies: (i) that the number shown on this subscription agreement is my correct taxpayer identification number (or I am waiting for a number to be issued to me); (ii) that I am not subject to backup withholding because (a) I am exempt from backup withholding, (b) I have not been notified by the Internal Revenue Service ("IRS") that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and (iii) I am a U.S. person (including a resident alien). NOTE: You must cross out (ii) above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

×		×	
Signature of Investor	*Date*	*Signature of Co-Investor or Custodian (if applicable)*	*Date*

(MUST BE SIGNED BY CUSTODIAN OR TRUSTEE IF PLAN IS ADMINISTERED BY A THIRD PARTY)

☐ MISCELLANEOUS

Investors participating in the Distribution Reinvestment Plan or making subsequent purchases of Shares of HMS Income Fund Inc., agree that, if they experience a material adverse change in their financial condition or can no longer make the representations or warranties set forth in Section 7 above, they are required to promptly notify HMS Income Fund Inc. and the Broker-Dealer in writing.

NO SALE OF SHARES MAY BE COMPLETED UNTIL AT LEAST FIVE BUSINESS DAYS AFTER YOU RECEIVE THE FINAL PROSPECTUS.
You will receive a written confirmation of your purchase.

All items on the Subscription Agreement must be completed in order for your subscription to be processed. Subscribers are encouraged to read the Prospectus in its entirety for a complete explanation of an investment in the Shares of HMS Income Fund Inc.

Return to: HMS Income Fund Inc. ■ P.O. Box 219010 ■ Kansas City, MO 64121-9010
Overnight Delivery: HMS Income Fund Inc. ■ 430 W. 7th St. ■ Kansas City, MO 64105
Hines Investor Relations: 888-220-6121

CERTAIN STATES HAVE IMPOSED SPECIAL FINANCIAL SUITABILITY STANDARDS FOR SUBSCRIBERS WHO PURCHASE SHARES

Several states have established suitability requirements that are more stringent than the general standards for all investors described below. Shares will be sold to investors in these states only if they meet the special suitability standards set forth below. In each case, these special suitability standards exclude from the calculation of net worth the value of the investor's home, home furnishings and automobiles.

General Standards for all Investors

Investors must have either (a) a net worth of at least $250,000 or (b) an annual gross income of $70,000 and a minimum net worth of $70,000.

Alabama — In addition to the suitability standards stated above, investors who reside in the state of Alabama must have a liquid net worth of at least 10 times their investment in us and other similar investment programs.

Arizona — The term of this offering shall be effective for a period of one year with the ability to renew for additional periods of one year.

California, Michigan, New Mexico and Ohio — In addition to the suitability standards above, an investor will limit his or her investment in our common stock to a maximum of 10% of his or her net worth.

Idaho — Investors who reside in the state of Idaho must have either (i) a liquid net worth of $85,000 and annual gross income of $85,000 or (ii) a liquid net worth of $300,000. Additionally, an Idaho investor's total investment shall not exceed 10% of his or her liquid net worth. (The calculation of liquid net worth shall include only cash plus cash equivalents. Cash equivalents include assets which may be convertible to cash within one year.)

Iowa — Investors who reside in the state of Iowa must have either (i) a liquid net worth of $100,000 and annual gross income of $100,000 or (ii) a liquid net worth of $350,000. Additionally, an Iowa investor's total investment in us shall not exceed 10% of his or her liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

Kansas — The Office of the Kansas Securities Commissioner recommends that you should limit your aggregate investment in our shares and other similar investments to not more than 10% of your liquid net worth. Liquid net worth is that portion of your total net worth (assets minus liabilities) that is comprised of cash, cash equivalents and readily marketable securities.

Kentucky — Investors who reside in the state of Kentucky must have either (i) a liquid net worth of $85,000 and annual gross income of $85,000 or (ii) a liquid net worth of $300,000. Additionally, a Kentucky investor's total investment in us shall not exceed 10% of his or her liquid net worth.

Maine — The Maine Office of Securities recommends that an investor's aggregate investment in this offering and other similar offerings not exceed 10% of the investor's liquid net worth. For this purpose, "liquid net worth" is defined as that portion of net worth that consists of cash, cash equivalents and readily marketable securities.

Nebraska —Nebraska investors must meet the following suitability standards: (i) either (a) an annual gross income of at least $100,000 and a net worth of at least $350,000, or (b) a net worth of at least $500,000; and (ii) investor will not invest more than 10% of their net worth in the Issuer. For such investors, net worth should not include the value of one's home, home furnishings, or automobiles.

New Jersey — Investors who reside in the state of New Jersey must have either (i) a minimum annual gross income of $100,000 and a minimum liquid net worth of $100,000; or (ii) a minimum liquid net worth of

$300,000. Additionally, a New Jersey investor's total investment in this offering and other similar offerings shall not exceed 10% of such investor's liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

North Dakota — Our shares will only be sold to residents of North Dakota representing that their investment will not exceed 10% of his or her net worth and that they meet one of the established suitability standards.

Oklahoma — Purchases by Oklahoma investors should not exceed 10% of their net worth (not including home, home furnishings and automobiles).

Oregon — In addition to the suitability standards above, the state of Oregon requires that each Oregon investor will limit his or her investment in our common stock to a maximum of 10% of his or her net worth (not including home, home furnishings or automobiles).

Tennessee — We must sell a minimum of $15,000,000 worth of shares before accepting subscriptions from residents of Tennessee. In addition, investors who reside in the state of Tennessee must have either (i) a minimum annual gross income of $100,000 and a minimum net worth of $100,000, or (ii) a minimum net worth of $500,000 exclusive of home, home furnishings and automobile. Additionally, Tennessee residents' investment must not exceed 10% of their liquid net worth.

Texas — Investors who reside in the state of Texas must have either (i) a minimum of $100,000 annual gross income and a liquid net worth of $100,000; or (ii) a liquid net worth of $250,000 irrespective of gross annual income. Additionally, a Texas investor's total investment in us shall not exceed 10% of his or her liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

North Carolina — Investors who reside in the state of North Carolina must have either (i) a minimum liquid net worth of $85,000 and minimum annual gross income of $85,000 or (ii) a minimum liquid net worth of $300,000.

Massachusetts — Investors who reside in the state of Massachusetts must have either (i) a minimum of $100,000 annual gross income and a liquid net worth of $100,000; or (ii) a liquid net worth of $250,000 irrespective of gross annual income. Additionally, a Massachusetts investor's total investment in us shall not exceed 10% of his or her liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

Vermont — Investors who reside in the state of Vermont must have either (i) a minimum of $100,000 annual gross income and a liquid net worth of $100,000; or (ii) a liquid net worth of $250,000 irrespective of gross annual income. Additionally, a Vermont investor's total investment in us shall not exceed 10% of his or her liquid net worth. For this purpose, liquid net worth is determined exclusive of home, home furnishings and automobiles.

WE INTEND TO ASSERT THE FOREGOING REPRESENTATIONS AS A DEFENSE IN ANY SUBSEQUENT LITIGATION WHERE SUCH ASSERTION WOULD BE RELEVANT. WE HAVE THE RIGHT TO ACCEPT OR REJECT THIS SUBSCRIPTION IN WHOLE OR IN PART, SO LONG AS SUCH PARTIAL ACCEPTANCE OR REJECTION DOES NOT RESULT IN AN INVESTMENT OF LESS THAN THE MINIMUM AMOUNT SPECIFIED IN THE PROSPECTUS. AS USED ABOVE, THE SINGULAR INCLUDES THE PLURAL IN ALL RESPECTS IF SHARES ARE BEING ACQUIRED BY MORE THAN ONE PERSON. THIS SUBSCRIPTION AGREEMENT AND ALL RIGHTS HEREUNDER SHALL BE GOVERNED BY, AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICT OF LAWS.

By executing this Subscription Agreement, the subscriber is not waiving any rights under federal or state law.

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You should rely only on the information contained in this prospectus. No dealer, salesperson or other individual has been authorized to give any information or to make any representations that are not contained in this prospectus. If any such information or statements are given or made, you should not rely upon such information or representation. This prospectus does not constitute an offer to sell any securities other than those to which this prospectus relates, or an offer to sell, or a solicitation of an offer to buy, to any person in any jurisdiction where such an offer or solicitation would be unlawful. This prospectus speaks as of the date set forth above. You should not assume that the delivery of this prospectus or that any sale made pursuant to this prospectus implies that the information contained in this prospectus will remain fully accurate and correct as of any time subsequent to the date of this prospectus.

Until , all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealer's obligation to deliver a prospectus when acting as soliciting dealers with respect to their unsold allotments or subscriptions.

Up to 150,000,000 Shares

Common Stock

HMS Income Fund, Inc.

Hines Securities, Inc.

PART C

OTHER INFORMATION

Item 25. Financial Statements and Exhibits

(1) *Financial Statements*

The following financial statements of HMS Income Fund, Inc. (the *"Registrant"* or the *"Company"*) are included in Part A of this Registration Statement:

	Page
Unaudited Financial Statements as of March 31, 2012	
Balance Sheet as of March 31, 2012 and December 31, 2011	F-2
Statement of Operations for the three months ended March 31, 2012	F-3
Statement of Changes in Net Assets for the three months ended March 31, 2012	F-4
Statement of Cash Flows for the three months ended March 31, 2012	F-5
Schedule of Investments as of March 31, 2012 and December 31, 2011	F-6
Notes to the Financial Statements	F-8
Audited Financial Statements as of December 31, 2011 and for the period from inception (November 22, 2011) through December 31, 2011	
Report of Independent Registered Public Accounting Firm	F-21
Balance Sheet as of December 31, 2011	F-22
Statement of Operations for the period from inception (November 22, 2011) through December 31, 2011	F-23
Statement of Changes in Net Assets for the period from inception (November 22, 2011) through December 31, 2011	F-24
Statement of Cash Flows for the period from inception (November 22, 2011) through December 31, 2011	F-25
Schedule of Investments as of December 31, 2011	F-26
Notes to the Financial Statements	F-27

(2) *Exhibits*

(a)(1)	Articles of Incorporation of the Registrant[1]
(a)(2)	Articles of Amendment and Restatement
(b)	Bylaws of the Registrant
(c)	Not applicable
(d)	Form of Subscription Agreement (included in the Prospectus as Appendix A)
(e)	Distribution Reinvestment Plan
(f)	Not applicable
(g)(1)	Investment Advisory and Administrative Services Agreement by and between the Registrant and the Adviser
(g)(2)	Investment Sub-Advisory Agreement by and among the Registrant, the Adviser, the Sub-Adviser and Main Street Capital Corporation
(h)(1)	Dealer Manager Agreement with Hines Securities, Inc.

(h)(2)	Form of Selected Dealer Agreement[2]
(i)	Not applicable
(j)	Custody Agreement
(k)(1)	Conditional Fee Waiver Agreement
(k)(2)	Loan and Security Agreement by and between HMS Income LLC and Main Street Capital Corporation[1]
(k)(3)	Agreement and Plan of Merger
(k)(4)	Credit Agreement with Capital One, National Association
(k)(5)	Form of Indemnification Agreement by and between Registrant and each of its Affiliated Directors and Officers
(k)(6)	Form of Indemnification Agreement by and between Registrant and each of its Independent Directors
(l)	Opinion of Venable LLP[2]
(m)	Not applicable
(n)(1)	Consent of Venable LLP (incorporated by reference to Exhibit l hereto)[2]
(n)(2)	Consent of Independent Registered Public Accounting Firm
(n)(3)	Consent of John O. Niemann, Jr.[2]
(n)(4)	Consent of Peter Shaper[2]
(n)(5)	Consent of Phil D. Wedemeyer[2]
(o)	Not applicable
(p)	Not applicable
(q)	Not applicable
(r)(1)	Code of Ethics of the Registrant
(r)(2)	Code of Ethics of HMS Adviser LP
(r)(3)	Code of Ethics of Main Street Capital Corporation and Main Street Capital Partners, LLC
(r)(4)	Code of Ethics of Hines Securities, Inc.

(1) Previously filed as part of the Registrant's Registration Statement on Form N-2, filed with the SEC on December 16, 2011.
(2) Previously filed as part of the Registrant's pre-effective Amendment No. 2 to the Registration Statement on Form N-2, filed with the SEC on April 30, 2012.

Item 26. Marketing Arrangements

The information contained under the heading "Plan of Distribution" in this Registration Statement is incorporated herein by reference.

Item 27. Other Expenses of Issuance and Distribution

SEC registration fee	$	171,900
FINRA filing fee	$	75,500
Printing and mailing expenses	$	6,000,000
Blue sky filing fees and expenses	$	500,000
Legal fees and expenses	$	4,500,000
Accounting fees and expenses	$	1,400,000
Transfer agent fees	$	2,460,625
Advertising and sales literature	$	3,000,000
Due diligence expenses	$	3,750,000
Adviser Personnel Salaries	$	391,975
Bank and other Administrative Expenses	$	250,000
Total	$	22,500,000

The amounts set forth above, except for the SEC and FINRA fees, will in each case be estimated and assumed that we sell all of the shares being registered by this registration statement. All of the expenses set forth above shall be borne by the Registrant.

Item 28. Persons Controlled by or Under Common Control

As of immediately prior to this offering, the Hines Investor owns 75% of our outstanding common stock and an unaffiliated investor own 25% of our outstanding common stock. Following the completion of this offering, the share ownership position in us of the Hines Investor and such unaffiliated investor is expected to represent less than 1% of our outstanding common stock.

See “Management,” “Certain Relationships and Related Party Transactions” and “Control Persons and Principal Stockholders” in the prospectus contained herein.

Item 29. Number of Holders of Securities

The following table sets forth the number of record holders of the Registrant’s capital stock at May 31, 2012.

Title of Class	Number of Record Holders
Common stock, $0.001 par value per share	2

Item 30. Indemnification

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty established by a final judgment and which is material to the cause of action.

Maryland law requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or threatened to be made a party by reason of their service in those or other capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that a personal benefit was improperly received, unless in either case a court orders indemnification, and then only for expenses. In addition, Maryland law permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of (a) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation and (b) a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

Our charter contains a provision that limits the liability of our directors and officers to us and our stockholders for money damages and our charter requires us to indemnify and advance expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) to (i) any present or former director or officer, (ii) any individual who, while a director or officer and, at our request, serves or has served another corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner, member, manager or trustee and (iii) our Adviser and its directors, executive officers and controlling persons, and any other person or entity affiliated with it. However, in accordance with guidelines adopted by the North American Securities Administrators Association, our charter and the Investment Advisory Agreement provide that we may not indemnify an indemnitee for any liability or loss suffered by such indemnitee nor hold harmless such indemnitee for any loss or liability suffered by us unless (1) the indemnitee has determined, in good faith, that the course of conduct which caused the loss or liability was in the best interests of our Company, (2) the indemnitee was acting on behalf of or performing services for us, (3) the liability or loss suffered was not the result of negligence or misconduct by our Adviser, an affiliate of our Adviser, or an interested director of the Company, or was not the result of gross negligence or misconduct by an independent director of the Company and (4) the indemnification or agreement to hold harmless is only recoverable out of our net assets and not from our stockholders. In addition, we expect that our Sub-Adviser and Main Street will indemnify us for losses or damages arising out of their respective misfeasance, bad faith, gross negligence in the performance of their respective duties or by reason of the reckless disregard of their respective duties and obligations under the Sub-Advisory Agreement or the violation of applicable law or the breach of any representation in the Sub-Advisory Agreement. In accordance with the 1940 Act, we will not indemnify any person for any liability to which such person would be subject by reason of such person's misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office. In addition, we will not provide indemnification to a person for any loss or liability arising from an alleged violation of federal or state securities laws unless one or more of the following conditions are met: (1) there has been a successful adjudication on the merits of each count involving alleged material securities law violations; (2) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction; or (3) a court of competent jurisdiction approves a settlement of the claims against the indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the SEC and of the published position of any state securities regulatory authority in which the securities were offered or sold as to indemnification for violations of securities laws.

We may advance funds to an indemnitee for legal expenses and other costs incurred as a result of legal action for which indemnification is being sought only if all of the following conditions are met: (i) the legal action relates to acts or omissions with respect to the performance of duties or services on our behalf; (ii) the

indemnitee has provided us with written affirmation of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification; (iii) the legal action is initiated by a third party who is not a stockholder or the legal action is initiated by a stockholder acting in his or her capacity as such and a court of competent jurisdiction specifically approves such advancement; and (iv) the indemnitee undertakes to repay the advanced funds to us, together with the applicable legal rate of interest thereon, in cases in which he or she is found not to be entitled to indemnification.

Item 31. Business and Other Connections of Investment Adviser

A description of any other business, profession, vocation, or employment of a substantial nature in which our Adviser, and each director or executive officer of our Adviser, is or has been during the past two fiscal years, engaged in for his or her own account or in the capacity of director, officer, employee, partner or trustee, is set forth in Part A of this Registration Statement in the sections entitled “Management” and “Investment Advisory and Administrative Services Agreement.”

Item 32. Location of Accounts and Records

All accounts, books and other documents required to be maintained by Section 31(a) of the Investment Company Act of 1940, and the rules thereunder will be maintained at the offices of:

(1) the Registrant, 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118;

(2) the Transfer Agent, DST Systems Inc., 333 W. 11th St. Kansas City, MO 64105;

(3) the Custodian, Amegy Bank National Association, 1221 McKinney Street, Houston, TX 77010; and

(4) the Investment Adviser, 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118.

Item 33. Management Services

Not Applicable.

Item 34. Undertakings

We hereby undertake:

(1) To suspend the offering of shares until the prospectus is amended if:

(i) subsequent to the effective date of this registration statement, our net asset value declines more than ten percent from our net asset value as of the effective date of this registration statement, or

(ii) our net asset value increases to an amount greater than our net proceeds as stated in the prospectus.

(2) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) to reflect in the prospectus any facts or events after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(3) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of those securities at that time shall be deemed to be the initial *bona fide* offering thereof; and

(4) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(5) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser, if the Registrant is subject to Rule 430C: Each prospectus filed pursuant to Rule 497(b), (c), (d) or (e) under the Securities Act of 1933 as part of a registration statement relating to an offering, other than prospectuses filed in reliance on Rule 430A under the Securities Act of 1933, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. *Provided, however,* that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(6) That for the purpose of determining liability of the Registrant under the Securities Act of 1933 to any purchaser in the initial distribution of securities: the undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to the purchaser:

(i) any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 497 under the Securities Act of 1933;

(ii) the portion of any advertisement pursuant to Rule 482 under the Securities Act of 1933 relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(iii) any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933 and/or the Investment Company Act of 1940, the Registrant has duly caused this Registration Statement on Form N-2 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, and State of Texas, on the 31st of May, 2012.

HMS INCOME FUND, INC.

By: /s/ Charles N. Hazen
Name: Charles N. Hazen
Title: Chairman and Chief Executive Officer

KNOW ALL MEN BY THESE PRESENT, each person whose signature appears below hereby constitutes and appoints Charles N. Hazen and Ryan T. Sims and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place, and stead, in any and all capacities, to sign any and all amendments and post-effective amendments to this Registration Statement and any registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and to file the same, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the foregoing, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated:

Signature	Title	Date
/s/ Charles N. Hazen Charles N. Hazen	Chairman and Chief Executive Officer (Principal Executive Officer)	May 31, 2012
* Ryan T. Sims	Chief Financial Officer and Secretary (Principal Financial and Accounting Officer)	May 31, 2012
* Vincent D. Foster	Director	May 31, 2012
/s/ Peter Shaper Peter Shaper	Director	May 31, 2012
/s/ Phil D. Wedemeyer Phil D. Wedemeyer	Director	May 31, 2012
/s/ John O. Niemann, Jr. John O. Niemann, Jr.	Director	May 31, 2012

*By: /s/ Charles N. Hazen
Charles N. Hazen, as Attorney-in-fact

ARTICLES OF AMENDMENT AND RESTATEMENT
OF
HMS INCOME FUND, INC.

FIRST: HMS Income Fund, Inc., a Maryland corporation (the "***Corporation***"), desires to amend and restate its charter as currently in effect.

SECOND: The provisions of the charter of the Corporation, which are now in effect and as amended and restated hereby, in accordance with the Maryland General Corporation Law (the "***MGCL***"), are as follows:

ARTICLE I
NAME

The name of the corporation is HMS Income Fund, Inc.

ARTICLE II
PURPOSE

The purpose for which the Corporation is formed is to engage in any lawful act or activity for which corporations may be organized under the general laws of the State of Maryland as now or hereafter in force, including conducting and carrying on the business of a business development company, subject to making an election therefor under the Investment Company Act of 1940, as amended (the "***1940 Act***").

ARTICLE III
RESIDENT AGENT AND PRINCIPAL OFFICE

The address of the principal office of the Corporation in the State of Maryland is c/o The Corporation Trust Incorporated, 351 West Camden Street, Baltimore, Maryland 21201. The name and address of the resident agent of the Corporation are The Corporation Trust Incorporated, 351 West Camden Street, Baltimore, Maryland. The resident agent is a Maryland corporation.

ARTICLE IV
PROVISIONS FOR DEFINING, LIMITING
AND REGULATING CERTAIN POWERS OF THE
CORPORATION AND OF THE STOCKHOLDERS AND DIRECTORS

Section 4.1 Number, Term and Election of Directors. The business and affairs of the Corporation shall be managed by or under the direction of the board of directors. The number of directors of the Corporation is five, which number may be increased or decreased from time to time by the board of directors pursuant to the bylaws of the Corporation ("***Bylaws***"). Each director shall hold office for one year, until the next annual meeting of stockholders and until his or her successor is duly elected and qualifies or until his or her earlier death, resignation or

removal. Directors may be elected to an unlimited number of successive terms. A majority of the board of directors shall be independent directors, except for a period of up to 60 days after the death, removal or resignation of an independent director pending the election of such independent director's successor. A director is considered independent if he or she is not an "interested person" as that term is defined under Section 2(a)(19) of the 1940 Act. The names of the directors currently in office are Charles N. Hazen, Vincent D. Foster, Phil Wedemyer, John O. Niemann, Jr. and Peter Shaper.

The Corporation elects, at such time as it becomes eligible to make the election provided for under Section 3-804(c) of the MGCL, subject to applicable requirements of the 1940 Act and except as may be provided by the board of directors in setting the terms of any class or series of Preferred Stock (as hereinafter defined), that any and all vacancies on the board of directors may be filled only by the affirmative vote of a majority of the remaining directors in office, even if the remaining directors do not constitute a quorum, and any director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which such vacancy occurred and until a successor is duly elected and qualifies.

Section 4.2 Extraordinary Actions. Except as provided in Section 6.2 and Section 11.1, notwithstanding any provision of law permitting or requiring any action to be taken or approved by the affirmative vote of the holders of shares of stock entitled to cast a greater number of votes, any such action shall be effective and valid if declared advisable by the board of directors, and approved by the affirmative vote of holders of shares of stock entitled to cast a majority of all the votes entitled to be cast on the matter.

Section 4.3 Authorization by Board of Directors of Stock Issuance. The board of directors may authorize the issuance from time to time of shares of stock of the Corporation of any class or series, whether now or hereafter authorized, or securities or rights convertible into shares of stock of any class or series, whether now or hereafter authorized, for such consideration as the board of directors may deem advisable (or without consideration in the case of a stock split or stock dividend), subject to such restrictions or limitations, if any, as may be set forth in the charter of the Corporation (the "***Charter***") or the Bylaws.

Section 4.4 Quorum. The presence in person or by proxy of the holders of stock of the Corporation entitled to cast a majority of the votes entitled to be cast at the meeting shall constitute a quorum at any meeting of stockholders, except with respect to any such matter that, under applicable statutes or regulatory requirements, requires approval by a separate vote of one or more classes of stock, in which case the presence in person or by proxy of the holders of stock entitled to cast a majority of the votes entitled to be cast by each such class on such a matter shall constitute a quorum.

Section 4.5 Preemptive Rights. Except as may be provided by the board of directors in setting the terms of classified or reclassified shares of stock pursuant to Section 5.3 or Section 5.4 or as may otherwise be provided by contract approved by the board of directors, no holder of shares of stock of the Corporation shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Corporation or any other security of the Corporation which it may issue or sell.

Section 4.6 Appraisal Rights. Holders of shares of stock shall not be entitled to exercise any rights of an objecting stockholder provided for under Title 3, Subtitle 2 of the MGCL or any successor statute unless the board of directors, upon the affirmative vote of a majority of the board of directors, shall determine that such rights apply, with respect to all or any classes or series of stock, to one or more transactions occurring after the date of such determination in connection with which holders of such shares would otherwise be entitled to exercise such rights.

Section 4.7 Determinations by Board. The determination as to any of the following matters, made in good faith by or pursuant to the direction of the board of directors consistent with the Charter shall be final and conclusive and shall be binding upon the Corporation and every stockholder: the amount of the net income of the Corporation for any period and the amount of assets at any time legally available for the payment of dividends, redemption of its stock or the payment of other distributions on its stock; the amount of stated capital, capital surplus, net assets, other surplus, annual or other net profit, net assets in excess of capital, undivided profits or excess of profits over losses on sales of assets; the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been paid or discharged); any interpretation of the terms, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of any class or series of stock of the Corporation; the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Corporation or any shares of stock of the Corporation; the number of shares of stock of any class or series of the Corporation; any matter relating to the acquisition, holding and disposition of any assets by the Corporation; the application of any provision of the Charter in the case of any ambiguity, including, without limitation, any provision of the definitions of Affiliate and Sponsor and whether expenses qualify as Organizational and Offering Expenses; any conflict between the MGCL and the provisions set forth in the North American Securities Administrators Association ("***NASAA***") Omnibus Guidelines; or any other matter relating to the business and affairs of the Corporation or required or permitted by applicable law, the Charter or the Bylaws or otherwise to be determined by the board of directors, including changing the name of the Corporation; provided, however, that any determination by the board of directors as to any of the preceding matters shall not render invalid or improper any action taken or omitted prior to such determination and no director shall be liable for making or failing to make such a determination; and provided further that for so long as the shares of Common Stock (as hereinafter defined) do not qualify as "covered securities" as defined by Section 18 of the Securities Act of 1933, as amended (the "***1933 Act***"), to the extent the board of directors determines that the MGCL conflicts with the provisions set forth in the NASAA Omnibus Guidelines, the NASAA Omnibus Guidelines control to the extent any provisions of the MGCL are not mandatory.

Section 4.8 Removal of Directors. Subject to the rights of holders of one or more classes or series of Preferred Stock to remove one or more directors, any director, or the entire board of directors, may be removed from office at any time only for cause and only by the affirmative vote of holders of shares of stock entitled to cast at least two-thirds of the votes entitled to be cast generally in the election of directors. For purposes of this paragraph, "cause" shall mean, with respect to any particular director, conviction of a felony or a final judgment of a court of competent jurisdiction holding that such director caused demonstrable, material harm to the Corporation through bad faith or active and deliberate dishonesty.

ARTICLE V
STOCK

Section 5.1 Authorized Stock. The Corporation has authority to issue 500,000,000 shares of stock, of which 450,000,000 shares are classified as common stock, $0.001 par value per share ("***Common Stock***"), and 50,000,000 shares are classified as Preferred Stock, $0.001 par value per share ("***Preferred Stock***"). The aggregate par value of all authorized stock having par value is $500,000. All stock shall be fully paid and nonassessable when issued, and the Corporation shall not make any mandatory assessment against any stockholder beyond such stockholder's subscription commitment. If shares of one class of stock are classified or reclassified into shares of another class of stock pursuant to Sections 5.2, 5.3 or 5.4 of this Article V, the number of authorized shares of the former class shall be automatically decreased and the number of shares of the latter class shall be automatically increased, in each case by the number of shares so classified or reclassified, so that the aggregate number of shares of stock of all classes that the Corporation has authority to issue shall not be more than the total number of shares of stock set forth in the first sentence of this paragraph. A majority of the entire board of directors, including a majority of the independent directors, without any action by the stockholders, may amend the Charter from time to time to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that the Corporation has authority to issue.

Section 5.2 Common Stock. Except as may otherwise be specified in the Charter, each share of Common Stock shall entitle the holder thereof to one vote. Except as otherwise provided in the Charter, and subject to the express terms of any class or series of Preferred Stock, holders of Common Stock shall have the exclusive right to vote on all matters as to which a stockholder is entitled to vote pursuant to applicable law at all meetings of stockholders. Unless otherwise provided, holders of Common Stock shall not be entitled to redemption, sinking fund, or conversion rights. The board of directors, including a majority of the independent directors, may classify or reclassify any unissued shares of Common Stock from time to time, into one or more classes or series of stock by setting or changing the preferences, conversion or other rights, voting powers, restrictions, limitations, as to dividends or other distributions, qualifications, or terms or conditions of redemption for each class or series of stock.

Section 5.3 Preferred Stock. The board of directors, including a majority of the independent directors, may classify or reclassify any unissued shares of Preferred Stock from time to time, into one or more classes or series of stock by setting or changing the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption for each class or series of stock.

Section 5.4 Classified or Reclassified Shares. Prior to issuance of classified or reclassified shares of any class or series, the board of directors by resolution shall: (a) designate that class or series to distinguish it from all other classes and series of stock of the Corporation; (b) specify the number of shares to be included in the class or series; (c) set or change, subject to

the express terms of any class or series of stock of the Corporation outstanding at the time, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption for each class or series; and (d) cause the Corporation to file articles supplementary with the State Department of Assessments and Taxation of Maryland ("***SDAT***"). Any of the terms of any class or series of stock set or changed pursuant to clause (c) of this Section 5.4 may be made dependent upon facts or events ascertainable outside the Charter (including determinations by the board of directors or other facts or events within the control of the Corporation) and may vary among holders thereof, provided that the manner in which such facts, events or variations shall operate upon the terms of such class or series of stock is clearly and expressly set forth in the resolution or other instrument establishing any such class or series.

Section 5.5 Deferred Payments. The Corporation shall not have authority to make arrangements for deferred payments on account of the purchase price of the Corporation's stock unless all of the following conditions are met: (a) such arrangements are warranted by the Corporation's investment objectives; (b) the period of deferred payments coincides with the anticipated cash needs of the Corporation; (c) the deferred payments shall be evidenced by a promissory note of the stockholder, which note shall be with recourse, shall not be negotiable, shall be assignable only subject to defenses of the maker and shall not contain a provision authorizing a confession of judgment; and (d) selling commissions and front end fees paid upon deferred payments are payable when payment is made on the note. The Corporation shall not sell or assign the deferred obligation notes at a discount. In the event of a default in the payment of deferred payments by a stockholder, the stockholder may be subjected to a reasonable penalty.

Section 5.6 Distributions.

(a) The Adviser shall cause the Corporation to provide for adequate reserves for normal repairs, replacements and contingencies (but the Corporation shall not be required to maintain reserves for payment of fees payable to the Adviser) by causing the Corporation to retain a reasonable percentage of proceeds from offerings and revenues, which percentage may not be less than 1%.

(b) From time to time and not less than quarterly, the Corporation shall cause the Adviser to review the Corporation's accounts to determine whether cash distributions are appropriate. The Corporation may, subject to authorization by the board of directors and applicable law, distribute pro rata to the stockholders funds received by the Corporation which the Adviser deems unnecessary to retain in the Corporation. The board of directors may authorize the Corporation to declare and pay to stockholders such dividends or other distributions, in cash or other assets of the Corporation or in securities of the Corporation or from any other source as the board of directors in its discretion shall determine. The board of directors may endeavor to authorize the Corporation to declare and pay such dividends and other distributions (i) as may be necessary or advisable for the Corporation to qualify as a "Regulated Investment Company" under the Code or as may be necessary or advisable under the 1940 Act, and (ii) to the extent that the board of directors deems it unnecessary for the Corporation to retain funds received by it; provided, however, that in each case stockholders shall have no right to any dividend or distribution unless and until authorized by the board of directors and declared by the

Corporation. The exercise of the powers and rights of the board of directors pursuant to this Section 5.6 shall be subject to the provisions of any class or series of stock at the time outstanding. The receipt by any person in whose name any shares are registered on the records of the Corporation or by his or her duly authorized agent shall be a sufficient discharge for all dividends or other distributions payable or deliverable in respect of such shares and from all liability to see to the application thereof. Distributions in-kind shall not be permitted, except for distributions of readily marketable securities, distributions of cash from a liquidating trust established for the dissolution of the Corporation and the liquidation of its assets in accordance with the terms of the Charter, or in-kind distributions in which (i) the board of directors advises each stockholder of the risks associated with direct ownership of the property, (ii) the board of directors offers each stockholder the election of receiving such in-kind distributions, and (iii) in-kind distributions are made only to those stockholders that accept such offer.

Section 5.7 Distributions in Liquidation. Unless otherwise expressly provided in the Charter, in the event of any voluntary or involuntary liquidation, dissolution or winding up, the aggregate assets available for distribution to holders of all classes of stock of the Corporation shall be determined in accordance with applicable law and the Charter. Each holder of stock shall be entitled, after payment or provision for payment of the debts and other liabilities of the Corporation (as such liability may affect one or more of the classes and series of shares of stock of the Corporation), to share ratably with each other holder of such class or series of stock in the remaining net assets of the Corporation.

Section 5.8 Charter and Bylaws. The rights of all stockholders and the terms of all stock are subject to the provisions of the Charter and the Bylaws. The board of directors of the Corporation shall have the exclusive power to make, alter, amend or repeal the Bylaws.

Section 5.9 Distribution Reinvestment Plan. Any distribution reinvestment plan of the Corporation must be operated in accordance with federal and state securities laws. No sales commissions or fees may be deducted directly or indirectly from reinvested funds by the Corporation. The reinvestment funds must be invested into Common Stock. Where required by law, investors must receive a prospectus which is current as of the date of each reinvestment. The soliciting dealers must assume responsibility for blue sky compliance and performance of due diligence responsibilities and must contact investors to ascertain whether the investors continue to meet the applicable state's suitability standards.

Section 5.10 Periodic Repurchase Rights.

(a) Commencing twelve (12) months after the date that the Corporation holds its initial closing under its registration statement on Form N-2 (File No. 333-178548) filed with the Securities and Exchange Commission ("***SEC***"), the Corporation shall offer to repurchase up to two and a half percent (2.5%) of the weighted average number of shares of Common Stock outstanding in the prior four calendar quarters from the holders thereof on the date of the first closing in January, April, July and August, or on such other date and time as determined by the board of directors of the Corporation and disclosed to the holders of the Common Stock through

any means reasonably designed to inform the holders of the Common Stock thereof prior to the such repurchase date (each such date, the "***Repurchase Date***"), at a price per share of Common Stock equal to the net asset value per share, as determined within 48 hours prior to the Repurchase Date; provided, however, that the number of shares of Common Stock to be repurchased by the Corporation under this Section 5.10(a) during any calendar year shall be limited to the number of shares of Common Stock that the Corporation can repurchase with the proceeds it receives from the sale of shares of Common Stock under the Corporation's distribution reinvestment plan, unless the board of directors of the Corporation determines otherwise. The Corporation shall repurchase shares of Common Stock under this Section 5.10(a) on a pro rata basis from among the requests for repurchase received by it in the event that it cannot satisfy all repurchase requests made by holders of Common Stock because of any of the limitations set forth herein. For avoidance of doubt, no holder of Common Stock shall be obligated to tender or otherwise present any shares of Common Stock for repurchase by the Corporation pursuant to the provisions of this Section 5.10(a), but may elect to do so subject to the terms and conditions contained in this Section 5.10 and otherwise specified by the Corporation in connection therewith.

(b) The board of directors of the Corporation shall have the right to suspend or terminate any repurchase to be made under Section 5.10(a) to the extent that such repurchase would cause the Corporation to violate federal law or the MGCL or otherwise to suspend or terminate the repurchase right and all of the Corporation's obligations set forth in Section 5.10(a) to the extent that it determines that it is in the best interest of the Corporation to do so. The Corporation shall promptly notify the holders of Common Stock of any changes to the repurchase right and the Corporation's obligations under Section 5.10(a), including any suspension or termination referred in this Section 5.10(b), through any means reasonably designed to inform the holders of the Common Stock thereof.

(c) All requests for repurchase must be made in writing and received by the Corporation at least five Business Days prior to the applicable Repurchase Date. A holder of Common Stock may also withdraw a repurchase request in connection with the repurchase right set forth in Section 5.10(a). Withdrawal requests must also be made in writing and received by the Corporation at least five Business Days prior to the applicable Repurchase Date. The Corporation will redeem shares on the Repurchase Date. The Corporation shall develop any other procedures necessary to effectuate the repurchase right set forth in Section 5.10(a), including the form of repurchase requests holders of Common Stock are required to tender to the Corporation in connection with each repurchase in accordance with Section 5.10(a), and inform the holders of Common Stock through any means reasonably designed to inform the holders of the Common Stock thereof.

(d) The repurchase right and all of the Corporation's obligations set forth in this Section 5.10 will terminate on the date that the Common Stock is listed on a national securities exchange, is included for quotation in a national securities market or, in the sole determination of the board of directors of the Corporation, a secondary trading market for the Common Stock otherwise develops.

(e) All shares of Common Stock to be repurchased in accordance with Section 5.10(a) must be (i) fully transferable and not be subject to any liens or other encumbrances and (ii) free from any restrictions on transfer. If the Corporation determines that a lien or other encumbrance or restriction exists against the shares of Common Stock, the Corporation shall have no obligation to repurchase, and shall not repurchase, any of the shares of Common Stock subject to the lien or other encumbrance or restriction.

(f) For purposes of Section 5.10(a), "***Business Day***" shall mean any day other than a Saturday, Sunday or other day on which commercial banks in the State of Texas are authorized or required by law or executive order to close.

Section 5.11 Repurchase on Death or Disability.

(a) In the event of the death or Disability (as hereinafter defined) of a holder of Common Stock, the Corporation shall repurchase such holder's shares of Common Stock, upon the holder or holder's representative, as applicable, presenting such shares for repurchase; provided, however, that the Corporation shall not be obligated to repurchase such holder's shares of Common Stock if more than two years have elapsed from the date of the applicable death or Disability and, in the case of a Disability, if the holder fails to provide the opinion of the qualified independent physician referred to in the penultimate sentence in this Section 5.11. The repurchase price per share of Common Stock to be paid by the Corporation to the holder or holder's representative, as applicable, will be equal to the net asset value per share, as determined within 48 hours prior to the date of repurchase immediately following the date of the death or Disability of such holder. The stockholder or the stockholder's representative, as applicable, shall notify the Corporation in writing of the stockholder's death or Disability. As used herein, "***Disability***" shall mean such holder of Common Stock suffers a disability for a period of time, as determined by the board of directors of the Corporation, and the accuracy of such determination is confirmed by a qualified independent physician from whom such holder is required to receive an examination within thirty (30) days following the board of directors' determination. The alleged disabled holder will share the opinion of such qualified independent physician with the board of directors and the board of directors will use best efforts to maintain the confidentiality of such information. If such holder fails to reasonably cooperate with the board of directors of the Corporation in obtaining the opinion of a qualified independent physician, then the board of directors may, in its reasonable discretion, decide to not effectuate the repurchase right set forth above. For avoidance of doubt, no holder of Common Stock or holder's representative shall be obligated to tender or otherwise present any shares of Common Stock for repurchase by the Corporation pursuant to the provisions of this Section 5.11(a), but may elect to do so subject to the terms and conditions contained in this Section 5.11 and otherwise specified by the Corporation in connection therewith.

(b) The Corporation shall have the right develop procedures necessary to effectuate the repurchase right set forth in Section 5.11(a), including the form of repurchase requests holders of Common Stock are required to tender to the Corporation in connection with each repurchase in accordance with Section 5.11(a), and inform the holders of Common Stock through any means reasonably designed to inform them thereof.

(c) The board of directors of the Corporation shall have the right to suspend or terminate any repurchase to be made under Section 5.11(a) to the extent that such repurchase would cause the Corporation to violate federal law or the MGCL or otherwise to suspend or terminate the repurchase right and all of the Corporation's obligations set forth in Section 5.11(a) to the extent that it determines that it is in the best interest of the Corporation to do so. The Corporation shall promptly notify the holders of Common Stock of any changes to the repurchase right and the Corporation's obligations under Section 5.11(a), including any suspension or termination referred in this Section 5.11(c), through any means reasonably designed to inform the holders of the Common Stock thereof.

(d) The repurchase right and all of the Corporation's obligations set forth in Section 5.11 will terminate on the date that the Common Stock is listed on a national securities exchange or is included for quotation in a national securities market.

(e) All shares of Common Stock to be repurchased in accordance with Section 5.11(a) must be (i) fully transferable and not be subject to any liens or other encumbrances and (ii) free from any restrictions on transfer. If the Corporation determines that a lien or other encumbrance or restriction exists against the shares of Common Stock, the Corporation shall have no obligation to repurchase, and shall not repurchase, any of the shares of Common Stock subject to the lien or other encumbrance or restriction.

ARTICLE VI
AMENDMENTS; CERTAIN EXTRAORDINARY ACTIONS

Section 6.1 Amendments Generally. The Corporation reserves the right from time to time to make any amendment to the Charter, now or hereafter authorized by law, including any amendment altering the terms or contract rights, as expressly set forth in the Charter, of any shares of outstanding stock. All rights and powers conferred by the Charter on stockholders, directors and officers are granted subject to this reservation.

Section 6.2 Approval of Certain Amendments. The affirmative vote of the holders of shares of stock entitled to cast at least two-thirds of all the votes entitled to be cast on the matter shall be necessary to effect:

(a) Any amendment to the Charter to make the Common Stock a "redeemable security" or to convert the Corporation, whether by merger or otherwise, from a "closed-end company" to an "open-end company" (as such terms are defined in the 1940 Act);

(b) The dissolution of the Corporation; and

(c) Any amendment to Section 4.2, Section 4.8, Section 6.1 or this Section 6.2.

Section 6.3 Applicability of Certain Provisions. Notwithstanding anything to the contrary set forth in the Charter, if and to the extent the Corporation's shares of Common Stock are qualified as "covered securities" as defined by Section 18 of the 1933 Act, the following sections or articles of the Charter shall not apply and shall be of no force and effect: Section 5.5, Section 5.6, Section 5.7, Section 6.2(a) and (b), Section 7.3(iii), Section 7.4, Article VIII, Article IX, Article XI, Article XII and Article XIII.

ARTICLE VII
LIMITATION OF LIABILITY; INDEMNIFICATION AND ADVANCE OF EXPENSES

Section 7.1 Limitation of Stockholder Liability. No stockholder shall be liable for any debt, claim, demand, judgment or obligation of any kind of, against or with respect to the Corporation by reason of being a stockholder, nor shall any stockholder be subject to any personal liability whatsoever, in tort, contract or otherwise, to any Person in connection with the Corporation's assets or the affairs of the Corporation by reason of being a stockholder.

Section 7.2 Limitation of Director and Officer Liability. To the fullest extent permitted by Maryland law, subject to any limitation set forth under Maryland law or the federal securities laws, or in this Article VII, no present or former director or officer of the Corporation shall be liable to the Corporation or its stockholders for money damages. Neither the amendment nor repeal of this Section 7.2, nor the adoption or amendment of any other provision of the Charter or the Bylaws inconsistent with this Section 7.2, shall apply to or affect in any respect the applicability of the preceding sentence with respect to any act or failure to act that occurred prior to such amendment, repeal or adoption.

Section 7.3 Indemnification and Advance of Expenses. Subject to any limitations set forth under Maryland law or the federal securities laws or in thisArticle VII, the Corporation shall indemnify and hold harmless from and against all liability, loss, judgments, penalties, fines, settlements, and reasonable expenses (including, without limitation, reasonable attorneys' fees and amounts paid in settlement) (collectively, "***Liability and Losses***"), and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (i) any individual who is a present or former director or officer of the Corporation and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity, (ii) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner, member, manager or trustee of another corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity or (iii) the Adviser or any of its Affiliates acting as an agent of the Corporation (each such person an "***Indemnitee***"). The rights to indemnification and advance of expenses provided to a director or officer hereby shall vest immediately upon election of such director or officer. The Corporation may, with the approval of the board of directors or any duly authorized committee thereof, provide such indemnification and advancement of expenses to a Person who served a predecessor of the Corporation in any of the capacities described in (i) or (ii) above and to any employee or agent of the Corporation or a predecessor of the Corporation. The board of directors may take such action as is necessary to carry out this Section 7.3.

Section 7.4 Limitations on Indemnification and Advance of Expenses.

(a) Notwithstanding anything to the contrary contained in Section 7.2 or Section 7.3 above, the Corporation shall not provide any indemnification of an Indemnitee, or hold such Indemnitee harmless, pursuant to Section 7.3 hereof unless all of the following conditions are met:

(i) The Indemnitee has determined, in good faith, that the course of conduct of such Indemnitee giving rise to the Liability and Loss was in the best interests of the Corporation.

(ii) The Indemnitee was acting on behalf of or performing services for the Corporation.

(iii) Such Liability or Loss was not the result of (1) negligence or misconduct, in the case that the Indemnitee is a director (other than an independent director), officer, the Adviser, or an Affiliate of the Adviser, or (2) gross negligence or misconduct, in the case that the Indemnitee is an independent director.

(iv) Such indemnification or agreement to hold harmless is recoverable only out of net assets of the Corporation and not from the stockholders.

(b) Notwithstanding anything to the contrary contained in Section 7.3, the Corporation shall not provide indemnification for any Liability or Loss arising from or out of an alleged violation of federal or state securities laws by an Indemnitee unless one or more of the following conditions are met: (i) there has been a successful adjudication on the merits of each count involving alleged material securities law violations as to the Indemnitee, (ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the Indemnitee or (iii) a court of competent jurisdiction approves a settlement of the claims against the Indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the SEC and of the published position of any state securities regulatory authority in which securities of the Corporation were offered or sold as to indemnification for violations of securities laws.

(c) The Corporation shall pay or reimburse reasonable legal expenses and other costs incurred by an Indemnitee in advance of final disposition of a proceeding only if all of the following are satisfied: (i) the proceeding relates to acts or omissions with respect to the performance of duties or services on behalf of the Corporation, (ii) such Indemnitee provides the Corporation with written affirmation of such Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Corporation as authorized by Section 7.3(a) hereof has been met, (iii) the legal proceeding was initiated by a third party who is not a stockholder or, if by a stockholder of the Corporation acting in his or her capacity as such, a court of competent jurisdiction approves such advancement and (iv) such Indemnitee provides the Corporation with a written agreement to repay the amount paid or reimbursed by the Corporation, together with the applicable legal rate of interest thereon, in cases in which such Indemnitee is found not to be entitled to indemnification.

(d) Notwithstanding the foregoing, paragraphs (a), (b) and (c) above shall apply to the Adviser and its Affiliates only so long as the Common Stock is not listed on a national securities exchange.

(e) The provisions of this Article VII shall be subject to the limitations of the 1940 Act.

Section 7.5 Express Exculpatory Clauses in Instruments. Neither the stockholders nor the directors, officers, employees or agents of the Corporation shall be liable under any written instrument creating an obligation of the Corporation by reason of their being stockholders, directors, officers, employees or agents of the Corporation, and all Persons shall look solely to the Corporation's net assets for the payment of any claim under or for the performance of that instrument. The omission of the foregoing exculpatory language from any instrument shall not affect the validity or enforceability of such instrument and shall not render any stockholder, director, officer, employee or agent liable thereunder to any third party, nor shall the directors or any officer, employee or agent of the Corporation be liable to anyone as a result of such omission.

Section 7.6 Amendment or Repeal. Neither the amendment nor repeal of this Article VII, nor the adoption or amendment of any other provision of the Charter or Bylaws inconsistent with this Article VII, shall apply to or affect in any respect the applicability of the preceding sections of this Article VII with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

Section 7.7 Non-Exclusivity. The exculpation, indemnification and advancement of expenses provided or authorized by this Article VII shall not be deemed exclusive of any other rights, by indemnification or otherwise, to which a director or officer may be entitled under the Bylaws, a resolution of stockholders or the board of directors, an agreement or otherwise.

ARTICLE VIII
ADVISER

Section 8.1 Supervision of Adviser.

(a) The board of directors may exercise broad discretion in allowing the Adviser to administer and regulate the operations of the Corporation, to act as agent for the Corporation, to execute documents on behalf of the Corporation and to make executive decisions that conform to general policies and principles established by the board of directors. The board of directors shall monitor the Adviser to assure that the administrative procedures, operations and programs of the Corporation are in the best interests of the Corporation and are fulfilled and that (i) the expenses incurred are reasonable in light of the investment performance of the Corporation, its net assets and its net income, (ii) all Front End Fees are reasonable and do not exceed 18% of the gross proceeds of any offering, regardless of the source of payment, and (iii) the percentage of gross proceeds of any offering committed to Investment in Program Assets is at least 82%. All items of compensation to underwriters or dealers, including, but not limited to, selling commissions, expenses, rights of first refusal, consulting fees, finders' fees and all other items of compensation of any kind or description paid by the Corporation, directly or indirectly, shall be taken into consideration in computing the amount of allowable Front End Fees.

(b) The board of directors is responsible for determining that compensation paid to the Adviser is reasonable in relation to the nature and quality of services performed and the investment performance of the Corporation and that the provisions of the investment advisory agreement are being carried out. The board of directors may consider all factors that it deems relevant in making these determinations. So long as the Corporation is a business development company under the 1940 Act, compensation to the Adviser shall be considered presumptively reasonable if the incentive fee is limited to the amounts allowed by the 1940 Act.

Section 8.2 Fiduciary Obligations. Any investment advisory agreement with the Adviser shall provide that the Adviser has a fiduciary responsibility for the safekeeping and use of all funds and assets of the Corporation, whether or not in the Adviser's immediate possession or control. The Adviser shall not employ, or permit another to employ, such funds or assets in any manner except for the exclusive benefit of the Corporation. In addition, the Adviser shall not, by entry into an agreement with any stockholder of the Corporation or otherwise, contract away the fiduciary obligation owed to the Corporation and the Corporation's stockholders under common law. The board of directors shall determine whether any successor Adviser possesses sufficient qualifications to perform the advisory function for the Corporation and whether the compensation provided for in its contract with the Corporation is justified.

Section 8.3 Termination of Investment Advisory Agreement. Any investment advisory agreement shall provide that it is terminable (a) by the Corporation upon 60 days' written notice to the Adviser, (i) upon the affirmative vote of a majority of the outstanding voting securities of the Corporation entitled to vote on the matter (as "majority" is defined in Section 2(a)(42) of the 1940 Act), or (ii) by the vote of the Corporation's independent directors, or (b) by the Adviser upon 120 days' written notice to the Corporation, in each case without cause or penalty, and shall provide that in each case the Adviser will cooperate with the Corporation and the board of directors in making an orderly transition in the advisory function.

Section 8.4 Organizational and Offering Expenses Limitation. Subject to any terms and conditions set forth in any investment advisory agreement, the Corporation shall reimburse the Adviser and its Affiliates for Organizational and Offering Expenses incurred by the Adviser or its Affiliates; provided, however, that the total amount of all Organizational and Offering Expenses shall be reasonable and shall be included as Front End Fees for purposes of the limit on such Front End Fees set forth in Section 8.1.

Section 8.5 Acquisition Fees. The Corporation may pay the Adviser and its Affiliates fees for the review and evaluation of potential investments; provided, however, that the board of directors shall conclude that the total of all Acquisition Fees and Acquisition Expenses shall be reasonable.

Section 8.6 Reimbursement for Expenses. The Corporation may reimburse the Adviser, at the end of each fiscal quarter, for the actual cost of goods and services used for or by the Corporation and obtained from Persons other than the Adviser's Affiliates. The Adviser may be reimbursed for the administrative services necessary for the prudent operation of the Corporation; provided, however, that the reimbursement shall be the lower of the Adviser's actual cost or the amount the Corporation would be required to pay Persons other than the Adviser's Affiliates for comparable administrative services in the same geographic location; and provided, further, that such costs are reasonably allocated to the Corporation on the basis of assets, revenues, time records or another method conforming with generally accepted accounting principles.

Section 8.7 Reimbursement Limitations. The Corporation shall not reimburse the Adviser or its Affiliates for services for which the Adviser or its Affiliates are entitled to compensation in the form of a separate fee. Additionally, excluded from the allowable reimbursement with respect to the provision of advisory services shall be: (a) rent or depreciation, utilities, capital equipment and other administrative items of the Adviser; and (b) salaries, fringe benefits, travel expenses and other administrative items incurred or allocated to any controlling person of the Adviser. For purposes of this Section 8.7, "controlling person" means persons with responsibilities similar to those of an executive, or a member of the board of directors, or any person who holds 10% or more of the Adviser's equity securities or who has the power to control the Adviser, whether through ownership of voting securities, by contract, or otherwise.

Section 8.8 No Exclusive Agreement. The Adviser shall not be granted an exclusive right to sell, or exclusive employment to sell, assets for the Corporation.

Section 8.9 Rebates, Kickbacks and Reciprocal Arrangements. The Adviser shall not (a) receive or accept any rebate, give-up or similar arrangement that is prohibited under applicable federal or state securities laws, (b) participate in any reciprocal business arrangement that would circumvent provisions of applicable federal or state securities laws governing conflicts of interest or investment restrictions, or (c) enter into any agreement, arrangement or understanding that would circumvent the restrictions against dealing with affiliates or promoters under applicable federal or state securities laws. In addition, the Adviser shall not directly or indirectly pay or award any fees or commissions or other compensation to any person or entity engaged to sell the Corporation's stock or give investment advice to a potential stockholder; provided, however, that the Adviser may pay a registered broker-dealer or other properly licensed agent from sales commissions for selling or distributing Common Stock.

Section 8.10 Commingled Funds. The Adviser shall not permit or cause to be permitted the Corporation's funds from being commingled with the funds of any other entity. Nothing, however, shall prohibit the Adviser from establishing a master fiduciary account pursuant to which separate sub-trust accounts may be established for the benefit of affiliated programs, provided that the Corporation's funds are protected from the claims of other programs and creditors of such programs.

ARTICLE IX
INVESTMENT OBJECTIVES AND LIMITATIONS

Section 9.1 Investment Objectives. The independent directors shall review the investment policies of the Corporation with sufficient frequency (not less often than annually) to determine that the policies being followed by the Corporation are in the best interests of the Corporation and its stockholders. Each such determination and the basis therefor shall be set forth in the minutes of the meetings of the board of directors.

Section 9.2 Investments in Other Programs

(a) The Corporation shall not invest in general partnerships or joint ventures with non-Affiliates that own and operate specific assets, unless the Corporation, alone or together with any publicly registered Affiliate of the Corporation meeting the requirements of subsection (b) below, acquires a controlling interest in such a general partnership or joint venture, but in no event shall the Adviser be entitled to duplicate fees; provided, however, that the foregoing is not intended to prevent the Corporation from carrying out its business of investing and reinvesting its assets in securities of other issuers. For purposes of this Section 9.2, "controlling interest" means an equity interest possessing the power to direct or cause the direction of the management and policies of the general partnership or joint venture, including the authority to: (i) review all contracts entered into by the general partnership or joint venture that will have a material effect on its business or assets; (ii) cause a sale or refinancing of the assets or its interest therein subject, in certain cases where required by the partnership or joint venture agreement, to limits as to time, minimum amounts and/or a right of first refusal by the joint venture partner or consent of the joint venture partner; (iii) approve budgets and major capital expenditures, subject to a stated minimum amount; (iv) veto any sale or refinancing of the assets, or alternatively, to receive a specified preference on sale or refinancing proceeds; and (v) exercise a right of first refusal on any desired sale or refinancing by the joint venture partner of its interest in the assets, except for transfer to an Affiliate of the joint venture partner.

(b) The Corporation may invest in general partnerships or joint ventures with other publicly registered Affiliates of the Corporation if all of the following conditions are met: (i) the Affiliate and the Corporation have substantially identical investment objectives; (ii) there are no duplicate fees to the Adviser; (iii) the compensation payable by the general partnership or joint venture to the advisers in each corporation that invests in such partnership or joint venture is substantially identical; (iv) each of the Corporation and the Affiliate has a right of first refusal to buy if the other party wishes to sell assets held in the partnership or joint venture; (v) the investment of each of the Corporation and its Affiliate is on substantially the same terms and conditions; and (vi) any prospectus of the Corporation in use or proposed to be used when such an investment has been made or is contemplated discloses the potential risk of impasse on partnership or joint venture decisions since neither the Corporation nor its Affiliate controls the partnership or joint venture, and the potential risk that, while the Corporation or its Affiliate may have the right to buy the assets from the partnership or joint venture, it may not have the resources to do so.

(c) The Corporation may invest in general partnerships or joint ventures with Affiliates other than publicly registered Affiliates of the Corporation only if all of the following conditions are met: (i) the investment is necessary to relieve the Adviser from any commitment to purchase the assets entered into in compliance with Section 10.1 prior to the closing of the offering period of the Corporation; (ii) there are no duplicate fees to the Adviser; (iii) the investment of each entity is on substantially the same terms and conditions; (iv) the Corporation has a right of first refusal to buy if the Adviser wishes to sell assets held in the partnership or joint venture; and (v) any prospectus of the Corporation in use or proposed to be used when such an investment has been made or is contemplated discloses the potential risk of impasse on partnership or joint venture decisions.

(d) The Corporation may be structured to conduct operations through separate single-purpose entities managed by the Adviser (multi-tier arrangements); provided that the terms of any such arrangements do not result in the circumvention of any of the requirements or prohibitions contained herein or under applicable federal or state securities laws. Any agreements regarding such arrangements shall accompany any prospectus of the Corporation, if such agreement is then available, and the terms of such agreement shall contain provisions assuring that all of the following restrictions apply: (i) there will be no duplication or increase in Organizational and Offering Expenses, fees payable to the Adviser, program expenses or other fees and costs; (ii) there will be no substantive alteration in the fiduciary and contractual relationship between the Adviser, the Corporation and the stockholders; and (iii) there will be no diminishment in the voting rights of the stockholders.

(e) Other than as specifically permitted in subsections (b), (c) and (d) above, the Corporation shall not invest in general partnerships or joint ventures with Affiliates.

(f) The Corporation may invest in general partnership interests of limited partnerships only if the Corporation, alone or together with any publicly registered Affiliate of the Corporation meeting the requirements of subsection (b) above, acquires a "controlling interest" as defined in subsection (a) above, the Adviser is not entitled to any duplicate fees, no additional compensation beyond that permitted under applicable law is paid to the Adviser, and the agreement of limited partnership or other applicable agreement complies with Articles IX and X.

Section 9.3 Other Goods or Services

(a) In addition to the services to be provided under the investment advisory agreement, the Corporation may accept goods or other services provided by the Adviser in connection with the operation of assets, provided that (i) the Adviser, as a fiduciary, determines such self-dealing arrangement is in the best interest of the Corporation; (ii) the terms pursuant to which all such goods or services are provided to the Corporation by the Adviser shall be embodied in a written contract, the material terms of which must be fully disclosed to the stockholders in the Corporation's prospectus; (iii) the contract may only be modified with approval of holders of a majority of the outstanding voting securities of the Corporation; and (iv) the contract shall contain a clause allowing termination without penalty on 60 days' notice. Without limitation of the foregoing, arrangements to provide such goods or other services must

meet all of the following criteria: (i) the Adviser must be independently engaged in the business of providing such goods or services to persons other than its Affiliates and at least 33% of the Adviser's associated gross revenues must come from persons other than its Affiliates; (ii) the compensation, price or fee charged for providing such goods or services must be comparable and competitive with the compensation, price or fee charged by persons other than the Adviser and its Affiliates in the same geographic location who provide comparable goods or services which could reasonably be made available to the Corporation; and (iii) except in extraordinary circumstances, the compensation and other material terms of the arrangement must be fully disclosed to the stockholders through written communication. Extraordinary circumstances are limited to instances when immediate action is required and the goods or services are not immediately available from persons other than the Adviser and its Affiliates.

(b) Notwithstanding the foregoing clause (a), if the Adviser is not engaged in the business to the extent required by such clause, the Adviser may provide to the Corporation other goods and services if all of the following additional conditions are met: (i) the Adviser can demonstrate the capacity and capability to provide such goods or services on a competitive basis; (ii) the goods or services are provided at the lesser of cost or the competitive rate charged by persons other than the Adviser and its Affiliates in the same geographic location who are in the business of providing comparable goods or services; (iii) the cost is limited to the reasonable necessary and actual expenses incurred by the Adviser on behalf of the Corporation in providing such goods or services, exclusive of expenses of the type which may not be reimbursed under applicable federal or state securities laws; and (iv) expenses are allocated in accordance with generally accepted accounting principles and are made subject to any special audit required by applicable federal and state securities laws.

ARTICLE X
CONFLICTS OF INTEREST

Section 10.1 Sales and Leases to Corporation. The Corporation shall not purchase or lease assets in which the Adviser or any Affiliate thereof has an interest unless all of the following conditions are met: (a) the transaction occurs at the formation of the Corporation and is fully disclosed to the stockholders in the prospectus or in a periodic report filed with the SEC or otherwise; and (b) the assets are sold or leased upon terms that are reasonable to the Corporation and at a price not to exceed the lesser of cost or fair market value as determined by an Independent Expert. Notwithstanding anything to the contrary in this Section 10.1, the Adviser may purchase assets in its own name (and assume loans in connection therewith) and temporarily hold title thereto, for the purposes of facilitating the acquisition of the assets, the borrowing of money, obtaining financing for the Corporation, or the completion of construction of the assets, provided that all of the following conditions are met: (i) the assets are purchased by the Corporation at a price no greater than the cost of the assets to the Adviser; (ii) all income generated by, and the expenses associated with, the assets so acquired shall be treated as belonging to the Corporation; and (iii) there are no other benefits arising out of such transaction to the Adviser apart from compensation otherwise permitted by the NASAA Omnibus Guidelines.

Section 10.2 Sales and Leases to the Adviser or Affiliates. Except as otherwise permitted under the 1940 Act, the Corporation shall not sell assets to the Adviser or any Affiliate thereof unless such sale is duly approved by the holders of shares of stock entitled to cast a majority of all the votes entitled to be cast on the matter. The Corporation shall not lease assets to the Adviser or any Affiliate thereof unless all of the following conditions are met: (a) the transaction is fully disclosed to the stockholders either in a periodic report filed with the SEC or otherwise and (b) the terms of the transaction are fair and reasonable to the Corporation.

Section 10.3 Loans. Except for the advancement of funds pursuant to Section 7.3, no loans, credit facilities, credit agreements or otherwise shall be made by the Corporation to the Adviser or any Affiliate thereof.

Section 10.4 Commissions on Financing, Refinancing or Reinvestment. The Corporation shall not pay, directly or indirectly, a commission or fee to the Adviser or any Affiliate thereof (except as otherwise specified in this Article X) in connection with the reinvestment of Cash Available for Distribution and available reserves or of the proceeds of the resale, exchange or refinancing of assets.

Section 10.5 Other Transactions. Except as otherwise permitted under the 1940 Act or by a determination of the staff of the SEC under the 1940 Act, the Corporation shall not engage in any other transaction with the Adviser or any Affiliate thereof unless (a) such transaction complies with the NASAA Omnibus Guidelines and all applicable law and (b) a majority of the directors (including a majority of the independent directors) not otherwise interested in such transaction approve such transaction as fair and reasonable to the Corporation and on terms and conditions not less favorable to the Corporation than those available from non-Affiliated third parties.

Section 10.6. Lending Practices. On financing made available to the Corporation by the Adviser, the Adviser may not receive interest in excess of the lesser of the Adviser's cost of funds or the amounts that would be charged by unrelated lending institutions on comparable loans for the same purpose. The Adviser shall not impose a prepayment charge or penalty in connection with such financing and the Adviser shall not receive points or other financing charges. The Adviser shall be prohibited from providing permanent financing for the Corporation. For purposes of this Section 10.6, "permanent financing" shall mean any financing with a term in excess of 12 months.

Section 10.7. Exchanges. The Corporation shall not acquire interests in any portfolio companies or other assets in exchange for Common Stock or any other ownership interest in the Corporation.

ARTICLE XI
STOCKHOLDERS

Section 11.1 Voting Rights of Stockholders. Subject to the provisions of any class or series of stock then outstanding and the mandatory provisions of any applicable laws or regulations, the stockholders may, upon the affirmative vote of stockholders entitled to cast a

majority (or such other percentage as required by Article VI hereof) of all the votes entitled to be cast on the matter, and without the necessity for concurrence by the Adviser: (a) amend the Charter (other than as otherwise expressly set forth herein); (b) remove the Adviser and elect a new investment adviser; or (c) approve or disapprove the sale of all or substantially all of the assets of the Corporation when such sale is to be made other than in the ordinary course of the Corporation's business. Without approval of stockholders entitled to cast of a majority of all the votes entitled to be cast on the matter, the Corporation shall not: (a) amend the Charter except for amendments that do not adversely affect the interests of the stockholders; (b) except as permitted by Section 8.3(b), permit the Adviser to voluntarily withdraw as the Adviser unless such withdrawal would not affect the tax status of the Corporation and would not materially adversely affect the stockholders; (c) appoint a new investment adviser; (d) sell all or substantially all of the assets of the Corporation when such sale is to be made other than in the ordinary course of the Corporation's business or as otherwise permitted by law; or (e) cause the merger or similar reorganization of the Corporation except as permitted by law. With respect to any shares owned by the Adviser, the Adviser may not vote or consent on matters submitted to the stockholders regarding the removal of the Adviser or regarding any transaction between the Corporation and the Adviser. In determining the existence of the requisite percentage of the Corporation's shares of stock entitled to vote on the matter and necessary to approve a matter on which the Adviser may not vote or consent pursuant to this Section 11.1, any shares of the Corporation's stock entitled to vote on the matter and owned by the Adviser shall not be included.

Section 11.2 Right of Inspection. Any stockholder and any designated representative thereof shall be permitted access to the records of the Corporation to which it is entitled under applicable law at all reasonable times, and may inspect and copy any of them for a reasonable charge. Inspection of the Corporation's books and records by the office or agency administering the securities laws of a jurisdiction shall be provided upon reasonable notice and during normal business hours. Stockholders shall have the right to access the Corporation's records pertaining to its stockholders as set forth in the Bylaws.

Section 11.3 Reports. The board of directors shall take reasonable steps to ensure that the Corporation shall cause to be prepared and mailed or delivered by any reasonable means, including electronic medium, to stockholders during each year the following reports of the Corporation (either included in a periodic report filed with the SEC or distributed in a separate report):

(a) *Quarterly Reports.* Within 60 days of the end of each quarter, a report containing the same financial information contained in the Corporation's Quarterly Report on Form 10-Q filed by the Corporation under the Securities Exchange Act of 1934, as amended (the "***1934 Act***").

(b) *Annual Report*. Within 120 days after the end of the Corporation's fiscal year, an annual report containing (i) a balance sheet as of the end of each fiscal year and statements of income, equity, and cash flow, for the year then ended, all of which shall be prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an opinion of an independent certified public accountant; (ii) a report of the activities of the Corporation during the period covered by the report; (iii) where forecasts have been provided to the Corporation's stockholders, a table comparing the forecasts previously provided with the actual results during the period covered by the report; and (iv) a report setting

forth distributions by the Corporation for the period covered thereby and separately identifying distributions from (1) cash flow from operations during the period; (2) cash flow from operations during a prior period which have been held as reserves; (3) proceeds from disposition of Corporation's assets; and (4) reserves from the gross proceeds.

(c) *Previous Reimbursement Reports.* The Adviser shall prepare or shall cause to be prepared a report, prepared in accordance with the American Institute of Certified Public Accountants United States Auditing Standards relating to special reports, and distributed to stockholders not less than annually, containing an itemized list of the costs reimbursed to the Adviser for the previous fiscal year. The special report shall at a minimum provide (i) a review of the time records of individual employees, the costs of whose services were reimbursed; and (ii) a review of the specific nature of the work performed by each such employee.

(d) *Proposed Reimbursement Reports.* The Adviser shall prepare or shall cause to be prepared a report containing an itemized estimate of all proposed expenses for which it shall receive reimbursements for the next fiscal year, together with a breakdown by year of such expenses reimbursed in each of the last five public programs formed by the Adviser.

(e) *Tax Information.* Within 75 days after the end of the Corporation's fiscal year, all information necessary for stockholders to prepare their federal income tax returns.

(f) If stock has been purchased on a deferred payment basis, on which there remains an unpaid balance during any period covered by any report required by subsections (a)—(b) above; then such report shall contain a detailed statement of the status of all deferred payments, actions taken by the Corporation in response to any defaults, and a discussion and analysis of the impact on capital requirements of the Corporation.

ARTICLE XII
ROLL-UP TRANSACTIONS

Section 12.1 Roll-Up Transactions. In connection with any proposed Roll-Up Transaction, an appraisal of all of the Corporation's assets shall be obtained from a competent Independent Expert. If the appraisal will be included in a prospectus used to offer the securities of a Roll-Up Entity, the appraisal shall be filed with the SEC and the states as an exhibit to the registration statement for the offering. The Corporation's assets shall be appraised on a consistent basis, and the appraisal shall be based on the evaluation of all relevant information and shall indicate the value of the assets as of a date immediately prior to the announcement of the proposed Roll-Up Transaction. The appraisal shall assume an orderly liquidation of the assets over a twelve-month period. The terms of the engagement of the Independent Expert shall clearly state that the engagement is for the benefit of the Corporation and the stockholders. A summary of the appraisal, indicating all material assumptions underlying the appraisal, shall be included in a report to stockholders in connection with a proposed Roll-Up Transaction. In connection with a proposed Roll-Up Transaction, the Person sponsoring the Roll-Up Transaction shall offer to holders of Common Stock who vote against the proposed Roll-Up Transaction the choice of:

(a) accepting the securities of a Roll-Up Entity offered in the proposed Roll-Up Transaction; or

(b) one of the following:

(i) remaining as holders of Common Stock and preserving their interests therein on the same terms and conditions as existed previously; or

(ii) receiving cash in an amount equal to their pro rata share of the appraised value of the net assets of the Corporation.

The Corporation is prohibited from participating in any proposed Roll-Up Transaction:

(a) that would result in the holders of Common Stock having voting rights in a Roll-Up Entity that are less than the rights provided for in Section 11.1 hereof;

(b) that includes provisions that would operate as a material impediment to, or frustration of, the accumulation of stock by any purchaser of the securities of the Roll-Up Entity (except to the minimum extent necessary to preserve the tax status of the Roll-Up Entity), or which would limit the ability of an investor to exercise the voting rights of its securities of the Roll-Up Entity on the basis of the stock held by that investor;

(c) in which investor's rights to access of records of the Roll-Up Entity will be less than those described in Section 11.2 hereof; or

(d) in which any of the costs of the Roll-Up Transaction would be borne by the Corporation if the Roll-Up Transaction is rejected by the holders of Common Stock.

ARTICLE XIII
DEFINITIONS

As used in the Charter, the following terms shall have the following meanings unless the context otherwise requires:

Acquisition Expenses. The term "***Acquisition Expenses***" shall mean any and all expenses incurred by the Corporation, the Adviser, or any Affiliate of either in connection with the initial purchase or acquisition of assets by the Corporation, whether or not acquired, including, without limitation, legal fees and expenses, travel and communication expenses, costs of appraisals, non-refundable option payments on assets not acquired, accounting fees and expenses and miscellaneous expenses relating to the purchase or acquisition of assets, whether or not acquired.

Acquisition Fee. The term "***Acquisition Fee***" shall mean any and all fees and commissions, exclusive of Acquisition Expenses, paid by any Person to any other Person (including any fees or commissions paid by or to any Affiliate of the Corporation or the Adviser) in connection with the initial purchase or acquisition of assets by the Corporation. Included in the computation of such fees or commissions shall be any commission, selection fee, supervision fee, financing fee, non-recurring management fee, or any fee of a similar nature, however designated.

Adviser. The term "***Adviser***" shall mean HMS Adviser LP, the Corporation's investment adviser, or any successor to HMS Adviser LP.

Affiliate or Affiliated. The term "***Affiliate***" or "***Affiliated***" shall mean, with respect to any Person, (i) any Person directly or indirectly owning, controlling or holding, with the power to vote, ten percent or more of the outstanding voting securities of such other Person; (ii) any Person ten percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held, with the power to vote, by such other Person; (iii) any Person directly or indirectly controlling, controlled by or under common control with such other Person; (iv) any executive officer, director, trustee or general partner of such other Person; and (v) any legal entity for which such Person acts as an executive officer, director, trustee or general partner.

Assessments. The term "***Assessments***" shall mean any additional amounts of capital which may be mandatorily required of, or paid voluntarily by, a stockholder beyond his or her subscription commitment excluding deferred payments.

Capital Contributions. The term "***Capital Contributions***" shall mean the total investment, including the original investment and amounts reinvested pursuant to a distribution reinvestment plan, in the Corporation by a stockholder or by all stockholders, as the case may be. Unless otherwise specified, Capital Contributions shall be deemed to include principal amounts to be received on account of deferred payments.

Cash Available for Distribution. The term "***Cash Available for Distribution***" shall mean Cash Flow plus cash funds available for distribution from the Corporation's reserves less amounts set aside for restoration or creation of reserves.

Cash Flow. The term "***Cash Flow***" shall mean the Corporation's cash funds provided from operations, without deduction for depreciation, but after deducting cash funds used to pay all other expenses, debt payments, capital improvements and replacements. Cash withdrawn from reserves is not Cash Flow.

Code. The term "***Code***" shall mean the Internal Revenue Code of 1986, as amended.

Controlling Person. For purposes of Section 8.7, the term "***Controlling Person***" means a person who performs the functions for the Adviser similar to those of an executive officer or a member of the board of directors, and any person who holds more than 10% of the Adviser's equity securities or who has the power to control the Adviser.

Front End Fees. The term "***Front End Fees***" shall mean fees and expenses paid by any party for any services rendered to organize the Corporation and to acquire assets for the Corporation, including Organizational and Offering Expenses, Acquisition Fees, Acquisition Expenses, and any other similar fees, however designated by the Sponsor.

Independent Expert. The term "***Independent Expert***" shall mean a Person with no material current or prior business or personal relationship with the Sponsor who is engaged to a substantial extent in the business of rendering opinions regarding the value of assets of the type held by the Corporation, and who is qualified to perform such work.

Investment in Program Assets. The term "***Investment in Program Assets***" shall mean the amount of Capital Contributions actually paid or allocated to the purchase or development of assets acquired by the Corporation (including working capital reserves allocable thereto, except that working capital reserves in excess of three percent (3%) shall not be included) and other cash payments such as interest and taxes, but excluding Front End Fees.

Organizational and Offering Expenses. The term "***Organizational and Offering Expenses***" shall mean any and all costs and expenses incurred by and to be paid from the assets of the Corporation in connection with the formation, qualification and registration of the Corporation, and the marketing and distribution of shares of stock, including, without limitation, total underwriting and brokerage discounts and commissions (including fees of the underwriters' attorneys), expenses for printing, engraving, amending registration statements or supplementing prospectuses, mailing and distributing costs, salaries of employees while engaged in sales activity, telephone and other telecommunications costs, all advertising and marketing expenses (including the costs related to investor and broker-dealer sales meetings), charges of transfer agents, registrars, directors, escrow holders, depositories and experts, and fees, expenses and taxes related to the filing, registration and qualification of the sale of shares of stock under federal and state laws, including taxes and fees and accountants' and attorneys' fees.

Person. The term "***Person***" shall mean an individual, corporation, partnership, estate, trust (including a trust qualified under Sections 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company or other entity and also includes a group as that term is used for purposes of Section 13(d)(3) of the 1934 Act.

Prospectus. The term "***Prospectus***" shall have the meaning given to that term by Section 2(10) of the 1933 Act.

Roll-Up Entity. The term "***Roll-Up Entity***" shall mean a partnership, trust, corporation or similar entity that would be created or would survive after the successful completion of a proposed Roll-Up Transaction.

Roll-Up Transaction. The term "***Roll-Up Transaction***" shall mean a transaction involving the acquisition, merger, conversion or consolidation either directly or indirectly of the Corporation and the issuance of securities of a Roll-Up Entity to the stockholders. Such term does not include:

(a) a transaction involving securities of the Roll-Up Entity that have been listed for at least twelve months on a national exchange or traded for at least twelve months through the National Association of Securities Dealers Automated Quotation- National Market System; or

(b) a transaction involving the conversion to another corporate form or to a trust or association form of only the Corporation, if, as a consequence of the transaction, there will be no significant adverse change in any of the following:

(i) voting rights of the holders of Common Stock;

(ii) the term of existence of the Corporation;

(iii) Sponsor or Adviser compensation; or

(iv) the Corporation's investment objectives.

Sponsor. The term "***Sponsor***" shall mean any Person which (i) is directly or indirectly instrumental in organizing, wholly or in part, the Corporation, (ii) will control, manage or participate in the management of the Corporation, and any Affiliate of any such Person, (iii) takes the initiative, directly or indirectly, in founding or organizing the Corporation, either alone or in conjunction with one or more other Persons, (iv) receives a material participation in the Corporation in connection with the founding or organizing of the business of the Corporation, in consideration of services or property, or both services and property, (v) has a substantial number of relationships and contacts with the Corporation, (vi) possesses significant rights to control assets, (vii) receives fees for providing services to the Corporation which are paid on a basis that is not customary in the industry or (viii) provides goods or services to the Corporation on a basis which was not negotiated at arm's-length with the Corporation. "***Sponsor***" does not include any Person whose only relationship with the Corporation is that of an independent manager of a portion of the Corporation's assets and whose only compensation is as such, or wholly independent third parties such as attorneys, accountants and underwriters whose only compensation is for professional services.

ARTICLE XIV
DURATION OF THE CORPORATION

Section 14.1 Duration. The Corporation shall continually perpetually unless terminated pursuant to the provisions contained herein or pursuant to any applicable provision of the MGCL.

ARTICLE XV
MISCELLANEOUS

Section 15.1 Provisions in Conflict with Law or Regulations.

(a) If and to the extent that any provision of the Charter or the Bylaws conflicts with any provision of the 1940 Act, the applicable provision of the 1940 Act shall control; provided, however, that such conflict shall not affect any of the remaining provisions of the Charter or the Bylaws or render invalid or improper any action taken or omitted prior to such determination.

(b) If any provision of the Charter or the Bylaws shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect such provision in any other jurisdiction or any other provision of the Charter or the Bylaws in any jurisdiction.

RECITALS CONTINUED:

THIRD: The amendment and restatement of the Charter of the Corporation as hereinabove set forth have been duly advised by the board of directors and approved by the stockholders of the Corporation as required by law.

FOURTH: The name and address of the Corporation's current resident agent and the current address of the principal office of the Corporation are as set forth in Article III of the foregoing amendment and restatement of the Charter.

FIFTH: The number of directors of the Corporation and the names of those currently in office are as set forth in Section 4.1 of Article IV of the foregoing amendment and restatement of the Charter.

SIXTH: The total number of shares of stock which the Corporation had authority to issue immediately prior to the foregoing amendment and restatement of the Charter was 150,000,000, consisting of 150,000,000 shares of Common Stock, $0.001 par value per share. The aggregate par value of all shares of stock having par value was $150,000.

SEVENTH: The total number of shares of stock which the Corporation has authority to issue after giving effect to the foregoing amendment and restatement of the Charter is 500,000,000, consisting of 450,000,000 shares of Common Stock, $0.001 par value per share, and 50,000,000 shares of Preferred Stock, $0.001 par value per share. The aggregate par value of all authorized shares of stock having par value is $500,000.

EIGHTH: The undersigned acknowledges these Articles of Amendment and Restatement to be the corporate act of the Corporation and as to all matters or facts required to be verified under oath, the undersigned acknowledges that, to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment and Restatement to be signed in its name and on its behalf by its Chief Executive Officer and attested to by its Chief Financial Officer and Secretary on May 31, 2012.

HMS INCOME FUND, INC.

By: /s/ Charles N. Hazen
Charles N. Hazen
Chief Executive Officer

Attest /s/ Ryan T. Sims
Ryan T. Sims
Chief Financial Officer and Secretary

HMS INCOME FUND, INC.

BYLAWS

ARTICLE I

OFFICES

Section 1. PRINCIPAL OFFICE. The principal office of the Corporation in the State of Maryland shall be located at such place as the Board of Directors may designate.

Section 2. ADDITIONAL OFFICES. The Corporation may have additional offices, including a principal executive office, at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 1. PLACE. All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be set in accordance with these Bylaws and stated in the notice of the meeting.

Section 2. ANNUAL MEETING. An annual meeting of stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on the date and at the time and place set by the Board of Directors, beginning in the year 2013.

Section 3. SPECIAL MEETINGS. The president, the chief executive officer, the chairman of the board or a majority of the Board of Directors may call a special meeting of the stockholders. Any such special meeting of stockholders shall be held on the date and at the time and place set by the president, the chief executive officer, the chairman of the board or the Board of Directors, whoever has called the meeting. A special meeting of stockholders shall also be called by the secretary of the Corporation to act on any matter that may properly be considered at a meeting of stockholders upon the written request of stockholders entitled to cast not less than ten percent of all the votes entitled to be cast on such matter at such meeting. The written request must state the purpose of such meeting and the matters proposed to be acted on at such meeting. Within ten days after receipt of such written request, either in person or by certified mail, the secretary of the Corporation shall provide all stockholders with written notice, either in person or by certified mail, of such meeting and the purpose of such meeting. Notwithstanding anything to the contrary herein, such meeting shall be held not less than 15 days nor more than 60 days after the secretary's delivery of such notice. Subject to the foregoing sentence, such meeting shall be held at the time and place specified in the stockholder request; provided, however, that if none is so specified, such meeting shall be held at a time and place convenient to the stockholders.

Section 4. NOTICE. Except as provided otherwise in Section 3 of this Article II, not less than ten nor more than 90 days before each meeting of stockholders, the secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting notice in writing or by electronic transmission stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, by mail, by presenting it to such stockholder personally, by leaving it at the stockholder's residence or usual place of business or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at the stockholder's address as it appears on the records of the Corporation, with postage thereon prepaid. If transmitted electronically, such notice shall be deemed to be given when transmitted to the stockholder by an electronic transmission to any address or number of the stockholder at which the stockholder receives electronic transmissions. The Corporation may give a single notice to all stockholders who share an address, which single notice shall be effective as to any stockholder at such address, unless such stockholder objects to receiving such single notice or revokes a prior consent to receiving such single notice. Failure to give notice of any meeting to one or more stockholders, or any irregularity in such notice, shall not affect the validity of any meeting fixed in accordance with this Article II or the validity of any proceedings at any such meeting.

Subject to Section 11(a) of this Article II, any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice. The Corporation may postpone or cancel a meeting of stockholders by making a public announcement (as defined in Section 11(c)(3) of this Article II) of such postponement or cancellation prior to the meeting. Notice of the date, time and place to which the meeting is postponed shall be given not less than ten days prior to such date and otherwise in the manner set forth in this Section 4.

Section 5. ORGANIZATION AND CONDUCT. Every meeting of stockholders shall be conducted by an individual appointed by the Board of Directors to be chairman of the meeting or, in the absence of such appointment or appointed individual, by the chairman of the board or, in the case of a vacancy in the office or absence of the chairman of the board, by one of the following officers present at the meeting in the following order: the vice chairman of the board, if there is one, the chief executive officer, the president, the vice presidents in their order of rank and seniority, the secretary or, in the absence of such officers, a chairman chosen by the stockholders by the vote of a majority of the votes cast by stockholders present in person or by proxy. The secretary or, in the secretary's absence, an assistant secretary or, in the absence of both the secretary and assistant secretaries, an individual appointed by the Board of Directors or, in the absence of such appointment, an individual appointed by the chairman of the meeting shall act as secretary. In the event that the secretary presides at a

meeting of the stockholders, an assistant secretary or, in the absence of all assistant secretaries, an individual appointed by the Board of Directors or the chairman of the meeting shall record the minutes of the meeting. The order of business and all other matters of procedure at any meeting of stockholders shall be determined by the chairman of the meeting. The chairman of the meeting may prescribe such rules, regulations and procedures and take such action as, in the discretion of the chairman and without any action by the stockholders, are appropriate for the proper conduct of the meeting, including, without limitation, (a) restricting admission to the time set for the commencement of the meeting; (b) limiting attendance at the meeting to stockholders of record of the Corporation, their duly authorized proxies and such other individuals as the chairman of the meeting may determine; (c) limiting participation at the meeting on any matter to stockholders of record of the Corporation entitled to vote on such matter, their duly authorized proxies and other such individuals as the chairman of the meeting may determine; (d) limiting the time allotted to questions or comments; (e) determining when and for how long the polls should be opened and when the polls should be closed; (f) maintaining order and security at the meeting; (g) removing any stockholder or any other individual who refuses to comply with meeting procedures, rules or guidelines as set forth by the chairman of the meeting; (h) concluding a meeting or recessing or adjourning the meeting to a later date and time and at a place announced at the meeting; and (i) complying with any state and local laws and regulations concerning safety and security. Unless otherwise determined by the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 6. QUORUM. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting on any matter shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation (the "***Charter***") for the vote necessary for the approval of any matter. If such quorum is not established at any meeting of the stockholders, the chairman of the meeting may adjourn the meeting *sine die* or from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

The stockholders present either in person or by proxy, at a meeting which has been duly called and at which a quorum has been established, may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough stockholders to leave fewer than would be required to establish a quorum.

Section 7. VOTING. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director. Each share may be voted for as many individuals as there are directors to be elected and for whose election the share is entitled to be voted. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the Charter. Unless otherwise provided by statute or by the Charter, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of stockholders. Voting on any question or in any election may be viva voce unless the chairman of the meeting shall order that voting be by ballot or otherwise.

Section 8. PROXIES. A holder of record of shares of stock of the Corporation may cast votes in person or by proxy executed by the stockholder or by the stockholder's duly authorized agent in any manner permitted by law. Such proxy or evidence of authorization of such proxy shall be filed with the secretary of the Corporation before or at the meeting. No proxy shall be valid more than eleven months after its date unless otherwise provided in the proxy.

Section 9. VOTING OF STOCK BY CERTAIN HOLDERS. Stock of the Corporation registered in the name of a corporation, partnership, trust, limited liability company or other entity, if entitled to be voted, may be voted by the president or a vice president, general partner, trustee or managing member thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant to a bylaw or a resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any trustee or other fiduciary may vote stock registered in the name of such person in the capacity of trustee or fiduciary, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date, the time after the record date within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board of Directors considers necessary or desirable. On receipt by the Corporation of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the holder of record of the specified stock in place of the stockholder who makes the certification.

Section 10. INSPECTORS. The Board of Directors or the chairman of the meeting may appoint, before or at the meeting, one or more inspectors for the meeting and any successor to the inspector. The inspectors, if any, shall (a) determine the number of shares of stock represented at the meeting, in person or by proxy, and the validity and effect of proxies, (b) receive and tabulate all votes, ballots or consents, (c) report such tabulation to the chairman of the meeting, (d) hear and determine all challenges and questions arising in connection with the

right to vote, and (e) do such acts as are proper to fairly conduct the election or vote. Each such report shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be prima facie evidence thereof.

Section 11. ADVANCE NOTICE OF STOCKHOLDER NOMINEES FOR DIRECTOR AND OTHER STOCKHOLDER PROPOSALS

(a) Annual Meetings of Stockholders.

(1) Nominations of individuals for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record both at the time of giving of notice by the stockholder as provided for in this Section 11(a) and at the time of the annual meeting, who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with this Section 11(a).

(2) For any nomination or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 11, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation and any such other business must otherwise be a proper matter for action by the stockholders. To be timely, a stockholder's notice shall set forth all information required under this Section 11 and shall be delivered to the secretary at the principal executive office of the Corporation not earlier than the 150th day nor later than 5:00 p.m., Eastern Time, on the 120th day prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(3) of this Article II) for the preceding year's annual meeting; provided, however, that in connection with the Corporation's first annual meeting or in the event that the date of the annual meeting is advanced or delayed by more than 30 days from the first anniversary of the date of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the 150th day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the 120th day prior to the date of such annual meeting, as originally convened, or the tenth day following the day on which public announcement of the date of such meeting is first made. The public announcement of a postponement or adjournment of an annual meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(3) Such stockholder's notice shall set forth:

(i) as to each individual whom the stockholder proposes to nominate for election or reelection as a director (each, a "***Proposed Nominee***"), all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director

in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), and the rules thereunder;

(ii) as to any other business that the stockholder proposes to bring before the meeting, a description of such business, the stockholder's reasons for proposing such business at the meeting and any material interest in such business of such stockholder or any Stockholder Associated Person (as defined below), individually or in the aggregate, including any anticipated benefit to the stockholder or the Stockholder Associated Person therefrom;

(iii) as to the stockholder giving the notice, any Proposed Nominee and any Stockholder Associated Person,

(A) the class, series and number of all shares of stock or other securities of the Corporation (collectively, the "***Company Securities***"), if any, which are owned (beneficially or of record) by such stockholder, Proposed Nominee or Stockholder Associated Person, the date on which each such Company Security was acquired and the investment intent of such acquisition and

(B) the nominee holder for, and number of, any Company Securities owned beneficially but not of record by such stockholder, Proposed Nominee or Stockholder Associated Person;

(iv) as to the stockholder giving the notice, any Stockholder Associated Person with an interest or ownership referred to in clauses (ii) or (iii) of this paragraph (3) of this Section 11(a) and any Proposed Nominee,

(A) the name and address of such stockholder, as they appear on the Corporation's stock ledger, and the current name and business address, if different, of each such Stockholder Associated Person and any Proposed Nominee and

(B) the investment strategy or objective, if any, of such stockholder and each such Stockholder Associated Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if any, provided to investors or potential investors in such stockholder and each such Stockholder Associated Person; and

(v) to the extent known by the stockholder giving the notice, the name and address of any other stockholder supporting the nominee for election or reelection as a director or the proposal of other business on the date of such stockholder's notice.

(4) Such stockholder's notice shall, with respect to any Proposed Nominee, be accompanied by a certificate executed by the Proposed Nominee (i) certifying that such Proposed Nominee (a) is not, and will not become a party to, any agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director that has not been disclosed to the Corporation and (b) will

serve as a director of the Corporation if elected; and (ii) attaching a completed Proposed Nominee questionnaire (which questionnaire shall be provided by the Corporation, upon request, to the stockholder providing the notice and shall include all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act and the rules thereunder, or would be required pursuant to the rules of any national securities exchange on which any securities of the Corporation are listed or over-the-counter market on which any securities of the Corporation are traded).

(5) Notwithstanding anything in this subsection (a) of this Section 11 to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased, and there is no public announcement of such action at least 130 days prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(3) of this Article II) for the preceding year's annual meeting, a stockholder's notice required by this Section 11(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive office of the Corporation not later than 5:00 p.m., Eastern Time, on the tenth day following the day on which such public announcement is first made by the Corporation.

(6) For purposes of this Section 11, "***Stockholder Associated Person***" of any stockholder shall mean (i) any person acting in concert with such stockholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depositary) and (iii) any person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such stockholder or such Stockholder Associated Person.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected only (i) by or at the direction of the Board of Directors or (ii) provided that the special meeting has been called in accordance with Section 3 of this Article II for the purpose of electing directors, by any stockholder of the Corporation who is a stockholder of record both at the time of giving of notice provided for in this Section 11 and at the time of the special meeting, who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the notice procedures set forth in this Section 11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more individuals to the Board of Directors, any such stockholder may nominate an individual or individuals (as the case may be) for election as a director as specified in the Corporation's notice of meeting, if the stockholder's notice, containing the information required by paragraph (a)(3) of this Section 11, is delivered to the secretary at the principal executive office of the Corporation not earlier than the 120th day prior to such special meeting and not later than 5:00 p.m., Eastern Time on the later of the 90th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The public announcement of a postponement or adjournment of a special meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(c) General.

(1) If information submitted pursuant to this Section 11 by any stockholder proposing a nominee for election as a director or any proposal for other business at a meeting of stockholders shall be inaccurate in any material respect, such information may be deemed not to have been provided in accordance with this Section 11. Any such stockholder shall notify the Corporation of any inaccuracy or change (within two business days of becoming aware of such inaccuracy or change) in any such information. Upon written request by the secretary or the Board of Directors, any such stockholder shall provide, within five business days of delivery of such request (or such other period as may be specified in such request), (i) written verification, satisfactory, in the discretion of the Board of Directors or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 11 and (ii) a written update of any information (including, if requested by the Corporation, written confirmation by such stockholder that it continues to intend to bring such nomination or other business proposal before the meeting) submitted by the stockholder pursuant to this Section 11 as of an earlier date. If a stockholder fails to provide such written verification or written update within such period, the information as to which written verification or a written update was requested may be deemed not to have been provided in accordance with this Section 11.

(2) Only such individuals who are nominated in accordance with this Section 11 shall be eligible for election by stockholders as directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with this Section 11. The chairman of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 11.

(3) For purposes of this Section 11, "***the date of the proxy statement***" shall have the same meaning as "the date of the company's proxy statement released to shareholders" as used in Rule 14a-8(e) promulgated under the Exchange Act, as interpreted by the Securities and Exchange Commission from time to time. "***Public announcement***" shall mean disclosure (i) in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, PR Newswire or other widely circulated news or wire service or (ii) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act or the Investment Company Act of 1940, as amended (the "***Investment Company Act***").

(4) Notwithstanding the foregoing provisions of this Section 11, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 11. Nothing in this Section 11 shall be deemed to affect any right of a stockholder to

request inclusion of a proposal in, or the right of the Corporation to omit a proposal from, the Corporation's proxy statement pursuant to Rule 14a-8 (or any successor provision) under the Exchange Act. Nothing in this Section 11 shall require disclosure of revocable proxies received by the stockholder or Stockholder Associated Person pursuant to a solicitation of proxies after the filing of an effective Schedule 14A by such stockholder or Stockholder Associated Person under Section 14(a) of the Exchange Act.

Section 12. STOCKHOLDER LIST. An alphabetical list of the names, addresses and telephone numbers of the stockholders, along with the number of shares of stock held by each of them (the "*Stockholder List*"), shall be maintained as part of the books and records of the Corporation and shall be available for inspection by any stockholder or the stockholder's designated agent at the home office of the Corporation upon the request of the stockholder. The Stockholder List shall be updated at least quarterly to reflect changes in the information contained therein. A copy of the Stockholder List shall be mailed to any stockholder so requesting within ten days of receipt by the Corporation of the request. The copy of the Stockholder List shall be printed in alphabetical order, on white paper, and in a readily readable type size (in no event smaller than ten-point type). The Corporation may impose a reasonable charge for expenses incurred in reproduction pursuant to the stockholder request. A stockholder may request a copy of the Stockholder List in connection with matters relating to stockholders' voting rights and the exercise of stockholder rights under federal proxy laws.

If the investment adviser of the Corporation (the "*Adviser*") neglects or refuses to exhibit, produce or mail a copy of the Stockholder List as requested, the Adviser shall be liable to any stockholder requesting the Stockholder List for the costs, including reasonable attorneys' fees, incurred by that stockholder for compelling the production of the Stockholder List, and for actual damages suffered by any stockholder by reason of such refusal or neglect. It shall be a defense that the actual purpose and reason for the requests for inspection or for a copy of the Stockholder List is to secure the Stockholder List or other information for the purpose of selling the Stockholder List or copies thereof, or of using the same for a commercial purpose other than in the interest of the applicant as a stockholder relative to the affairs of the Corporation. The Corporation may require the stockholder requesting the Stockholder List to represent that the Stockholder List is not requested for a commercial purpose unrelated to the stockholder's interest in the Corporation. The remedies provided hereunder to stockholders requesting copies of the Stockholder List are in addition to, and shall not in any way limit, other remedies available to stockholders under federal law or the laws of any state.

Section 13. CONTROL SHARE ACQUISITION ACT. Notwithstanding any other provision of the Charter or these Bylaws, Title 3, Subtitle 7 of the Maryland General Corporation Law, or any successor statute (the "***MGCL***"), shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

ARTICLE III

DIRECTORS

Section 1. GENERAL POWERS. The business and affairs of the Corporation shall be managed under the direction of its Board of Directors.

Section 2. NUMBER, TENURE AND RESIGNATION. At any regular meeting or at any special meeting called for that purpose, a majority of the entire Board of Directors may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than the minimum number required by the MGCL, nor more than 15, and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors. Any director of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chairman of the board or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation.

Section 3. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Board of Directors shall be held immediately after and at the same place as the annual meeting of stockholders, no notice other than this Bylaw being necessary. In the event such meeting is not so held, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors. The Board of Directors may provide, by resolution, the time and place for the holding of regular meetings of the Board of Directors without other notice than such resolution.

Section 4. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the chairman of the board, the chief executive officer, the president or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix any place as the place for holding any special meeting of the Board of Directors called by them. The Board of Directors may provide, by resolution, the time and place for the holding of special meetings of the Board of Directors without other notice than such resolution.

Section 5. NOTICE. Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, facsimile transmission, courier or United States mail to each director at his or her business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission shall be given at least 24 hours prior to the meeting. Notice by United States mail shall be given at least three days prior to the meeting. Notice by courier shall be given at least two days prior to the meeting. Telephone notice shall be deemed to be given when the director or his or her agent is personally given such notice in a telephone call to which the director or his or her agent is a party. Electronic mail notice shall be deemed to be given upon transmission of the message to the electronic mail address given to the Corporation by the director. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer-back indicating

receipt. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 6. QUORUM. A majority of the directors shall constitute a quorum for transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such directors is present at such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to applicable law, the Charter or these Bylaws, the vote of a majority or other percentage of a particular group of directors is required for action, a quorum must also include a majority or such other percentage of such group.

The directors present at a meeting which has been duly called and at which a quorum has been established may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough directors to leave fewer than required to establish a quorum.

Section 7. VOTING. The action of a majority of the directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws. If enough directors have withdrawn from a meeting to leave fewer than required to establish a quorum but the meeting is not adjourned, the action of the majority of that number of directors necessary to constitute a quorum at such meeting shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws.

Section 8. ORGANIZATION. At each meeting of the Board of Directors, the chairman of the board or, in the absence of the chairman, the vice chairman of the board, if any, shall act as chairman of the meeting. In the absence of both the chairman and vice chairman of the board, the chief executive officer or, in the absence of the chief executive officer, the president or, in the absence of the president, a director chosen by a majority of the directors present shall act as chairman of the meeting. The secretary or, in his or her absence, an assistant secretary of the Corporation or, in the absence of the secretary and all assistant secretaries, an individual appointed by the chairman of the meeting shall act as secretary of the meeting.

Section 9. TELEPHONE MEETINGS. Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time; provided, however, that this Section 9 does not apply to any action of the directors pursuant to any provision of the Investment Company Act applicable to the Corporation that requires the vote of the directors to be cast in person at a meeting. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 10. CONSENT BY DIRECTORS WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each director and is filed with the minutes of proceedings of the Board of Directors; provided, however, that this Section 10 does not apply to any action of the directors pursuant to any provision of the Investment Company Act applicable to the Corporation that requires the vote of the directors to be cast in person at a meeting.

Section 11. VACANCIES. If for any reason any or all of the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder. Until such time as the Corporation becomes subject to Section 3-804(c) of the MGCL, any vacancy on the Board of Directors for any cause other than an increase in the number of directors may be filled by a majority of the remaining directors, even if such majority is less than a quorum; any vacancy in the number of directors created by an increase in the number of directors may be filled by a majority vote of the entire Board of Directors; and any individual so elected as director shall serve until the next annual meeting of stockholders and until his or her successor is elected and qualifies. At such time as the Corporation becomes subject to Section 3-804(c) of the MGCL and except as may be provided by the Board of Directors in setting the terms of any class or series of preferred stock, any vacancy on the Board of Directors may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum, and any director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which the vacancy occurred and until a successor is elected and qualifies.

Section 12. COMPENSATION. Directors shall not receive any stated salary for their services as directors but, by resolution of the Board of Directors, may receive compensation per year and/or per meeting and/or per visit to real property or other facilities owned or leased by the Corporation and for any service or activity they performed or engaged in as directors. Directors may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Board of Directors or of any committee thereof and for their expenses, if any, in connection with each property visit and any other service or activity they perform or engage in as directors; but nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 13. RELIANCE. Each director and officer of the Corporation shall, in the performance of his or her duties with respect to the Corporation, be entitled to rely on any information, opinion, report or statement, including any financial statement or other financial data, prepared or presented by an officer or employee of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented, by a lawyer, certified public accountant or other person, as to a matter which the director or officer reasonably believes to be within the person's professional or expert competence, or, with respect to a director, by a committee of the Board of Directors on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

Section 14. CERTAIN RIGHTS OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS. A director, officer, employee or agent shall have no responsibility to devote his or her full time to the affairs of the Corporation. Any director, officer, employee or agent, in his or her personal capacity or in a capacity as an affiliate, employee, or agent of any other person, or otherwise, may have business interests and engage in business activities similar to, in addition to or in competition with those of or relating to the Corporation.

Section 15. RATIFICATION. The Board of Directors or the stockholders may ratify and make binding on the Corporation any action or inaction by the Corporation or its officers to the extent that the Board of Directors or the stockholders could have originally authorized the matter. Moreover, any action or inaction questioned in any stockholders' derivative proceeding or any other proceeding on the ground of lack of authority, defective or irregular execution, adverse interest of a director, officer or stockholder, non-disclosure, miscomputation, the application of improper principles or practices of accounting, or otherwise, may be ratified, before or after judgment, by the Board of Directors or by the stockholders, and if so ratified, shall have the same force and effect as if the questioned action or inaction had been originally duly authorized, and such ratification shall be binding upon the Corporation and its stockholders and shall constitute a bar to any claim or execution of any judgment in respect of such questioned action or inaction.

Section 16. EMERGENCY PROVISIONS. Notwithstanding any other provision in the Charter or these Bylaws, this Section 16 shall apply during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the Board of Directors under Article III of these Bylaws cannot readily be obtained (an "***Emergency***"). During any Emergency, unless otherwise provided by the Board of Directors, (a) a meeting of the Board of Directors or a committee thereof may be called by any director or officer by any means feasible under the circumstances; (b) notice of any meeting of the Board of Directors during such an Emergency may be given less than 24 hours prior to the meeting to as many directors and by such means as may be feasible at the time, including publication, television or radio; and (c) the number of directors necessary to constitute a quorum shall be one-third of the entire Board of Directors.

ARTICLE IV
COMMITTEES

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Board of Directors may appoint from among its members one or more committees, composed of one or more directors, to serve at the pleasure of the Board of Directors.

Section 2. POWERS. The Board of Directors may delegate to committees appointed under Section 1 of this Article any of the powers of the Board of Directors, except as prohibited by law.

Section 3. MEETINGS. Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Directors. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board of Directors may designate a chairman of any committee, and such chairman or, in the absence of a chairman, any two members of any committee (if there are at least two members of the committee) may fix the time and place of its meeting unless the Board shall otherwise provide. In the absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another director to act in the place of such absent member.

Section 4. TELEPHONE MEETINGS. Members of a committee of the Board of Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time; provided, however, that this Section 4 does not apply to any action of the committee pursuant to any provision of the Investment Company Act applicable to the Corporation that requires the vote of the committee to be cast in person at a meeting. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. CONSENT BY COMMITTEES WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of a committee of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each member of the committee and is filed with the minutes of proceedings of such committee; provided, however, that this Section 5 does not apply to any action of the committee pursuant to any provision of the Investment Company Act applicable to the Corporation that requires the vote of the committee to be cast in person at a meeting.

Section 6. VACANCIES. Subject to the provisions hereof, the Board of Directors shall have the power at any time to change the membership of any committee, to fill any vacancy, to designate an alternate member to replace any absent or disqualified member or to dissolve any such committee.

ARTICLE V
OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Corporation shall include a president, a secretary and a treasurer and may include a chairman of the board, a vice chairman of the board, a chief executive officer, one or more vice presidents, a chief operating officer, a chief financial officer, one or more assistant secretaries and one or more assistant treasurers. In addition, the Board of Directors may from time to time elect such other officers with such powers and duties as it shall deem necessary or desirable. The officers of the Corporation shall be elected annually by the Board of Directors, except that the chief executive officer or president may from time to time appoint one or more vice presidents, assistant secretaries and assistant treasurers or other officers. Each officer shall serve until his or her

successor is elected and qualifies or until his or her death, or his or her resignation or removal in the manner hereinafter provided. Any two or more offices except president and vice president may be held by the same person. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Corporation may be removed, with or without cause, by the Board of Directors if in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chairman of the board, the chief executive officer, the president or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 4. CHAIRMAN OF THE BOARD. The Board of Directors may designate from among its members a chairman of the board, who shall not, solely by reason of these Bylaws, be an officer of the Corporation. The Board of Directors may designate the chairman of the board as an executive or non-executive chairman. The chairman of the board shall preside over the meetings of the Board of Directors. The chairman of the board shall perform such other duties as may be assigned to him or her by these Bylaws or the Board of Directors.

Section 5. CHIEF EXECUTIVE OFFICER. The Board of Directors may designate a chief executive officer. In the absence of such designation, the chairman of the board shall be the chief executive officer of the Corporation. The chief executive officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of chief executive officer and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. CHIEF OPERATING OFFICER. The Board of Directors may designate a chief operating officer. The chief operating officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 7. CHIEF FINANCIAL OFFICER. The Board of Directors may designate a chief financial officer. The chief financial officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 8. PRESIDENT. In the absence of a chief executive officer, the president shall in general supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a chief operating officer by the Board of Directors, the president shall be the chief operating officer. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

Section 9. VICE PRESIDENTS. In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned to such vice president by the chief executive officer, the president or the Board of Directors. The Board of Directors may designate one or more vice presidents as executive vice president, senior vice president, or vice president for particular areas of responsibility.

Section 10. SECRETARY. The secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the post office address of each stockholder which shall be furnished to the secretary by such stockholder; (e) have general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors.

Section 11. TREASURER. The treasurer shall have the custody of the funds and securities of the Corporation, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors and in general shall perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors. In the absence of a designation of a chief financial officer by the Board of Directors, the treasurer shall be the chief financial officer of the Corporation.

The treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so require, an account of all his or her transactions as treasurer and of the financial condition of the Corporation.

Section 12. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the chief executive officer, the president or the Board of Directors.

Section 13. COMPENSATION. The compensation of the officers shall be fixed from time to time by or under the authority of the Board of Directors and no officer shall be prevented from receiving such compensation by reason of the fact that he or she is also a director.

ARTICLE VI

CONTRACTS, CHECKS AND DEPOSITS

Section 1. CONTRACTS. The Board of Directors may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document shall be valid and binding upon the Corporation when duly authorized or ratified by action of the Board of Directors and executed by an authorized person.

Section 2. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 3. DEPOSITS. All funds of the Corporation not otherwise employed shall be deposited or invested from time to time to the credit of the Corporation as the Board of Directors, the chief executive officer, the president, the chief financial officer or any other officer designated by the Board of Directors may determine.

ARTICLE VII

STOCK

Section 1. CERTIFICATES. Except as may otherwise be provided by the Board of Directors, stockholders of the Corporation are not entitled to certificates representing the shares of stock held by them. In the event that the Corporation issues shares of stock represented by certificates, such certificates shall be in such form as prescribed by the Board of Directors or a duly authorized officer, shall contain the statements and information required by the MGCL and shall be signed by the officers of the Corporation in the manner permitted by the MGCL. In the event that the Corporation issues shares of stock without certificates, to the extent then required by the MGCL, the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates. There shall be no differences in the rights and obligations of stockholders based on whether or not their shares are represented by certificates.

Section 2. TRANSFERS. All transfers of shares of stock shall be made on the books of the Corporation, by the holder of the shares, in person or by his or her attorney, in such manner as the Board of Directors or any officer of the Corporation may prescribe and, if such shares are certificated, upon surrender of certificates duly endorsed. The issuance of a new certificate upon the transfer of certificated shares is subject to the determination of the Board of Directors that such shares shall no longer be represented by certificates. Upon the transfer of any uncertificated shares, to the extent then required by the MGCL, the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class or series of stock will be subject in all respects to the Charter and all of the terms and conditions contained therein.

Section 3. REPLACEMENT CERTIFICATE. Any officer of the Corporation may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, destroyed, stolen or mutilated, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, destroyed, stolen or mutilated; provided, however, if such shares have ceased to be certificated, no new certificate shall be issued unless requested in writing by such stockholder and the Board of Directors has determined that such certificates may be issued. Unless otherwise determined by an officer of the Corporation, the owner of such lost, destroyed, stolen or mutilated certificate or certificates, or his or her legal representative, shall be required, as a condition precedent to the issuance of a new certificate or certificates, to give the Corporation a bond in such sums as it may direct as indemnity against any claim that may be made against the Corporation.

Section 4. FIXING OF RECORD DATE. The Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of stockholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

When a record date for the determination of stockholders entitled to notice of and to vote at any meeting of stockholders has been set as provided in this section, such record date shall continue to apply to the meeting if adjourned or postponed, except if the meeting is adjourned or postponed to a date more than 120 days after the record date originally fixed for the meeting, in which case a new record date for such meeting may be determined as set forth herein.

Section 5. STOCK LEDGER. The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate stock ledger containing the name and address of each stockholder and the number of shares of each class held by such stockholder.

Section 6. FRACTIONAL STOCK; ISSUANCE OF UNITS. The Board of Directors may authorize the Corporation to issue fractional stock or authorize the issuance of scrip, all on such terms and under such conditions as it may determine. Notwithstanding any other provision of the Charter or these Bylaws, the Board of Directors may issue units consisting of different securities of the Corporation. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Corporation, except that the Board of Directors may provide that for a specified period securities of the Corporation issued in such unit may be transferred on the books of the Corporation only in such unit.

ARTICLE VIII
ACCOUNTING YEAR

The Board of Directors shall have the power, from time to time, to fix the fiscal year of the Corporation by a duly adopted resolution.

ARTICLE IX

DISTRIBUTIONS

Section 1. AUTHORIZATION. Dividends and other distributions upon the stock of the Corporation may be authorized by the Board of Directors and declared by the Corporation, subject to the provisions of law and the Charter. Dividends and other distributions may be paid in cash, property or stock of the Corporation, subject to the provisions of law and the Charter.

Section 2. CONTINGENCIES. Before payment of any dividends or other distributions, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board of Directors may from time to time, in its absolute discretion, think proper as a reserve fund for contingencies, for equalizing dividends, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine, and the Board of Directors may modify or abolish any such reserve.

ARTICLE X

INVESTMENT POLICY

Subject to the provisions of the Charter, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole discretion.

ARTICLE XI

SEAL

Section 1. SEAL. The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall contain the name of the Corporation and the year of its incorporation and the words “Incorporated Maryland.” The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. AFFIXING SEAL. Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word “(SEAL)” adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

ARTICLE XII

WAIVER OF NOTICE

Whenever any notice of a meeting is required to be given pursuant to the Charter or these Bylaws or pursuant to applicable law, a waiver thereof in writing or by electronic transmission, given by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice of such meeting, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

ARTICLE XIII

AMENDMENT OF BYLAWS

The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws.

HMS INCOME FUND, INC.
DISTRIBUTION REINVESTMENT PLAN

As of May 31, 2012

HMS Income Fund, Inc., a Maryland Corporation (the "*Company*"), has adopted the following Distribution Reinvestment Plan (the "*DRP*"). Capitalized terms shall have the same meaning as set forth in the Company's Charter (the "*Articles*") unless otherwise defined herein.

1. *Distribution Reinvestment*. As an agent for the stockholders of the Company ("*Stockholders*") who purchase shares of the Company's common stock (the "*Common Stock*") in connection with the Company's continuous offering (the "*Offering*") pursuant to its registration statement on Form N-2 (file no. 333-178548) (the "*Registration Statement*") or any future offering of Common Stock, and who elect to participate in the DRP (the "*Participants*"), the Company will apply all cash distributions, other than Designated Special Distributions (as defined below), ("*Distributions*"), including Distributions paid with respect to any full or fractional shares of Common Stock acquired under the DRP, to the purchase of the shares of Common Stock for such Participants directly, if permitted under state securities laws and, if not, through the Dealer Manager or Soliciting Dealers registered in the Participant's state of residence. As used in the DRP, the term "Designated Special Distributions" shall mean those cash or other distributions designated as Designated Special Distributions by the Board.

2. *Authorization.* Subject to the Board's discretion and applicable legal restrictions, the Company intends to authorize and declare distributions quarterly and pay distributions on a monthly basis or on such other date or dates as may be fixed from time to time by the Board to Stockholders of record at the close of business on the record date for the distribution involved. During the Offering, shares of Common Stock pertaining to the DRP will be issued on the same date that the Company holds the first closing of the month ("*First Monthly Closing*") for the sale of shares of Common Stock in connection with the Offering. The number of shares of Common Stock to be issued to a Stockholder shall be determined by dividing the total dollar amount of the distribution payable to such Stockholder by the price, net of all sales load, that the shares of Common Stock are sold in the Offering on such closing date.

3. *Procedure for Participation.* Any Stockholder who owns Shares of Common Stock and who has received a prospectus, as contained in the Company's Registration Statement filed with the Securities and Exchange Commission (the "*Commission*"), may elect to become a Participant by completing and executing a subscription agreement, an enrollment form or any other appropriate authorization form as may be available from the Company from time to time. If the Company receives a Stockholder's properly completed subscription agreement or other appropriate authorization form within 10 days prior to the next Distribution date, the Stockholder's participation in the DRP will begin with the next Distribution payable after receipt of a Participant's subscription, enrollment or authorization. Otherwise, the Company reserves the right to commence the Stockholder's participation in the DRP beginning with the following Distribution payable. Shares of Common Stock will be purchased under the DRP on the date that Distributions are paid by the Company. Each Participant agrees that if, at any time prior to the listing of the shares of Common Stock on a national securities exchange he or she does not meet the minimum income and net worth standards established for making an investment in the Company or cannot make the other representations or warranties set forth in the subscription agreement or other applicable enrollment form, he or she will promptly so notify the Company in writing.

Participation in the DRP shall continue until such participation is terminated in writing by the Participant pursuant to Section 8 below. If the DRP transaction involves shares of Common Stock that are registered with the Commission in a future registration or there is a change to the purchase price to be paid for shares of Common Stock issued pursuant to the DRP, the Company shall make available to all Participants the prospectus as contained in the Company's Registration Statement filed with the Commission with respect to such future registration or provide public notification to all Participants of such change in the purchase price of the shares of Common Stock issued pursuant to the DRP. If, after a price change, a Participant does not desire to continue to participate in the DRP, he should exercise his right to terminate his participation pursuant to the provisions of Section 8 below.

4. *Purchase of Shares of Common Stock.* Participants will acquire DRP shares of Common Stock from the Company at a price equal to the price at which shares of Common Stock are sold in the Offering on the First Monthly Closing date minus the sales load until the Offering terminates and the Company elects to deregister with the Commission or the Board of the Company decides to modify or terminate the DRP for any other reason. In the event that the Offering is suspended or terminated, the reinvestment purchase price will be the net asset value per share. Participants in the DRP may also purchase fractional shares of Common Stock so that 100% of the Distributions will be used to acquire shares of Common Stock. However, a Participant will not be able to acquire shares of Common Stock pursuant to the DRP to the extent that any such purchase would cause such Participant to violate any provision in the Articles.

5. *Stock Certificates*. The ownership of the shares of Common Stock purchased through the DRP will be in book-entry form only.

6. *Reports.* Within 90 days after the end of the Company's fiscal year, the Company shall provide each Stockholder with an individualized report on his or her investment, including the purchase date(s), purchase price and number of shares of Common Stock owned, as well as the dates of Distributions and amounts of Distributions paid during the prior fiscal year. In addition, the Company shall provide to each Participant a confirmation at least once every calendar quarter showing the number of shares of Common Stock owned by such Participant at the beginning of the covered period, the amount of the Distributions paid in the covered period and the number of shares of Common Stock owned at the end of the covered period.

7. *Commissions*. The Company will not pay any selling commissions or Dealer Manager fees in connection with shares of Common Stock sold pursuant to the DRP.

8. *Termination by Participant.* A Participant may terminate participation in the DRP at any time, upon 10 days' written notice, without penalty by delivering to the Company a written notice of such termination. If the Company receives a Stockholder's properly executed authorization within 10 days prior to the next Distribution date, the Stockholder's participation in the DRP will be discontinued. Otherwise, the Company reserves the right to discontinue the Stockholder's participation in the DRP beginning with the following Distribution payable. Participants may send their written notice to HMS Income Fund, Inc. at P.O. Box 219010, Kansas City, MO 64121-9010 (or 430 W. 7th St., Kansas City, MO 64105 for overnight delivery). Prior to listing of the

shares of Common Stock on a national securities exchange, any transfer of shares of Common Stock by a Participant to a non-Participant will terminate participation in the DRP with respect to the transferred Common Stock. Upon termination of DRP participation, future Distributions, if any, will be distributed to the Stockholder in cash.

9. *Taxation of Distributions*. The reinvestment of Distributions in the DRP does not relieve Participants of any taxes which may be payable as a result of those Distributions and their reinvestment in shares of Common Stock pursuant to the terms of the DRP.

10. *Amendment or Termination of DRP by the Company.* The Board of the Company may by majority vote amend, suspend or terminate the DRP for any reason upon 10 days' notice to the Participants; provided, however, the Board may not amend the DRP to eliminate the right of a Participant to terminate participation in the DRP at least annually.

11. *Voting Rights*. Shares of Common Stock issued pursuant to the DRP will have the same voting rights as the shares of Common Stock issued pursuant to the Offering. Each Participant will receive any Corporation-related proxy solicitation materials and each Company report or other communication to Stockholders, and will vote any shares of Common Stock held by it under the DRP in accordance with the instructions set forth on proxies returned by Participants to the Company.

12. *Service Fee.* Any service fee or expenses incurred by the Company in connection with the administration of the DRP will be paid for by the Company.

13. *Liability of the Company.* The Company shall not be liable for any act done in good faith, or for any good faith omission to act, including, without limitation, any claims or liability: (a) arising out of failure to terminate a Participant's account upon such Participant's death prior to receipt of notice in writing of such death; and (b) with respect to the time and the prices at which shares of Common Stock are purchased or sold for Participant's account.

14. *Governing Law.* These terms and conditions shall be governed by the laws of the State of Texas.

INVESTMENT ADVISORY AND ADMINISTRATIVE SERVICES AGREEMENT BETWEEN HMS INCOME FUND, INC. AND HMS ADVISER LP

This Investment Advisory and Administrative Services Agreement (the "***Agreement***") is made as of the 31st day of May, 2012, by and between HMS INCOME FUND, INC., a Maryland corporation (the "***Company***"), and HMS ADVISER LP, a Texas limited partnership (the "***Adviser***").

WHEREAS, the Company is a newly organized non-diversified, closed-end management investment company that intends to elect to be treated as a business development company ("***BDC***") under the Investment Company Act of 1940, as amended (the "***Investment Company Act***");

WHEREAS, the Adviser is a newly organized investment adviser that is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the "***Advisers Act***"); and

WHEREAS, the Company desires to retain the Adviser to furnish investment advisory services to the Company and to provide for the administrative services necessary for the operation of the Company on the terms and subject to the conditions hereinafter set forth, and the Adviser wishes to be retained to provide such services.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the parties hereby agree as follows:

1. Duties of the Adviser.

(a) Retention of the Adviser. The Company hereby employs the Adviser to act as the investment adviser to the Company and to manage the investment and reinvestment of the assets of the Company, subject to the supervision of the board of directors of the Company (collectively, the "***Board***"), for the period and upon the terms herein set forth:

(i) in accordance with the investment objectives, policies and restrictions that are set forth in the Company's Registration Statement on Form N-2 (File No. 333-178548) filed with the Securities and Exchange Commission (the "***SEC***"), as amended from time to time (the "***Registration Statement***"); and

(ii) during the term of this Agreement in accordance with all other applicable federal and state laws, rules and regulations, and the Company's articles of incorporation and bylaws, in each case as amended from time to time.

(b) Responsibilities of the Adviser. Without limiting the generality of the foregoing, the Adviser shall, during the term and subject to the provisions of this Agreement, provide the following services to the Company (the "***Advisory Services***"):

(i) determine the composition and allocation of the investment portfolio of the Company, the nature and timing of any changes therein and the manner of implementing such changes;

(ii) identify, evaluate and negotiate the structure of the investments made by the Company;

(iii) execute and close the acquisition of, and monitor and service, the Company's investments;

(iv) determine the securities and other assets that the Company shall purchase, retain, or sell;

(v) perform due diligence on prospective investments and portfolio companies;

(vi) provide the Company with such other investment advisory, research and related services as the Company may, from time to time, reasonably request or require for the investment of its funds; and

(vii) to the extent permitted under the Investment Company Act and the Advisers Act, on the Company's behalf provide significant managerial assistance to those portfolio companies to which the Company is required as a BDC to provide such assistance under the Investment Company Act, including utilizing appropriate personnel of the Adviser to, among other things, monitor the operations of the Company's portfolio companies, participate in board and management meetings, consult with and advise officers of portfolio companies and provide other organizational and financial consultation.

(c) Power and Authority. To facilitate the Adviser's performance of these undertakings, but subject to the restrictions contained herein, the Company hereby delegates to the Adviser, and the Adviser hereby accepts, the power and authority on behalf of the Company to provide the Advisory Services enumerated herein to the fullest extent, including, without limitation, the power and authority to effectuate its investment decisions for the Company, including the execution and delivery of all documents relating to the Company's investments and the placing of orders for other purchase or sale transactions on behalf of the Company. In the event that the Company determines to procure debt financing or otherwise utilize leverage, the Adviser shall use commercially reasonable efforts to arrange for such financing on the Company's behalf, subject to the oversight and approval of the Board. If it is necessary for the Adviser to make investments on behalf of the Company through a special purpose vehicle or a tax blocker corporation, the Adviser shall have authority to create, or arrange for the creation of, such special purpose vehicle or tax blocker corporation and to make investments through such special purpose vehicle or tax blocker corporation in accordance with applicable law. The Company also grants to the Adviser power and authority to engage in all activities and transactions (any anything incidental thereto) that the Adviser deems, in its sole discretion, appropriate, necessary or advisable to perform the Advisory Services enumerated herein and to otherwise carry out its duties pursuant to this Agreement.

(d) Administrative Services. Subject to the supervision, direction and control of the Board, the provisions of the Company's articles of incorporation and bylaws, and applicable federal and state law, in addition to the Advisory Services, the Adviser shall perform, or cause to be performed by other persons, all administrative services required to be performed in connection with the proper conduct and operation of the business of the Company, including, but not limited to, legal, accounting, tax, insurance and investor relations services and other services described in Section 2(b) below ("***Administrative Services***").

(e) Acceptance of Employment. The Adviser hereby accepts employment as the investment adviser and administrator of the Company and agrees during the term hereof to render the services described herein for the compensation provided herein, subject to the limitations contained herein.

(f) Sub-Advisers. The Adviser is hereby authorized to enter into one or more sub-advisory agreements with other investment advisers (each, a "***Sub-Adviser***") pursuant to which the Adviser may obtain the services of the Sub-Adviser(s) to assist the Adviser in fulfilling its responsibilities hereunder. Specifically, but not by way of limitation, the Adviser may retain a Sub-Adviser to identify, evaluate, negotiate and structure prospective investments, perform, or cause to be performed, due diligence procedures and provide due diligence information to the Adviser, make investment and portfolio management recommendations for approval by the Adviser, monitor the Company's investment portfolio and provide certain ongoing administrative services.

(i) The Adviser and not the Company shall be responsible for any compensation for Advisory Services payable to any Sub-Adviser; provided, however, that the Adviser shall have the right to direct the Company to pay directly any Sub-Adviser the amounts due and payable to such Sub-Adviser from the fees and expenses payable to the Adviser under this Agreement.

(ii) Any sub-advisory agreement entered into by the Adviser shall be in accordance with the requirements of the Investment Company Act and the Advisers Act, including, without limitation, the requirements of the Investment Company Act relating to Board and Company stockholder approval thereunder, and other applicable federal and state law.

(iii) Any Sub-Adviser shall be subject to the same fiduciary duties imposed on the Adviser pursuant to this Agreement, the Investment Company Act and the Advisers Act, as well as other applicable federal and state law.

(g) Independent Contractor Status. The Adviser shall, for all purposes herein provided, be deemed to be an independent contractor and, except as expressly provided or authorized herein, shall have no authority to act for or represent the Company in any way or otherwise be deemed an agent of the Company. Nothing contained herein shall be deemed to create a partnership, joint venture or employer-employee relationship between the Company and the Adviser, the Company and any Sub-Adviser or the Adviser and any Sub-Adviser, and the Company and the Adviser shall for tax purposes treat the relationship created hereby as a principal-independent contractor relationship.

(h) Record Retention. Subject to review by and the overall control of the Board, the Adviser shall keep and preserve for the period required by the Investment Company Act and the Advisers Act any books and records relevant to the activities performed by the Adviser hereunder and shall specifically maintain all books and records with respect to the Company's portfolio transactions and shall render to the Board such periodic and special reports as the Board may reasonably request or as may be required under applicable federal and state law, and shall make such records available for inspection by the Board and its authorized agents, at any time and from time to time during normal business hours. The Adviser agrees that all records that it maintains for the Company are the property of the Company and shall surrender promptly to the Company any such records upon the Company's request and upon termination of this Agreement pursuant to Section 9. The Adviser shall have the right to retain copies, or originals where required by Rule 204-2 promulgated under the Advisers Act, of such records to the extent required by applicable law, subject to observance of its confidentiality obligations under this Agreement. The Adviser shall maintain records of the locations where books, accounts and records are maintained among the persons and entities providing services directly or indirectly to the Adviser or the Company.

The following provisions in this Section 1 shall apply for only so long as the shares of common stock of the Company ("Common Shares") are not listed on a national securities exchange.

(i) State Administrator. The Adviser shall, upon request by an official or agency administering the securities laws of a state, province, or commonwealth (a "***State Administrator***"), submit to such State Administrator the reports and statements required to be distributed to Company stockholders pursuant to this Agreement, the Registration Statement and applicable federal and state law.

(j) Fiduciary Duty. It is acknowledged that the Adviser shall have a fiduciary responsibility for the safekeeping and use of all funds and assets of the Company, whether or not in the Adviser's immediate possession or control. The Adviser shall not employ, or permit another to employ, such funds or assets in any manner except for the exclusive benefit of the Company. The Adviser shall not, by entry into an agreement with any stockholder of the Company or otherwise, contract away the fiduciary obligation owed to the Company and the Company's stockholders under common law.

2. Payment or Reimbursement of Costs and Expenses.

(a) Expenses of Providing Advisory Services. Subject to the limitations on expense reimbursement of the Adviser as set forth in the last sentence of this Section 2(a) and in Section 2(c), the Company, either directly or through reimbursement to the Adviser, shall bear all costs and expenses of its investment operations and its investment transactions, including, without limitation all third party fees and expenses incurred by the Adviser in connection with its provision of the Advisory Services to the Company hereunder. Notwithstanding the foregoing, the costs of all personnel of the Adviser, when and to the extent engaged in providing Advisory Services (but not Administrative Services) hereunder, and the compensation and routine overhead expenses of such personnel allocable to such Advisory Services, shall be provided and paid by the Adviser and shall not be paid separately or reimbursed by the Company.

(b) Organization and Offering Expenses; Administrative Expenses. Subject to the limitations on reimbursement of the Adviser as set forth in Sections 2(a), 2(d) and 2(e) hereof, and in addition to the compensation paid to the Adviser pursuant to Section 3, the Company, either directly or through reimbursement to the Adviser, shall bear all other costs and expenses of its organization, operations and administration. Without limiting the generality of the foregoing, the Company shall pay or reimburse to the Adviser all fees, expenses and costs incurred in connection with any registration, offer and sale of the Company's common stock (the "***Common Stock***") to the public, including (without limitation) registration fees, fees and expenses of qualifying the Common Stock for sale under applicable federal and state laws, attorney and accountant fees related to the registration and offering of the Common Stock, printing costs, mailing costs, salaries of employees while engaged in sales activity, charges of transfer agents and all other expenses deemed to be "organization and offering expenses" for purposes of Rule 2310(a)(12) of the Financial Industry Regulatory Authority (for purposes of this Agreement, such expenses, exclusive of commissions, the dealer

manager fee and any discounts, are hereinafter referred to as "***Organization and Offering Expenses***"). In addition, the Company shall pay or reimburse to the Adviser all costs and expenses related to the day-to-day administration and management of the Company not related to the Advisory Services ("***Administrative Expenses***"), including, without limitation the actual cost of the persons performing the functions of chief financial officer and chief compliance officer and other personnel engaged to provide such Administrative Services (including, without limitation, direct compensation costs including salaries, bonuses, benefits and other direct costs associated therewith) and related overhead costs allocated by the Adviser to the Company in a reasonable manner, without markup; amounts paid to third parties for Administrative Services; the cost of determining the value of the Company's investments and calculating the Company's net asset value, including the cost of any third-party valuation firms; the cost of effecting sales and repurchases of shares of the Company's common stock and other securities (except Organization and Offering Expenses); any exchange listing fees; federal, state and local taxes; independent directors' fees and expenses; costs of proxy statements; stockholders' reports and notices; costs of preparing government filings, including periodic and current reports with the SEC; fidelity bond, liability insurance and other insurance premiums; and direct costs such as printing, mailing, long distance telephone and staff costs associated with the Company's reporting and compliance obligations under the Investment Company Act and applicable federal and state securities laws, including compliance with the Sarbanes-Oxley Act; fees and expenses associated with accounting, independent audits and outside legal costs; and all other expenses incurred in connection with Administrative Services for the Company. For the avoidance of doubt, Administrative Expenses shall include personnel and related employment direct costs incurred by the Adviser or its Affiliates in providing professional services for the Company in-house, including legal services, tax services, internal audit services, technology-related services and services in connection with compliance with the Sarbanes-Oxley Act of 2002. In the event that any affiliate of the Adviser incurs such costs or expenses on behalf of the Company, the Company shall pay such affiliate to the same extent it would be obligated to pay the Adviser directly had the Adviser incurred and paid such cost or expense, and any such affiliate of the Adviser shall be an intended third party beneficiary of this Agreement for purposes of establishing such party's right to payment hereunder. Specifically, Hines Interest Limited Partnership and certain subsidiaries or affiliates thereof may incur, advance and/or pay such costs and expenses.

(c) Portfolio Company Compensation. In certain circumstances, the Adviser, any Sub-Adviser, or any of their respective affiliates, may receive compensation from a portfolio company in connection with the Company's investment in such portfolio company. Any compensation received by the Adviser, any Sub-Adviser, or any of their respective affiliates attributable to the Company's investment in any portfolio company in excess of any of the limitations in or exemptions granted from the Investment Company Act, any interpretation thereof by the staff of the SEC, or the conditions set forth in any exemptive relief granted to the Adviser, any Sub-Adviser, or the Company by the SEC shall be delivered promptly to the Company and the Company shall retain such excess compensation for the benefit of its stockholders.

(d) Reimbursement of Organization and Offering Expenses.

(i) Notwithstanding the foregoing, the Company shall not be liable, and shall not be required to reimburse the Adviser or any affiliate thereof, for or otherwise pay Organization and Offering Expenses to the extent that Organization and Offering Expenses, together with all prior Organization and Offering Expenses, exceed 1.5% of the aggregate gross proceeds from all offerings of the Company's securities (the "***Offering Proceeds***"). More specifically, the Company shall be obligated to reimburse the Adviser for all current and past Organization and Offering Expenses paid by the Adviser and not already reimbursed by the Company (the "***Reimbursable O&O Expenses***") to the extent that the Reimbursable O&O Expenses, together with all past Organization and Offering Expenses for which the Adviser has received reimbursement, do not exceed an amount equal to 1.5% of the Offering Proceeds. The Adviser agrees that it will not seek reimbursement from the Company for Organization and Offering Expenses in excess of 1.5% of all Offering Proceeds.

(ii) The Adviser, by written instruction to the Company, shall have the right to elect to waive or defer all or a portion of the reimbursement of the Reimbursable O&O Expenses that would otherwise be payable to it.

(iii) No later than ten (10) business days following the beginning of each month, the Adviser shall notify the Company in writing if it is electing to waive a portion or all of the required reimbursement of the Reimbursable O&O Expenses that would otherwise be payable to it.

(iv) No later than ten (10) business days following the beginning of each month, the Adviser shall prepare a reasonably detailed statement documenting the Reimbursable O&O Expenses incurred during the immediately preceding month and the calculation of the reimbursement thereof and shall deliver such statement to

the Company prior to full reimbursement. Such statement shall also include instructions from the Adviser with respect to its election to defer any portion of such reimbursement. Any portion of a reimbursement of the Reimbursable O&O Expenses otherwise payable to the Adviser and not paid to the Adviser with respect to any month pursuant to a deferral election made by the Adviser under this paragraph will be so deferred without interest and may be paid on any specified later date as the Adviser may determine. If the Adviser so determines to have such deferred reimbursement paid on such specified date, it shall provide the Company with written notice of such determination at least thirty (30) days, but not more than sixty (60) days, prior to such specified date.

(v) Any such reimbursement which the Adviser has not elected to waive or defer shall be made in cash within thirty (30) calendar days following the Adviser's delivery of such statement to the Company.

The following provisions in this Section 2(e) shall apply for only so long as the Common Shares of the Company are not listed on a national securities exchange.

(e) Limitations on Reimbursement of Adviser Costs. The Adviser may be reimbursed for the cost of Administrative Services performed by it on behalf of the Company; provided, however, the reimbursement shall be an amount equal to the lower of the Adviser's actual cost or the amount the Company would be required to pay third parties for the provision of comparable Administrative Services in the same geographic location; and provided, further, that such costs are reasonably allocated to the Company on the basis of assets, revenues, time records or other method conforming with generally accepted accounting principles. No reimbursement shall be permitted for services for which the Adviser is entitled to compensation by way of a separate fee. The Company may also agree to reimburse the Adviser under the Agreement whereby the Adviser shall provide certain Administrative Services for the Company, for the salaries, rent, fringe benefits, travel expenses and other administrative items incurred or allocated to persons serving in the capacities of chief financial officer and chief compliance officer of the Company provided such reimbursement is approved annually by the independent directors of the Board.

(f) Previous Reimbursement Reports. The Adviser shall prepare or shall cause to be prepared a report, prepared in accordance with the American Institute of Certified Public Accountants United States Auditing Standards relating to special reports, and distributed to stockholders not less than annually, containing an itemized list of the costs reimbursed to the Adviser pursuant to Section 2(e) for the previous fiscal year. The special report shall at a minimum provide:

(A) A review of the time records of individual employees, the costs of whose services were reimbursed; and

(B) A review of the specific nature of the work performed by each such employee.

(g) Proposed Reimbursement Reports. The Adviser shall prepare or shall cause to be prepared a report containing an itemized estimate of all proposed expenses for which it shall receive reimbursements pursuant to Section 2(e) of this Agreement for the next fiscal year, together with a breakdown by year of such expenses reimbursed in each of the last five public programs formed by the Adviser.

3. Compensation of the Adviser. The Company agrees to pay, and the Adviser agrees to accept, as compensation for the services provided by the Adviser hereunder, a base management fee ("***Base Management Fee***") and an incentive fee ("***Incentive Fee***") as hereinafter set forth. The Adviser may, in its sole discretion, agree to temporarily or permanently waive, defer, or reduce, in whole or in part, the Base Management Fee and/or the Incentive Fee. The fees payable to the Adviser as set forth in this Agreement shall be calculated using a detailed calculation policy and procedures approved by the Adviser and the Board, including a majority of the independent directors, and shall be consistent with the calculation of such fees as set forth in this Section. See Appendix A for examples of how these fees are calculated.

(a) Base Management Fee. The Base Management Fee shall be calculated at an annual rate of 2.0% of the Company's average gross assets. The Base Management Fee shall be payable quarterly in arrears, and shall be calculated based on the average value of the Company's gross assets at the end of the two most recently completed calendar quarters. The determination of gross assets will reflect changes in the fair market value of portfolio investments reflecting both realized and unrealized appreciation and depreciation. All or any part of the Base Management Fee not taken as to any quarter shall be deferred without interest and may be taken in such other quarter as

the Adviser shall determine, unless the Adviser expressly and in writing delivered to the Company permanently waives receipt of such Base Management Fee, in which event the Company shall forever be relieved on the obligation to pay such Base Management Fee for such quarter. The Base Management Fee for any partial month or quarter shall be appropriately pro rated.

(b) Incentive Fee. The Incentive Fee shall consist of two parts: (1) a subordinated incentive fee on income and (2) an incentive fee on capital gains. Each part of the incentive fee is outlined below.

(i) The first part of the Incentive Fee, referred to as the subordinated incentive fee on income, will be calculated and payable quarterly in arrears based on the Company's pre-incentive fee net investment income for the immediately preceding quarter. The payment of the subordinated incentive fee on income will be subject to pre-incentive fee net investment income for the previous quarter, expressed as a quarterly rate of return on adjusted capital at the beginning of the most recently completed calendar quarter, exceeding 1.875% (7.5% annualized), subject to a "catch up" feature (as described below).

For this purpose, pre-incentive fee net investment income means interest income, dividend income and any other income (including any other fees, such as commitment, origination, structuring, diligence and consulting fees or other fees that the Company receives from portfolio companies) accrued during the calendar quarter, minus the Company's operating expenses for the quarter (including the Base Management Fee, Administrative Services expenses and the expenses payable under any other administration or similar agreement and any interest expense and dividends paid on any issued and outstanding preferred stock, but excluding the incentive fee). Pre-incentive fee net investment income includes, in the case of investments with a deferred interest feature (such as original issue discount debt instruments with payment-in-kind interest and zero coupon securities), accrued income that the Company has not yet received in cash. Pre-incentive fee net investment income does not include any realized capital gains, realized capital losses or unrealized capital appreciation or depreciation. For purposes of this fee, adjusted capital means cumulative gross proceeds generated from sales of the Company's common stock (including proceeds from the Company's distribution reinvestment plan) reduced for non-liquidating distributions, other than distributions of profits, paid to the Company's stockholders and amounts paid for share repurchases pursuant to the Company's share repurchase program.

The calculation of the subordinated incentive fee on income for each quarter is as follows:

- No subordinated incentive fee on income shall be payable to the Adviser in any calendar quarter in which the Company's pre-incentive fee net investment income does not exceed the hurdle rate of 1.875% (or 7.5% annualized) on adjusted capital;
- 100% of the Company's pre-incentive fee net investment income, if any, that exceeds the hurdle rate but is less than or equal to 2.34375% in any calendar quarter (9.375% annualized) shall be payable to the Adviser. This portion of the subordinated incentive fee on income is referred to as the "catch up" and is intended to provide the Adviser with an incentive fee of 20.0% on all of the Company's pre-incentive fee net investment income as if the hurdle rate did not apply when the pre-incentive fee net investment income exceeds 2.34375% (9.375% annualized) in any calendar quarter; and
- For any quarter in which the Company's pre-incentive fee net investment income exceeds 2.34375% (9.375% annualized), the subordinated incentive fee on income shall equal 20.0% of the amount of the Company's pre-incentive fee net investment income, as the hurdle rate and catch-up will have been achieved.

(ii) The second part of the Incentive Fee, referred to as the incentive fee on capital gains, shall be an incentive fee on realized capital gains earned on liquidated investments from the portfolio of the Company and shall be determined and payable in arrears as of the end of each

calendar year (or upon termination of the Agreement). This fee shall equal (a) 20.0% of the Company's incentive fee capital gains, which shall equal the Company's realized capital gains on a cumulative basis from inception, calculated as of the end of each calendar year, computed net of all realized capital losses and unrealized capital depreciation on a cumulative basis, less (b) the aggregate amount of any previously paid capital gain incentive fees.

4. Covenants of the Adviser.

(a) Adviser Status. The Adviser represents that it is registered as an investment adviser under the Advisers Act and covenants that, once obtained, it will maintain such registration until the expiration or earlier termination of this Agreement. The Adviser agrees that its activities will at all times be in compliance in all material respects with all applicable federal and state laws governing its operations and investments. The Adviser agrees to observe and comply with applicable provisions of the code of ethics adopted by the Company pursuant to Rule 17j-1 under the Investment Company Act, as such code of ethics may be amended from time to time.

The following provisions in this Section 4 shall apply for only so long as the Common Shares of the Company are not listed on a national securities exchange

(b) Reports to Stockholders. The Adviser shall prepare or shall cause to be prepared and distributed to stockholders during each year the following reports of the Company (either included in a periodic report filed with the SEC or distributed in a separate report):

(i) Quarterly Reports. Within 60 days of the end of each quarter, a report containing the same financial information contained in the Company's Quarterly Report on Form 10-Q filed by the Company under the Securities Exchange Act of 1934, as amended.

(ii) Annual Report. Within 120 days after the end of the Company's fiscal year, an Annual Report on Form 10-K containing:

(A) A balance sheet as of the end of each fiscal year and statements of income, equity, and cash flow, for the year then ended, all of which shall be prepared in accordance with generally accepted accounting principals and accompanied by an auditor's report containing an opinion of an independent certified public accountant;

(B) A report of the activities of the Company during the period covered by the report;

(C) Where forecasts have been provided to the Company's stockholders, a table comparing the forecasts previously provided with the actual results during the period covered by the report; and

(D) A report setting forth distributions by the Company for the period covered thereby and separately identifying distributions from (i) cash flow from operations during the period; (ii) cash flow from operations during a prior period which have been held as reserves; and (iii) proceeds from disposition of Company assets.

(iii) Federal Income Tax Information. Within 75 days after the end of the Company's fiscal year, all information necessary for stockholders to prepare their federal income tax returns.

(c) Reports to State Administrators. The Adviser shall, upon written request of any State Administrator, submit any of the reports and statements to be prepared and distributed by it pursuant to this Section 4 to such State Administrator.

(d) Reserves. In performing its duties hereunder, the Adviser shall cause the Company to provide for adequate reserves for normal replacements and contingencies (but not for payment of fees payable to the Adviser hereunder) by causing the Company to retain a reasonable percentage of proceeds from offerings and revenues.

(e) Recommendations Regarding Reviews. From time to time and not less than quarterly, the Adviser must review the Company's accounts to determine whether cash distributions are appropriate. The Company may, subject to authorization by the Board, distribute pro rata to the stockholders funds received by the Company which the Adviser deems unnecessary to retain in the Company.

(f) Temporary Investments. The Adviser shall, in its sole discretion, temporarily place proceeds from offerings by the Company into short term, highly liquid investments which, in its reasonable judgment, afford appropriate safety of principal during such time as it is determining the composition and allocation of the portfolio of the Company and the nature, timing and implementation of any changes thereto pursuant to Section 1(b); provided however, that the Adviser shall be under no fiduciary obligation to select any such short-term, highly liquid investment based solely on any yield or return of such investment. The Adviser shall cause any proceeds of the offering of Company securities not committed for investment within the later of two years from the date of effectiveness of the Registration Statement or one year from termination of the offering, unless a longer period is permitted by the applicable State Administrator, to be paid as a distribution to the stockholders of the Company as a return of capital without deduction of Front End Fees (as defined below).

5. Brokerage Commissions, Limitations on Front End Fees; Period of Offering; Assessments.

(a) Brokerage Commissions. The Adviser is hereby authorized, to the fullest extent now or hereafter permitted by law, to cause the Company to pay a member of a national securities exchange, broker or dealer an amount of commission for effecting a securities transaction in excess of the amount of commission another member of such exchange, broker or dealer would have charged for effecting that transaction, if the Adviser determines in good faith, taking into account such factors, including, without limitation, as price (including the applicable brokerage commission or dealer spread), size of order, difficulty of execution, and operational facilities of the firm and the firm's risk and skill in positioning blocks of securities, that such amount of commission is reasonable in relation to the value of the brokerage and/or research services provided by such member, broker or dealer, viewed in terms of either that particular transaction or its overall responsibilities with respect to the Company's portfolio, and is consistent with the Adviser's duty to seek the best execution on behalf of the Company. Notwithstanding the foregoing, with regard to transactions with or for the benefit of the Company, the Adviser may not pay any commission or receive any rebates or give-ups, nor participate in any business arrangements which would circumvent this restriction.

The following provisions in this Section 5 shall apply for only so long as the Common Shares of the Company are not listed on a national securities exchange.

(b) Limitations. Notwithstanding anything herein to the contrary:

(i) All fees and expenses paid by any party for any services rendered to organize the Company and to acquire assets for the Company ("***Front End Fees***") shall be reasonable and shall not exceed 18% of the gross offering proceeds, regardless of the source of payment. Any reimbursement to the Adviser or any other person for deferred organizational and offering expenses, including any interest thereon, if any, will be included within this 18% limitation.

(ii) The Adviser shall commit at least eighty-two percent (82%) of the gross offering proceeds towards the investment or reinvestment of assets and reserves as set forth in Section 4(d) above on behalf of the Company. The remaining proceeds may be used to pay Front End Fees.

6. Other Activities of the Adviser.

The services of the Adviser to the Company are not exclusive, and the Adviser may engage in any other business or render similar or different services to others including, without limitation, the direct or indirect sponsorship or management of other investment based accounts or commingled pools of capital, however structured, having investment objectives similar to those of the Company, so long as its services to the Company hereunder are not impaired thereby, and nothing in this Agreement shall limit or restrict the right of any manager, partner, member (including its members and the owners of its members), officer or employee of the Adviser to engage in any other business or to devote his or her time and attention in part to any other business, whether of a similar or dissimilar nature, or to receive any fees or compensation in connection therewith (including fees for serving as a director of, or providing consulting services to, one or more of the Company's portfolio companies, subject to applicable law). The Adviser assumes no responsibility under this Agreement other than to render the services called for hereunder. It is understood that directors, officers, employees and stockholders of the Company are or may become interested in the Adviser and its affiliates, as directors, officers, employees, partners, stockholders, members, managers or otherwise, and that the Adviser and directors, officers, employees, partners, stockholders, members and managers of the Adviser and its affiliates are or may become similarly interested in the Company as stockholders or otherwise.

7. Responsibility of Dual Directors, Officers and/or Employees.

If any person who is a manager, partner, member, officer or employee of the Adviser is or becomes a director, officer and/or employee of the Company and acts as such in any business of the Company, then such manager, partner, member, officer and/or employee of the Adviser shall be deemed to be acting in such capacity solely for the Company, and not as a manager, partner, member, officer or employee of the Adviser or under the control or direction of the Adviser, even if paid by the Adviser.

8. Indemnification.

(a) Indemnification. Subject to Section 8(b) below, the Adviser and any Sub-Adviser (and their respective officers, directors, managers, partners, shareholders, members (and their shareholders or members, including the owners of their shareholders or members), agents, employees, controlling persons and any other person or entity affiliated with or acting on behalf of the Adviser or any Sub-Adviser, as applicable (each an "*Indemnified Party*") and, collectively, the "*Indemnified Parties*") shall not be liable to the Company for any action taken or omitted to be taken by the Adviser or any Sub-Adviser in connection with the performance of any of their duties or obligations under this Agreement, any sub-advisory agreement or otherwise as an investment adviser of the Company (except to the extent specified in Section 36(b) of the Investment Company Act concerning loss resulting from a breach of fiduciary duty (as the same is finally determined by judicial proceedings) with respect to the receipt of compensation for services), and the Company shall indemnify, defend and protect Indemnified Parties (each of whom shall be a third party beneficiary hereof) and hold them harmless from and against all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) incurred by the Indemnified Parties in or by reason of any pending, threatened or completed action, suit, investigation or other proceeding (including an action or suit by or in the right of the Company or its security holders) arising out of or otherwise based upon the performance of any of the Adviser's duties or obligations under this Agreement or otherwise as an investment adviser of the Company or any of the Sub-Adviser's duties or obligations under any sub-advisory agreement, to the extent such losses, damages, liabilities, costs and expenses are not fully reimbursed by insurance, and to the extent that such indemnification would not be inconsistent with the laws of the State of Maryland, the Investment Company Act, the articles of incorporation of the Company and other applicable law.

The following provisions in this Section 8 shall apply for only so long as the Common Shares of the Company are not listed on a national securities exchange.

(b) Limitations on Indemnification. Notwithstanding Section 8(a) to the contrary, the Company shall not provide for indemnification of the Indemnified Parties for any liability or loss suffered by the Indemnified Parties, nor shall the Company provide that any of the Indemnified Parties be held harmless for any loss or liability suffered by the Company, unless all of the following conditions are met:

(i) the Indemnified Party has determined, in good faith, that the course of conduct which caused the loss or liability was in the best interests of the Company;

(ii) the Indemnified Party was acting on behalf of or performing services for the Company;

(iii) such liability or loss was not the result of negligence, willful misfeasance, bad faith, or misconduct by the Indemnified Party; and

(iv) such indemnification or agreement to hold harmless is recoverable only out of the Company's net assets and not from stockholders.

Furthermore, the Indemnified Party shall not be indemnified for any losses, liabilities or expenses arising from or out of an alleged violation of federal or state securities laws unless one or more of the following conditions are met:

(i) there has been a successful adjudication on the merits of each count involving alleged securities law violations as to the Indemnified Party;

(ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the Indemnified Party; or

(iii) a court of competent jurisdiction approves a settlement of the claims against an Indemnified Party and finds that indemnification of the settlement and related costs should be made, and the court of law considering the request for indemnification has been advised of the position of the SEC and the published position of any state securities regulatory authority in which securities of the Company were offered or sold as to indemnification for violations of securities laws.

(c) Advancement of Funds. The Company shall be permitted to advance funds to the Indemnified Party for legal expenses and other costs incurred as a result of any legal action for which indemnification is being sought only if all of the following conditions are met:

(i) The legal action relates to acts or omissions with respect to the performance of duties or services on behalf of the Company;

(ii) The Indemnified Party provides the Company with written affirmation of his or her good faith belief that the standard of conduct necessary for indemnification by the Company has been met;

(iii) The legal action is initiated by a third party who is not a Company stockholder, or the legal action is initiated by a Company stockholder and a court of competent jurisdiction specifically approves such advancement; and

(iv) The Indemnified Party undertakes, in a written agreement, to repay the advanced funds to the Company, together with the applicable legal rate of interest thereon, in cases in which the Indemnified Party is not found to be entitled to indemnification.

9. Effectiveness, Duration and Termination of Agreement.

(a) Term and Effectiveness. This Agreement shall become effective as of the date that the Registration Statement is declared effective and shall remain in effect for two years, and thereafter shall continue automatically for successive annual periods, provided that such continuance is specifically approved at least annually by (i) the vote of the Board, or by the vote of a majority of the outstanding voting securities of the Company and (ii) the vote of a majority of the Company's directors who are not parties to this Agreement or "interested persons" (as such term is defined in Section 2(a)(19) of the Investment Company Act) of any such party, in accordance with the requirements of the Investment Company Act.

(b) Termination. This Agreement may be terminated at any time, without the payment of any penalty, (a) by the Company upon 60 days' written notice to the Adviser, (i) upon the vote of a majority of the outstanding voting securities of the Company, or (ii) by the vote of the Company's independent directors, or (b) by the

Adviser upon 120 days' written notice to the Company. This Agreement shall automatically terminate in the event of its "assignment" (as such term is defined for purposes of Section 15(a)(4) of the Investment Company Act). The provisions of Section 8 of this Agreement shall remain in full force and effect, and the Adviser shall remain entitled to the benefits thereof, notwithstanding any termination of this Agreement. Moreover, if that certain Investment Sub-Advisory Agreement dated as of May 31, 2012 (as amended, restated or supplemented from time to time, the "***Main Street Agreement***") by and among the Adviser, Main Street Capital Corporation, a Maryland corporation ("***Main Street***"), Main Street Capital Partners, LLC, a Delaware limited liability company and wholly owned subsidiary of Main Street ("***Partners***"), and the Company, shall (i) expire by its terms without renewal pursuant to the last sentence of Section 10(a) of the Main Street Agreement or (ii) be terminated by the Adviser or the Company pursuant to Section 10(b) of the Main Street Agreement, this Agreement shall terminate simultaneously with the termination of the Main Street Agreement, and the Company shall not, for a period of three (3) years following such termination, engage the Adviser or its affiliates or any of their successors or any officers, directors or employees of the Adviser or its affiliates or their successors as an adviser or sub-adviser to the Company without the prior written consent of Partners. Notwithstanding the foregoing, or anything in this Agreement or the Main Street Agreement to the contrary, if the Main Street Agreement is terminated by the Adviser or the Company for cause (as defined below) or by Partners pursuant to Section 10(b) of the Main Street Agreement, then the Company may enter into a new advisory agreement with the Adviser or an affiliate thereof containing the same or similar terms as those contained herein, without the prior consent of Partners. For purposes of this Agreement, for cause shall mean the occurrence of one or more of the following events:

(i) Main Street or Partners shall have materially breached the Main Street Agreement, as determined by the independent directors of the Company; provided, however, that Main Street or Partners, as applicable, shall have 30 calendar days after the receipt of notice of such breach from the other party to cure such breach;

(ii) Main Street or Partners is subject to an allegation that it has committed any fraud, criminal conduct, gross negligence or willful misconduct in any action or failure to act undertaken by Main Street or Partners, as applicable, pertaining to or having a material detrimental effect upon the ability of Main Street or Partners to perform its respective duties under the Main Street Agreement and the independent directors of the Board shall have determined, after providing Main Street or Partners, as applicable, with an opportunity for a hearing and to cure any damage, that such allegation shall have had a material adverse effect on the Company that can only be remedied by termination of the Main Street Agreement, or, in any event, if and when a court or regulatory authority of competent jurisdiction shall have returned a final non-appealable order or ruling that Main Street is guilty of or liable with respect to such conduct;

(iii) Main Street or Partners (1) commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, (2) consents to the entry of an order for relief in an involuntary case under any such law, (3) consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) for any substantial part of its property, or (4) makes any general assignment for the benefit of creditors under applicable state law;

(iv) if: (1) an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect has been commenced against Main Street or Partners, and such case has not been dismissed within 60 days after the commencement thereof; or (2) a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) has been appointed for Main Street or Partners or has taken possession of Main Street's or Partners' or any substantial part of their property, and such appointment has not been rescinded or such possession has not been relinquished within 60 days after the occurrence thereof; or

(v) if at any time within five years after the effective date of this Agreement both Vincent D. Foster and Todd A. Reppert cease to be actively involved in the management of Main Street unless the parties agree that acceptable replacements are in place or can timely be put in place.

(c) Payments to and Duties of Adviser Upon Termination.

(i) After the termination of this Agreement, the Adviser shall not be entitled to compensation for further services provided hereunder except that it shall be entitled to receive from the Company within thirty (30) days after the effective date of such termination all earned but unpaid reimbursements and all earned but unpaid fees payable to the Adviser prior to termination of this Agreement, including any deferred fees. If the Company and the Adviser cannot agree on the amount of such reimbursements and fees, the parties will submit to binding arbitration.

(ii) The Adviser shall promptly upon termination:

(A) Deliver to the Board a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting furnished to the Board;

(B) Deliver to the Board all assets and documents of the Company then in custody of the Adviser; and

(C) Cooperate with the Company to provide an orderly transition of services.

The following provisions in this Section 9 shall apply for only so long as the Common Shares of the Company are not listed on a national securities exchange.

(d) Other Matters. Without the approval of holders of a majority of the Common Shares entitled to vote on the matter, the Adviser shall not: (i) amend this Agreement except for amendments that do not adversely affect the interests of the stockholders; (ii) voluntarily withdraw as the Adviser unless such withdrawal would not affect the tax status of the Company and would not materially adversely affect the stockholders; (iii) appoint a new adviser; (iv) sell all or substantially all of the Company's assets other than in the ordinary course of the Company's business; or (v) cause the merger or other reorganization of the Company. In the event that the Adviser should withdraw pursuant to (ii) above, the withdrawing Adviser shall pay all expenses incurred as a result of its withdrawal. To the extent prohibited by the Investment Company Act, the Company may terminate the Adviser's interest in the Company's revenues, expenses, income, losses, distributions and capital by payment of an amount equal to the then present fair market value of the terminated Adviser's interest, determined by agreement of the terminated Adviser and the Company. If the Company and the Adviser cannot agree upon such amount, then such amount will be determined in accordance with the then current rules of the American Arbitration Association. The expenses of such arbitration shall be borne equally by the terminated Adviser and the Company. The method of payment to the terminated Adviser must be fair and must protect the solvency and liquidity of the Company.

(e) With respect to any shares owned by the Adviser, the Adviser may not vote or consent on matters submitted to the stockholders regarding the removal of the Adviser or regarding any transaction between the Company and the Adviser. In determining the existence of the requisite percentage of shares necessary to approve a matter on which the Adviser may not vote or consent, any shares owned by the Adviser shall not be included.

10. Conflicts of Interests and Prohibited Activities.

The following provisions in this Section 10 shall apply for only so long as the Common Shares of the Company are not listed on a national securities exchange.

(a) No Exclusive Agreement. The Adviser is not hereby granted or entitled to an exclusive right to sell or exclusive employment to sell assets for the Company.

(b) Rebates, Kickbacks and Reciprocal Arrangements.

(i) The Adviser agrees that it shall not (A) receive or accept any rebate, give-up or similar arrangement that is prohibited under applicable federal or state securities laws, (B) participate in any reciprocal business arrangement that would circumvent provisions of applicable federal or state securities laws governing conflicts of interest or investment restrictions, or (C) enter into any agreement, arrangement or understanding that would circumvent the restrictions against dealing with affiliates or promoters under applicable federal or state securities laws.

(ii) The Adviser agrees that it shall not directly or indirectly pay or award any fees or commissions or other compensation to any person or entity engaged to sell the Company's Common Shares or give investment advice to a potential stockholder; provided, however, that this subsection shall not prohibit the payment of a registered broker-dealer or other properly licensed agent from sales commissions for selling or distributing the Company's common stock.

(c) Commingling. The Adviser covenants that it shall not permit or cause to be permitted the Company's funds from being commingled with the funds of any other entity. Nothing in this subsection 10(c) shall prohibit the Adviser from establishing a master fiduciary account pursuant to which separate sub-trust accounts are established for the benefit of affiliated programs, provided that the Company's funds are protected from the claims of other programs and creditors of such programs.

11. Notices.

Any notice under this Agreement shall be given in writing, addressed and delivered or mailed, postage prepaid, to the other party at its principal office.

12. Amendments.

This Agreement may be amended in writing by mutual consent of the Company and the Adviser, subject to the provisions of the Investment Company Act.

13. Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original copy and all of which together shall constitute one and the same instrument binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

14. Third Party Beneficiaries.

Except for any Sub-Adviser and Indemnified Party with respect to Section 8 hereof, such Sub-Adviser and the Indemnified Parties each being an intended beneficiary of this Agreement for purposes of Section 8 hereof, this Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein, express or implied, shall give or be construed to give to any person, other than the parties hereto and such assigns, any legal or equitable rights hereunder.

15. Survival.

The provisions of Sections 8, 9, 16 and this Section 15 shall survive the expiration or earlier termination of this Agreement.

16. Entire Agreement; Governing Law.

This Agreement contains the entire agreement of the parties and supersedes all prior agreements, understandings and arrangements with respect to the subject matter hereof. Notwithstanding the place where this Agreement may be executed by any of the parties hereto, this Agreement shall be construed in accordance with the laws of the State of Texas. For so long as the Company is regulated as a BDC under the Investment Company Act, this Agreement shall also be construed in accordance with the applicable provisions of the Investment Company Act. In such case, to the extent the applicable laws of the State of Texas, or any of the provisions herein, conflict with the provisions of the Investment Company Act, the latter shall control.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Investment Advisory and Administrative Services Agreement to be duly executed on the date above written.

COMPANY:

HMS INCOME FUND, INC.

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Chief Financial Officer and Secretary

ADVISER:

HMS ADVISER LP

By: HMS ADVISER GP LLC, its general partner

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Chief Financial Officer

Appendix A

Examples of Quarterly Incentive Fee Calculation

Example 1: Income Related Portion of Incentive Fee (*):

Alternative 1 — Assumptions

- Investment income (including interest, dividends, fees, etc.) = 1.25%
- Hurdle rate (1) = 1.875%
- Base management fee (2) = 0.50%
- Other expenses (legal, accounting, custodian, transfer agent, etc.) (3) = 0.20%
- Pre-incentive fee net investment income (investment income – (base management fee + other expenses)) = 0.55%

Pre-incentive fee net investment income does not exceed hurdle rate, therefore there is no incentive fee.

Alternative 2 — Assumptions

- Investment income (including interest, dividends, fees, etc.) = 2.70%
- Hurdle rate (1) = 1.875%
- Base management fee (2) = 0.50%
- Other expenses (legal, accounting, custodian, transfer agent, etc.) (3) = 0.20%
- Pre-incentive fee net investment income (investment income – (base management fee + other expenses)) = 2.00%

Pre-incentive net investment income exceeds hurdle rate, therefore there is an income incentive fee payable by us to our Adviser.

Incentive fee = 100% x pre-incentive fee net investment income in excess of the hurdle rate, based on the "catch-up" provision (4)

= 100% x (2.00% – 1.875%)

= 0.125%

Alternative 3 — Assumptions

- Investment income (including interest, dividends, fees, etc.) = 3.20%
- Hurdle rate (1) = 1.875%
- Base management fee (2) = 0.50%
- Other expenses (legal, accounting, custodian, transfer agent, etc.) (3) = 0.20%
- Pre-incentive fee net investment income (investment income – (base management fee + other expenses)) = 2.50%

Pre-incentive net investment income exceeds hurdle rate, therefore there is an income incentive fee payable by us to our Adviser.

• Incentive fee = 20% x pre-incentive fee net investment income, subject to "catch-up" (4)

• Incentive fee = 100% x "catch-up" + (20% x (pre-incentive fee net investment income – 2.34375%))

• Catch-up = 2.34375% – 1.875%

= 0.46875%

• Incentive fee = (100% x 0.46875%) + (20% x (2.50% – 2.34375%))

= 0.46875% + (20% x 0.15625%)

= 0.46875% + 0.03125%

= 0.50% (or 20% of 2.50%)

(1) Represents 7.5% annualized hurdle rate.

(2) Represents 2.0% annualized base management fee.

(3) Excludes organizational and offering expenses.

(4) The "catch-up" provision is intended to provide our Adviser with an incentive fee of 20% on all of our pre-incentive fee net investment income as if a hurdle rate did not apply when our net investment income exceeds 2.34375% in any calendar quarter.

(*) The hypothetical amount of pre-incentive fee net investment income shown is based on a percentage of total net assets.

Example 2: Capital Gains Portion of Incentive Fee:

Alternative 1: Assumptions

Year 1: $20 million investment made in company A ("Investment A") and $30 million investment made in company B ("Investment B")

Year 2: Investment A sold for $50 million and fair market value, or FMV, of Investment B determined to be $32 million

Year 3: FMV of Investment B determined to be $25 million

Year 4: Investment B sold for $31 million

The capital gains portion of the incentive fee would be:

Year 1: None

Year 2: Capital gains incentive fee of $6 million ($30 million realized capital gains on sale of Investment A multiplied by 20%; no unrealized capital depreciation)

Year 3: None

Year 4: Capital gains incentive fee of $200,000 ($6.2 million ($31 million cumulative realized capital gains multiplied by 20%) less $6 million (capital gains fee paid in Year 2))

Alternative 2 — Assumptions

Year 1: $20 million investment made in company A ("Investment A"), $30 million investment made in company B ("Investment B") and $25 million investment made in company C ("Investment C")

Year 2: Investment A sold for $50 million, FMV of Investment B determined to be $25 million and FMV of Investment C determined to be $25 million

Year 3: FMV of Investment B determined to be $27 million and Investment C sold for $30 million

Year 4: FMV of Investment B determined to be $35 million

Year 5: Investment B sold for $20 million

The capital gains incentive fee, if any, would be:

Year 1: None

Year 2: $5 million capital gains incentive fee (20% multiplied by $25 million ($30 million realized capital gains on Investment A less $5 million unrealized capital depreciation on Investment B)

Year 3: $1.4 million capital gains incentive fee ($6.4 million (20% multiplied by $32 million ($35 million cumulative realized capital gains on Investment A and Investment C less $3 million unrealized capital depreciation on Investment B)) less $5 million capital gains fee paid in Year 2)

Year 4: Capital gains incentive fee of $600,000 ($7 million ($35 million cumulative realized capital gains multiplied by 20%) less $6.4 million (cumulative capital gain incentive fees paid in Year 2 and Year 3))

Year 5: None. ($5 million (20% multiplied by $25 million (cumulative realized capital gains of $35 million less realized capital losses of $10 million)) less $7.0 million cumulative capital gain incentive fees paid in Year 2, Year 3, and Year 4)

The returns shown are for illustrative purposes only and are all based on quarterly calculations. There is no guarantee that positive returns will be realized and actual returns may vary from those shown in the examples above.

Exhibit (g)(2)

INVESTMENT SUB-ADVISORY AGREEMENT

THIS INVESTMENT SUB-ADVISORY AGREEMENT ("***Agreement***") is made as of the 31st day of May 2012, by and among HMS ADVISER LP, a Texas limited partnership (the "***Adviser***"), Main Street Capital Partners, LLC, a Delaware limited liability company (the "***Sub-Adviser***"), Main Street Capital Corporation, a Maryland corporation ("***Main Street***") and HMS Income Fund, Inc., a Maryland corporation (the ***"BDC"***). Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Advisory Agreement (defined below).

WHEREAS, the BDC is a newly organized closed-end investment company that intends to elect to be treated as a business development company under the Investment Company Act of 1940, as amended (the "***1940 Act***");

WHEREAS, the Adviser is registered under the Investment Advisers Act of 1940, as amended (the "***Advisers Act***"), and after such registration to provide the investment management and administrative services described in the Advisory Agreement (as hereinafter defined);

WHEREAS, the Adviser has been retained to act as the investment adviser to the BDC pursuant to that certain Investment Advisory and Administrative Services Agreement dated May 31, 2012, a copy of which is included as Exhibit A to this Agreement and is incorporated by reference herein (the "***Advisory Agreement***");

WHEREAS, Section 1(f) of the Advisory Agreement permits the Adviser, subject to the supervision and direction of the BDC's board of directors (the "***Board***"), to enter into one or more sub-advisory agreements pursuant to which the Adviser may obtain the services of other investment advisers, as sub-advisers, to assist the Adviser in fulfilling its duties thereunder, subject to the requirements of the 1940 Act and other applicable federal and state law;

WHEREAS, Main Street is a registered investment adviser under the Advisers Act;

WHEREAS, the Sub-Adviser is a wholly owned subsidiary of Main Street and employs all of Main Street's investment professionals; and

WHEREAS, the Adviser desires to retain the Sub-Adviser to assist it in fulfilling its obligations under the Advisory Agreement, and the Sub-Adviser is willing to render such services subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the covenants hereinafter contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **INVESTMENT ADVISORY DUTIES OF THE SUB-ADVISER**

(a) Retention of Sub-Adviser. The Adviser hereby engages the Sub-Adviser, and the Sub-Adviser accepts such engagement, to perform the services set forth in this Agreement, subject to oversight by the Board. The parties acknowledge and agree that, as the Sub-Adviser is a wholly owned subsidiary of Main Street and employs all of Main Street's investment professionals, in the event that Main Street, succeeds the Sub-Adviser as sub-adviser to the BDC consistent with the advice of counsel, the approval of this Agreement by the board of directors and the stockholders of the BDC, as required under Section 15 of the 1940 Act, shall be deemed to be the approval of Main Street as sub-adviser to the BDC.

(b) Investment Advisory Services to be Provided by Sub-Adviser. The Sub-Adviser shall, during the term and subject to the provisions of this Agreement: (i) make recommendations to the Adviser as to the allocation of the investment portfolio of the BDC among various types of securities, the nature and timing of the changes therein and the manner of implementing such changes; (ii) identify, evaluate, recommend to the Adviser, and, if approved by the Adviser, negotiate the structure and terms of the investments made by the BDC; (iii) assist the Adviser in executing and closing the acquisition and disposition of the BDC's investments; (iv) make recommendations to the Adviser with respect to the securities and other assets that the BDC will purchase, retain, or sell; (v) monitor the BDC's investment portfolio and make recommendations to the Adviser regarding ongoing portfolio management and (vi) perform, or cause to be performed due diligence procedures, and provide to the Adviser due diligence information with respect to prospective investments

(collectively the ***"Sub-Advisory Services"***). Notwithstanding the foregoing, however, all investment decisions for the BDC will be the sole responsibility of, and will be made by and at the sole discretion of, the Adviser. The parties acknowledge and agree that the Sub-Adviser shall be required to provide only the investment advisory services expressly described in this Section 1(b).

(c) Acceptance of Employment. The Sub-Adviser hereby agrees during the term hereof to render the services described herein for the compensation provided herein, subject to oversight by the BDC's Board and the limitations contained herein. The Sub-Adviser shall carry out its responsibilities under this Agreement in compliance with: (i) the BDC's investment objectives, policies and restrictions as set forth in the BDC's Registration Statement on Form N-2 (File No. 333-178548) filed with the U.S. Securities and Exchange Commission (the "***SEC***") on December 16, 2011, as the same shall be amended from time to time (as amended, the "***Registration Statement***"); (ii) such policies, directives, regulatory restrictions and compliance policies as the Adviser and Main Street may from time to time establish or issue and communicate to the Sub-Adviser in writing; and (iii) applicable law and related regulations and the BDC's articles of incorporation and bylaws. The Sub-Adviser shall, for all purposes herein provided, be deemed to be an independent contractor and, except as expressly provided or authorized herein, shall have no authority to act for or represent the Adviser or the BDC in any way or otherwise be deemed an agent of the Adviser or the BDC. Nothing contained herein shall be deemed to create a partnership, joint venture or employer-employee relationship between the BDC and the Sub-Adviser or between the Adviser and the Sub-Adviser, and the Adviser and the Sub-Adviser shall for tax purposes treat the relationship created hereby as a principal-independent contractor relationship.

(d) Records. The Sub-Adviser shall keep and preserve for the period required by the 1940 Act, the Advisers Act (to the same extent as if the Sub-Adviser were a registered investment adviser thereunder) and other applicable law any records relevant to the provision of the services to the BDC hereunder by the Sub-Adviser. The Sub-Adviser agrees that all records that it maintains and keeps for the BDC are the property of the BDC, will be readily accessible during normal business hours, and will surrender promptly to the BDC any such records upon the termination of this Agreement or otherwise at the BDC's request. The Sub-Adviser shall have the right to retain copies, or originals where required by Rule 204-2 promulgated under the Advisers Act (to the same extent as if the Sub-Adviser were a registered investment adviser thereunder), of such records to the extent required by applicable law, subject to observance of its confidentiality obligations under this Agreement. The Sub-Adviser shall maintain records of the locations where records are maintained among the persons and entities providing services directly or indirectly to the Sub-Adviser, the Adviser, or the BDC.

(e) Compliance Policies. Main Street has adopted and implemented written policies and procedures reasonably designed to prevent violation of the Advisers Act by Main Street and its "supervised persons" (as such term is defined in Section 202(a)(25) of the Advisers Act), including the Sub-Adviser, its employees and persons acting on its behalf in accordance with Rule 206(4)-7 of the Advisers Act. Main Street has provided the BDC, and shall provide the BDC at such times in the future as the BDC shall reasonably request, with a copy of such policies and procedures.

2. **EXPENSES**.

(a) Adviser and BDC Expenses. Except as otherwise set forth herein, the Sub-Adviser assumes no obligation with respect to, and shall not be responsible for, the expenses of the Adviser or the BDC.

(b) Sub-Adviser Personnel. All personnel of the Sub-Adviser, when and to the extent engaged in providing Sub-Advisory Services (but not Administrative Services (as defined below)) hereunder, and the compensation and routine overhead expenses of such personnel allocable to such Sub-Advisory Services, shall be provided and paid by the Sub-Adviser and shall not be paid separately or reimbursed by the Adviser or the BDC.

(c) Reimbursement of Sub-Adviser. The BDC shall pay or reimburse the Sub-Adviser for expenses reasonably incurred by the Sub-Adviser at the request of or on behalf of the BDC or the Adviser, to the same extent as such expenses would be reimbursable to the Adviser pursuant to Sections 2(a), 2(b), 2(d) and 2(e) of the Advisory Agreement had such expenses been incurred by the Adviser (the "***Reimbursable Sub-Adviser Expenses***"). Such reimbursement shall be made in cash thirty (30) calendar days following the Adviser's delivery to the BDC of a reasonably detailed statement documenting the reimbursable expenses incurred during the immediately preceding month and the calculation of the reimbursement thereof, except to the extent the Sub-Adviser elects otherwise pursuant to Section 2(e) hereof. The Sub-Adviser shall maintain and supply to the BDC and the Adviser, as they may reasonably request, records of all such expenses.

(d) Excess Expenses. The Sub-Adviser acknowledges and agrees that the Sub-Adviser and the Adviser will be equally responsible for the payment of all Excess Non-Reimbursable Expenses. The term ***"Non-Reimbursable Expenses"*** means Organization and Offering Expenses, other than Sales and Marketing Costs (as defined below), incurred by or on behalf of the BDC for the provision of services or property from Persons (as such term is defined elsewhere herein) not Affiliated (as such term is defined elsewhere herein) with the Adviser and its Affiliates (as such term is defined elsewhere herein) that are not reimbursable by the BDC to the Adviser or its Affiliates because of the limitation on reimbursement of such items as set forth in the Advisory Agreement or because of any regulatory limitation or requirement imposed on either of them. Moreover, the term ***"Excess Non-Reimbursable Expenses"*** means Non-Reimbursable Expenses in an amount exceeding $2,000,000.00. The term ***"Sales and Marketing Costs"*** means all costs and expenses relating to advertisements and selling literature or brochures, third party broker due diligence costs in excess of $250,000.00 in the aggregate, sales meetings, sales training sessions, investor meetings, website hosting and other expenses directly related to the offer and sale of securities by the BDC pursuant to the Registration Statement.

For the avoidance of doubt, the parties acknowledge and agree that for purposes of this Agreement, registration fees, the cost of printing, mailing or otherwise distributing prospectuses, attorney fees, accounting fees, state registration fees, FINRA filing fees, other filing fees, costs of organizing the BDC, third party broker due diligence costs (up to $250,000.00 in the aggregate) and similar costs and expenses not directly related to the offer and sale of securities by the BDC are not Sales and Marketing Costs. For the further avoidance of doubt, the parties acknowledge and agree that the Adviser shall be solely responsible for the payment of the first $2,000,000.00 of Non-Reimbursable Expenses as well as any Sales and Marketing Costs, in each case not otherwise reimbursable by the BDC to the Adviser or its Affiliates.

(e) Waived or Deferred Reimbursements. The Sub-Adviser shall have the right, in its sole discretion, by written instruction in accordance with this Section 2(e), to elect to waive or defer all or a portion of the reimbursement of the Reimbursable Sub-Adviser Expenses that would otherwise be paid to it. No later than three (3) business days prior to the Adviser delivering to the BDC the statement required by Section 2(d)(iii) and 2(d)(iv) of the Advisory Agreement (the "***Reimbursement Statement***"), the Sub-Adviser shall provide written instructions to the Adviser with respect to the Sub-Adviser's election to waive or defer any portion of the Reimbursable Sub-Adviser Expenses. The Adviser shall include such written instructions in the Reimbursement Statement delivered to the BDC and shall take all other actions necessary to cause the BDC to pay such reimbursement directly to the Sub-Adviser in accordance with the Sub-Adviser's instructions.

Any portion of the reimbursement of the Reimbursable Sub-Adviser Expenses otherwise payable to the Sub-Adviser and not paid to the Sub-Adviser with respect to any month pursuant to a deferral election made by the Sub-Adviser under this Section 2(e) shall so be deferred without interest and may be paid on any specified later date as the Sub-Adviser may determine in its sole discretion. If the Sub-Adviser so

determines to have such deferred reimbursement paid on such specified date, it shall provide the Adviser with written notice of such determination at least thirty (30) days, but no more than sixty (60) days, prior to such specified date. Upon receipt of such notice, the Adviser shall make the election on behalf of the Sub-Adviser and shall take any other actions reasonably necessary to cause the BDC to pay such deferred reimbursements directly to the Sub-Adviser on such specified date.

3. **COMPENSATION**. In consideration for the Sub-Adviser's provision of the Sub-Advisory Services hereunder, the Adviser shall pay the Sub-Adviser fifty percent (50%) of the fees (including without limitation the Base Management Fee and Incentive Fee), payable to the Adviser pursuant to Section 3 of the Advisory Agreement, payable no later than three (3) business days after receipt of such amounts by the Adviser from the BDC. At the Sub-Adviser's request, the Adviser shall arrange for the fees payable to the Sub-Adviser hereunder to be paid to the Sub-Adviser directly by the BDC on the same day the BDC pays (or is obligated to pay) the Adviser its fees (including without limitation the Base Management Fee and Incentive Fee) under the Advisory Agreement. Pursuant to Section 3 of the Advisory Agreement, the Adviser has retained the right to elect to waive or defer all or a portion of the fees that would otherwise be paid to it. The Adviser shall not make any such election with respect to the Sub-Adviser's portion of such fees, without the prior written consent of the Sub-Adviser. The Adviser hereby undertakes to discuss any such election with the Sub-Adviser in advance and to provide no less than five (5) business days' written notice to the Sub-Adviser before the Adviser seeks to notify the BDC of any such election.

4. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF MAIN STREET AND THE SUB-ADVISER** Main Street and the Sub-Adviser, jointly and severally, represent, warrant and covenant to the Adviser and the BDC as follows:

(a) Main Street is registered as an investment adviser under the Advisers Act and shall remain so registered as of the date that the Registration Statement is declared effective and covenants that it shall maintain such registration until the expiration or earlier termination of this Agreement. The Sub-Adviser is not registered as an investment adviser under the Advisers Act and is not required, based upon applicable interpretive positions of the staff of the SEC, to register under the Advisers Act in order to perform its duties and obligations under this Agreement.

(b) Main Street is a corporation duly organized and validly existing under the laws of the State of Maryland with the power to own and possess its assets and carry on its business as it is now being conducted. The Sub-Adviser is a limited liability company duly organized and validly existing under the laws of the State of Delaware with the power to own and possess its assets and carry on its business as it is now being conducted.

(c) The execution, delivery and performance by Main Street and the Sub-Adviser of this Agreement are within their powers and have been duly authorized by all necessary corporate or limited liability company action, as appropriate, and no action by or in respect of, or filing with, any governmental body, agency or official is required on their part for their execution, delivery and performance of this Agreement other than the filing of an amendment to Main Street's Form ADV (the "***Amended Form ADV***") with the SEC on or before March 30, 2012 to, among other things, reflect information therein regarding the Sub-Adviser in accordance with the interpretive positions referenced in Section 4(a) above, and their execution, delivery and performance of this Agreement does not contravene or constitute a default under (i) any provision of applicable law, rule or regulation, (ii) their respective governing instruments, or (iii) any agreement, judgment, injunction, order, decree or other instrument binding upon either the Sub-Adviser or Main Street.

(d) The Form ADV of Main Street the Sub-Adviser previously provided to the Adviser is a true and complete copy of the form as currently filed with the SEC and the information contained therein is accurate and complete in all material respects and does not omit to state any material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in each case, other than the need to update the information contained therein to reflect the facts stemming from Main Street and the Sub-Adviser's entry into this Agreement and information regarding the Sub-Adviser in accordance with the interpretive positions referenced in Section 4(a) above. At the time of the filing of the Amended Form ADV with the SEC, the information contained therein will be accurate and complete in all material respects and will not omit to state any material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. Main Street will promptly provide the Adviser and the BDC with a complete copy of all subsequent amendments to its Form ADV, including the Amended Form ADV.

(e) Main Street has adopted a written code of ethics complying with the requirements of Rule 17j-1 under the 1940 Act and will provide the Adviser and the BDC with a copy of that code, together with evidence of its adoption. All of the employees of the Sub-Adviser and persons acting on its behalf are subject to such code of ethics.

Upon the request of the Adviser or the BDC, a senior executive officer of Main Street shall certify, within 20 days of the end of each calendar quarter during which this Agreement remains in effect, to the Adviser or the BDC that Main Street has complied with the requirements of Rule 17j-1 during the previous quarter and that there have been no violations of Main Street's code of ethics or, if such a violation has occurred, that appropriate action has been taken in response to such violation. Upon written request of the Adviser or the BDC, Main Street shall permit representatives of the Adviser or the BDC to examine the reports (or summaries of the reports) required to be made to Main Street by Rule 17j-1(c)(1) and other records evidencing enforcement of the code of ethics.

(f) The Sub-Adviser shall comply in all material respects with all requirements applicable to the investment adviser of a business development company like the BDC under the Advisers Act and the 1940 Act.

5. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE ADVISER** The Adviser represents, warrants and covenants to the Sub-Adviser, Main Street and the BDC as follows:

(a) The Adviser shall be registered as an investment adviser under the Advisers Act as of the date the Registration Statement is declared effective and covenants that it shall maintain such registration until the expiration or earlier termination of this Agreement.

(b) The Adviser is a limited partnership duly organized and validly existing under the laws of the State of Texas with the power to own and possess its assets and carry on its business as it is now being conducted.

(c) The execution, delivery and performance by the Adviser of this Agreement are within the Adviser's powers and have been duly authorized by all necessary action and no action by or in respect of, or filing with, any governmental body, agency or official is required on the part of the Adviser for the execution, delivery and performance by the Adviser of this Agreement, other than the filing of a Form ADV with the SEC in connection with the Adviser's registration as an investment adviser under the Advisers Act (which Form ADV will be filed by the Adviser with the SEC no later than forty-five (45) days prior to the expected effective date of the Registration Statement) and the execution, delivery and performance by the Adviser of this Agreement do not contravene or constitute a default under (i) any provision of applicable law, rule or regulation, other than the requirement that the Adviser be registered as an investment adviser under the Advisers Act in connection with its provision of investment advisory services to the BDC, (ii) the Adviser's governing instruments, or (iii) any agreement, judgment, injunction, order, decree or other instrument binding upon the Adviser.

(d) The Adviser and the BDC have duly entered into the Advisory Agreement pursuant to which the BDC authorized the Adviser to enter into this Agreement.

(e) The Adviser shall comply with all requirements applicable to the investment adviser of a business development company like the BDC under the Advisers Act and the 1940 Act.

6. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE BDC** The BDC represents, warrants and covenants to the Sub-Adviser, Main Street and the Adviser as follows:

(a) The BDC will elect to be treated as a business development company under the 1940 Act and, once such election is made immediately prior to the Registration Statement is declared effective, shall maintain such treatment;

(b) The BDC is a Maryland corporation duly incorporated and validly existing under the laws of the State of Maryland with the power to own and possess its assets and carry on its business as it is now being conducted;

(c) The execution, delivery and performance by the BDC of this Agreement are within the BDC's powers and have been duly authorized by all necessary action and no action by or in respect of, or filing with, any governmental body, agency or official is required on the part of the BDC for the execution, delivery and performance by the BDC of this Agreement, and the execution, delivery and performance by the BDC of this Agreement do not contravene or constitute a default under (i) any provision of applicable law, rule or regulation, (ii) the BDC's governing instruments, or (iii) any agreement, judgment, injunction, order, decree or other instrument binding upon the BDC;

(d) The BDC has duly entered into this Agreement and the Advisory Agreement pursuant to which the BDC authorized the Adviser to enter into this Agreement; and

(e) So long as the Sub-Adviser acts an investment sub-adviser to the BDC, whether pursuant to this Agreement or otherwise, the BDC shall nominate Vincent D. Foster or another nominee selected by the Sub-Adviser to serve as a member of the Board.

7. **SURVIVAL OF REPRESENTATIONS AND WARRANTIES; DUTY TO UPDATE INFORMATION**. All representations, warranties and covenants made by the Sub-Adviser and Main Street, the Adviser and the BDC pursuant to Sections 4, 5 and 6, respectively, shall survive for the duration of this Agreement and the parties hereto shall promptly notify each other in writing upon becoming aware that any of the foregoing representations, warranties or covenants are no longer true.

8. **LIABILITY AND INDEMNIFICATION**.

(a) Indemnification. Subject to Section 8(c) and Section 9, the Sub-Adviser and its directors, managers, officers or members (and their stockholders or members, including the owners of their stockholders or members), agents, employees, controlling persons (as determined under the 1940 Act ("***Controlling Persons***")) and any other person or entity Affiliated with, or acting on behalf of, the Sub-Adviser (each an "***Indemnified Party***" and, collectively, the "***Indemnified Parties***") shall not be liable to either the Adviser or the BDC for any action taken or omitted to be taken by the Sub-Adviser in connection with the performance of any of its duties or obligations under this Agreement or otherwise as an investment sub-adviser to the BDC (except to the extent specified in Section 36(b) of the 1940 Act concerning loss resulting from a breach of fiduciary duty (as the same is finally determined by judicial proceedings) with respect to the receipt of compensation for services), and (i) except with respect to any Adviser Indemnified Losses (as defined below), the BDC shall indemnify, defend and protect the Indemnified Parties (each of whom shall be deemed a third party beneficiary hereof) and hold them harmless from and against all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) ("***Losses***") incurred by the Indemnified Parties in or by reason of any pending, threatened or completed action, suit, investigation or other proceeding (including an action or suit by or in the right of the BDC or its security holders) (each a "***Proceeding***") arising out of or otherwise based upon the performance of any of the Indemnified Parties' duties or obligations under this Agreement or otherwise as an investment sub-adviser of the BDC, in each case to the extent such Losses are not fully reimbursed by insurance and otherwise to the fullest extent such indemnification would be permitted by the BDC under the BDC's Articles of Incorporation, the 1940 Act, the laws of the State of Maryland and other applicable law, and (ii) the Adviser shall indemnify, defend and protect the Indemnified Parties and hold them harmless from and against all Losses incurred by the Indemnified Parties in or by reason of any pending, threatened or completed Proceeding arising out of or otherwise based upon the Adviser's nonfulfillment of, or failure to comply with, any of the Adviser's duties or obligations under this Agreement (the "***Adviser Indemnified Losses***"), in each case, to the extent such Losses are not fully reimbursed by insurance and otherwise to the fullest extent such indemnification would

be permitted for the Adviser under applicable law. For purposes of this Agreement, "***Affiliate***" or "***Affiliated***" or any derivation thereof means with respect to any individual, corporation, partnership, trust, joint venture, limited liability company or other entity or association ("***Person***"): (a) any Person directly or indirectly owning, controlling, or holding, with the power to vote, 10% or more of the outstanding voting securities of such other Person; (b) any Person 10% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held, with the power to vote, by such other Person; (c) any Person directly or indirectly controlling, controlled by or under common control with such other Person; (d) any executive officer, director, trustee or general partner of such other Person; or (e) any legal entity for which such Person acts as an executive officer, director, trustee or general partner.

Notwithstanding the foregoing, the Indemnified Parties will not be entitled to indemnification or be held harmless pursuant to this Section 8(a) for any activity for which the Sub-Adviser shall be required to indemnify or hold harmless the Adviser and the BDC pursuant to Section 8(c).

(b) Advancement of Funds. The BDC (other than with respect to Adviser Indemnified Losses) shall be required to advance funds to the Indemnified Party for legal expenses and other costs incurred as a result of any legal action for which indemnification is being sought only if all of the following conditions are met:

(i) the legal action relates to acts or omissions with respect to the performance of duties or services on behalf of the Adviser in performing its duties to the BDC;

(ii) the Indemnified Party provides the BDC with written affirmation of the Indemnified Party's good faith belief that the Indemnified Party has met the standard of conduct necessary for indemnification by the BDC;

(iii) the legal action is initiated by a third party who is not a BDC stockholder, or the legal action is initiated by a BDC stockholder and a court of competent jurisdiction specifically approves such advancement; and

(iv) the Indemnified Party undertakes in writing to repay the advanced funds to the BDC, allocated as advanced, together with the applicable legal rate of interest thereon, in cases in which the Indemnified Party is not found to be entitled to indemnification pursuant to a final, non-appealable decision of a court of competent jurisdiction.

(c) Sub-Adviser Obligation. The Sub-Adviser shall indemnify, defend and protect the Adviser and the BDC, and their respective Affiliates and Controlling Persons, and hold them harmless from and against all Losses that the Adviser, the BDC or their respective Affiliates and Controlling Persons may sustain as a result of (i) the Sub-Adviser's or Main Street's willful misfeasance, bad faith, gross negligence, reckless disregard of its duties hereunder or violation of applicable law, including, without limitation, the federal and state securities laws, and (ii) the breach of a representation by the Sub-Adviser or Main Street under this Agreement.

9. **LIMITATION ON INDEMNIFICATION**. Notwithstanding Section 8(a) to the contrary, the BDC shall not provide for indemnification of the Indemnified Parties for any Losses suffered by the Indemnified Parties, nor shall the BDC provide that any of the Indemnified Parties be held harmless for any Losses suffered by any Indemnified Party, unless all of the following conditions are met:

(i) the Indemnified Party has determined, in good faith, that the course of conduct which caused the Losses was in the best interests of the BDC;

(ii) the Indemnified Party was acting on behalf of or performing services for the BDC;

(iii) such Losses were not the result of negligence, willful misfeasance, bad faith, or misconduct by the Indemnified Party; and

(iv) such indemnification or agreement to hold harmless is recoverable only out of the BDC's net assets and not from its stockholders.

Furthermore, the Indemnified Party shall not be indemnified for any Losses arising from or out of an alleged violation of federal or state securities laws unless one or more of the following conditions are met:

(i) there has been a successful adjudication on the merits of each count involving alleged securities law violations as to the Indemnified Party;

(ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the Indemnified Party; or

(iii) a court of competent jurisdiction approves a settlement of the claims against the Indemnified Party and finds that indemnification of the settlement and related costs should be made, and the court of law considering the request for indemnification has been advised of the position of the SEC and the published position of any state securities regulatory authority in which securities of the BDC were offered or sold as to indemnification for violations of securities laws.

10. **DURATION AND TERMINATION OF AGREEMENT**.

(a) This Agreement shall become effective as of the date that the SEC declares the Registration Statement effective. Once effective, this Agreement shall remain in effect for two years, and thereafter shall continue automatically for successive one (1) year periods, provided that such continuance is specifically approved at least annually by (i) the vote of the Board, or by the vote of a majority of the outstanding voting securities of the BDC and (ii) the vote of a majority of the BDC's directors who are not parties to this Agreement or "interested persons" (as such term is defined in Section 2(a)(19) of the 1940 Act) of any such party (the ***"Independent Directors"***), in accordance with the requirements of the 1940 Act.

(b) This Agreement may be terminated at any time, without the payment of any penalty, (i) by the Adviser upon 60 days' written notice to the Sub-Adviser, but only if authorized either (A) by the vote of a majority of the outstanding voting securities of the BDC, as defined in Section 2(a)(42) of the 1940 Act, or (B) by the vote of a majority of the BDC's Independent Directors, (ii) by the Sub-Adviser upon 120 days' written notice to the BDC and the Adviser. This Agreement shall automatically terminate (i) in the event of its "assignment" (as such term is defined for purposes of Section 15(a)(4) of the 1940 Act) or (ii) the termination of the Advisory Agreement. This Agreement may not be assigned without the prior consent of the BDC, except that, pursuant to Rule 2a-6 under the 1940 Act, the Sub-Adviser may assign it to an affiliate so long as it does not constitute an "assignment" as such term is defined for purposes of Section 15(a)(4) of the 1940 Act. The provisions of Section 8 and 9 of this Agreement shall remain in full force and effect, and the Indemnified Parties shall remain entitled to the benefits, and subject to the limitations, thereof notwithstanding any termination of this Agreement.

(c) Notwithstanding any termination of this Agreement, the Sub-Adviser shall be entitled to receive all amounts payable to it and not yet paid pursuant to Section 3 hereof.

(d) Pursuant to Section 9(b) of the Advisory Agreement, if this Agreement shall (i) expire by its terms without renewal pursuant to the last sentence of Section 10(a) of this Agreement or (ii) be terminated by the Adviser or the BDC pursuant to Section 10(b) of this Agreement, the Advisory Agreement shall

terminate simultaneously with the termination of this Agreement, and the BDC shall not, for a period of three (3) years following such termination, engage the Sub-Adviser or its affiliates or any of their successors or any officers, directors or employees of the Sub-Adviser or its affiliates or their successors as an adviser or sub-adviser to the BDC without the prior written consent of the Adviser. Notwithstanding the foregoing, or anything in this Agreement or the Advisory Agreement to the contrary, if the Advisory Agreement is terminated by the BDC for cause (as defined below) or by the Adviser pursuant to Section 9(b) of the Advisory Agreement, then the BDC may enter into a new advisory agreement with the Sub-Adviser or an affiliate thereof without prior consent of the Adviser. For purposes of this Agreement, for cause shall mean the occurrence of one or more of the following events:

(i) the Adviser shall have materially breached the Advisory Agreement, as determined by the Independent Directors, provided, however, the breaching party shall have 30 calendar days after the receipt of notice of such breach from the other party to cure such breach;

(ii) the Adviser is subject to an allegation that it has committed any fraud, criminal conduct, gross negligence or willful misconduct in any action or failure to act undertaken by the Adviser pertaining to or having a material detrimental effect upon the ability of the Adviser to perform its respective duties under the Advisory Agreement and the Independent Directors shall have determined, after providing the Adviser with an opportunity for a hearing and to cure any damage, that such allegation shall have had a material adverse effect on the BDC that can only be remedied by termination of the Advisory Agreement, or, in any event, if and when a court or regulatory authority of competent jurisdiction shall have returned a final non-appealable order or ruling that the Adviser is guilty of or liable with respect to such conduct;

(iii) the Adviser (1) commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, (2) consents to the entry of an order for relief in an involuntary case under any such law, (3) consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) for any substantial part of its property, or (4) makes any general assignment for the benefit of creditors under applicable state law;

(iv) if: (1) an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect has been commenced against the Adviser, and such case has not been dismissed within 60 days after the commencement thereof; or (2) a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) has been appointed for the Adviser or has taken possession of the Adviser's or any substantial part of its property, and such appointment has not been rescinded or such possession has not been relinquished within 60 days after the occurrence thereof; or

(v) if at any time within five years after the effective date of this Agreement both Charles N. Hazen and Ryan T. Sims cease to be actively involved in the management of the Adviser unless the parties agree that acceptable replacements are in place or can timely be put in place.

11. **ADMINISTRATIVE RESPONSIBILITIES OF THE SUB-ADVISER**. (a) In addition to the Sub-Advisory Services to be performed by the Sub-Adviser pursuant to Section 2 above, the Sub-Adviser shall, provide to the BDC the following administrative services: (i) assist the Adviser in the fair valuation of the BDC's investment portfolio pursuant to valuation policies and procedures approved by the Board or a committee thereof; (ii) assist in the review of draft public financial statements and regulatory filings; (iii) upon the reasonable request of the Adviser, and subject to reasonable advance notice and availability of appropriate Sub-Adviser personnel, participate in presentations: (A) to managing dealer wholesaling personnel; (B) at broker-dealer road shows; (C) at educational forums; (D) at due diligence review programs conducted by third-party evaluators and due diligence officers of broker-dealers; and (E) at other marketing events and forums to facilitate the BDC's fund raising efforts; (iv) as

reasonably required by the Board, attend meetings of, and participate in presentations to, the Board; (v) assist the Adviser in using commercially reasonable efforts to arrange for debt financing on the BDC's behalf, subject to oversight and approval of the Board; (vi) assist the Adviser and the BDC in providing or otherwise making available managerial assistance to the BDC's portfolio companies; and (vii) provide the Adviser and the BDC with such other administrative services as the Adviser, the BDC and the Sub-Adviser may from time to time mutually agree upon (collectively, the ***"Administrative Services"***).

(b) The BDC shall pay or reimburse the Sub-Adviser for all costs and expenses related to the Sub-Adviser's provision of the Administrative Services to the BDC under this Agreement to the same extent as the Adviser is entitled to payment or reimbursement by the BDC for costs and expenses related to the Adviser's provision of Administrative Services to the BDC under the Advisory Agreement. For the avoidance of doubt, payment or reimbursement to the Sub-Adviser for services provided in clause (iii) of Section 11(a) above shall be deemed Sales and Marketing Costs.

12. **EXCLUSIVITY**.

(a) Nothing in this Agreement shall prevent the Sub-Adviser or any member, manager, officer, employee or other affiliate thereof from engaging in any other lawful activity and shall not in any way limit or restrict the Sub-Adviser or any of its members, managers, officers, employees, agents or other affiliates from buying, selling or trading any securities for its or their own accounts or for the accounts of others for whom it or they may be acting; provided, however, that during the term of this Agreement, the Sub-Adviser and Main Street and their respective controlled affiliates and affiliates under common control as defined under the 1940 Act shall be prohibited, without the prior written consent of the Adviser, from directly or indirectly acting as an investment adviser pursuant to the Advisers Act to, or sponsoring, a closed-end management investment company that has elected to be regulated as a business development company under the 1940 Act and whose securities (i) are offered primarily through one or more independent broker-dealers and/or registered investment advisers and (ii) are not listed on a public securities exchange.

(b) During the term of this Agreement, the Adviser and its controlled affiliates and affiliates under common control as defined under the 1940 Act shall be prohibited, without the prior written consent of the Sub-Adviser, from directly or indirectly acting as an investment adviser pursuant to the Advisers Act to, or sponsoring, a closed-end management investment company that has elected to be regulated as a business development company under the 1940 Act and whose securities (i) are offered primarily through one or more independent broker-dealers and/or registered investment advisers and (ii) are not listed on a public securities exchange.

13. **RESPONSIBILITY OF DUAL DIRECTORS, OFFICERS AND/OR EMPLOYEES**. If any person who is a director, officer, stockholder or employee of the Sub-Adviser or Main Street is or becomes a director, officer, stockholder and/or employee of the BDC and acts as such in any business of the BDC, then such director, officer, stockholder and/or employee of the Sub-Adviser or Main Street shall be deemed to be acting in such capacity solely for the BDC, and not as a director, officer, stockholder or employee of the Sub-Adviser or Main Street or under the control or direction of the Sub-Adviser or Main Street, even if paid by the Sub-Adviser or Main Street, as applicable.

14. **ADVISORY AGREEMENT AND DEALINGS WITH THE BDC** Adviser agrees to inform and make Sub-Adviser a party to all negotiations between Adviser and the BDC regarding any proposed amendment of the Advisory Agreement. No amendment to the Advisory Agreement will be agreed upon or permitted if such amendment would impact the rights or obligations of the Sub-Adviser without the Sub-Adviser's consent and signature.

15. **INVESTMENT COMMITTEE OBSERVATION RIGHTS**. Sub-Adviser shall have the right to designate one (1) representative (the "***Observer***") to attend all meetings of the Investment Committee of the Adviser as a non-voting observer. The Adviser shall (i) give the Observer notice, at the same time as furnished to the voting committee members, of all meetings of the Investment Committee of the Adviser, (ii) provide to the Observer all notices, documents and information furnished to the Investment Committee members whether at or in anticipation of a meeting, an action by written consents or otherwise, at the same time as furnished to the Investment Committee members, (iii) notify the Observer by telephone of, and permit the Observer to attend by telephone, emergency meetings of the Investment Committee, and (iv) provide the Observer copies of the minutes of all such meetings at the time such minutes are furnished to the Investment Committee members.

16. **NOTICES**. Any notice under this Agreement shall be given in writing, addressed and delivered or mailed, postage prepaid, to the other party at its principal office.

17. **AMENDMENTS**. This Agreement may be amended by mutual written consent of the parties, subject to the requirements of applicable law.

18. **BRAND USAGE**. Main Street and the Sub-Adviser conduct their business under mark "Main Street" and the "Main Street" design (collectively, the "***Brand***"). In connection with the BDC's (a) public filings; (b) requests for information from state and federal regulators; (c) offering materials and advertising materials; and (d) press releases, the BDC may state in such materials that investment advisory services are being provided by the Sub-Adviser to the BDC under the terms of this Agreement. Main Street and the Sub-Adviser hereby grant a non-exclusive, non-transferable, and non-sublicensable license to the BDC for the use of the Brand solely as permitted in the foregoing sentence. Prior to using the Brand in any manner, the BDC or the Adviser, as applicable, shall submit all proposed uses to the Sub-Adviser for prior written approval. The Adviser agrees to control the use of such Brand in accordance with the standards and policies as established between the Adviser and the Sub-Adviser. The Sub-Adviser reserves the right to terminate this license immediately upon written notice for any reason, including if the usage is not in compliance with the standards and policies. Notwithstanding the foregoing, the term of the license granted under this section shall be for the term of this Agreement only, including renewals and extensions, and the right to use the Brand as provided herein shall terminate immediately upon the termination of this Agreement or the investment sub-advisory relationship between the Adviser and the Sub-Adviser. The BDC and the Adviser each agree that Main Street and/or the Sub-Adviser is the sole owner of the Brand, and any and all goodwill in the Brand arising from the BDC's use shall inure solely to the benefit of them. Without limiting the foregoing, this license shall have no effect on the BDC's ownership rights of the works within which the Brand shall be used.

19. **COUNTERPARTS**. This Agreement may be executed in counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one and the same instrument binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

20. **SURVIVAL**. The provisions of Sections 8, 9, 10, 18, 23 and this Section 20 shall survive the expiration or earlier termination of this Agreement.

21. **ENTIRE AGREEMENT; GOVERNING LAW**. This Agreement contains the entire agreement of the parties and supersedes all prior agreements, understandings and arrangements with respect to the subject matter hereof. Notwithstanding the place where this Agreement may be executed by any of the parties hereto, this Agreement shall be construed in accordance with the laws of the State of Texas. For so long as the BDC is regulated as a business development company under the 1940 Act, this Agreement shall also be construed in accordance with the applicable provisions of the 1940 Act. In such case, to the extent the applicable laws of the State of Texas, or any of the provisions herein, conflict with the provisions of the 1940 Act, the latter shall control.

22. **SEVERABILITY**. If any provision of this Agreement shall be held or made invalid by a court decision, statute, rule or otherwise, the remainder of this Agreement shall not be affected thereby.

23. **CONFIDENTIALITY**.

(a) The Sub-Adviser agrees that it will, and will cause its Representatives (as defined below) to whom the Sub-Adviser discloses BDC Information (as defined below) to, hold in confidence and not disclose to any party any confidential or proprietary information produced or provided by the Adviser or the BDC and/or its Representatives (including but not limited to information that is material and non-public) (collectively, "***BDC Information***"). Notwithstanding the foregoing, the term "BDC Information" shall not, for the purposes of this Agreement, include any information which (i) at the time of disclosure or thereafter is

or becomes available to and known by the public other than as a result of a disclosure by the Sub-Adviser or any of its Representatives in breach of this Agreement, (ii) was or becomes available to the Sub-Adviser on a nonconfidential basis from a source other than the Adviser or the BDC or any of their Representatives; provided that such source is not known to the Sub-Adviser to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of secrecy to, the Adviser or the BDC, or (iii) has been independently developed by the Sub-Adviser or any of its Representatives without using BDC Information and without violating any of its obligations under this Agreement.

(b) The Adviser agrees that it will, and will cause its Representatives and the BDC and its Representatives to whom it discloses Main Street Information (as defined below) to, hold in confidence and not disclose to any party any confidential or proprietary information produced or provided by the Sub-Adviser and/or its Representatives (including but not limited to information that is material and non-public) (collectively, "***Main Street Information***"). Notwithstanding the foregoing, the term "Main Street Information" shall not, for the purposes of this Agreement, include any information which (i) at the time of disclosure or thereafter is or becomes available to and known by the public other than as a result of a disclosure by the Adviser, the BDC or any of their Representatives in breach of this Agreement, (ii) was or becomes available to the Adviser or the BDC on a nonconfidential basis from a source other than the Sub-Adviser or any of its Representatives; provided that such source is not known to the Adviser or the BDC to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of secrecy to, the Sub-Adviser, or (iii) has been independently developed by the Adviser, the BDC or any of their Representatives without using Main Street Information and without violating any of their obligations under this Agreement.

(c) Except as otherwise expressly provided herein, the parties will not use or disclose (other than to their respective Representatives) any of the BDC Information or Main Street Information, as applicable, that the Adviser, BDC and Sub-Adviser are required to hold in confidence under this Section 23, as applicable, except in connection with the carrying out of the parties' respective obligations hereunder. For purposes hereof, "Representatives" shall mean each of the parties' respective affiliates, and its and their respective employees, directors, officers, agents and advisors (including, without limitation, attorneys, accountants, bankers, consultants and financial advisors) who need to know the information for the purpose of carrying out the parties' respective obligations hereunder.

(d) In the event that the Sub-Adviser or its Representatives are required to disclose any BDC Information pursuant to applicable law, governmental rule or regulation, court order, administrative or arbitral proceeding or by any regulatory authority having jurisdiction over the Sub-Adviser and/or any of its Representatives, the Sub-Adviser or such Representative shall provide (unless prohibited by law or regulation) the Adviser with prompt written notice in advance, if possible, but otherwise promptly thereafter, of any such request or requirement so that the Adviser may seek a protective order or other appropriate remedy at its own expense and/or waive compliance with the provisions of this Section 23. If, in the absence of a protective order or other remedy, or the receipt of a waiver of compliance with the provisions of this Section 23 by the Adviser, the Sub-Adviser or such Representative is nonetheless in the advice of counsel legally required to disclose any BDC Information, the Sub-Adviser or such Representative may, without liability hereunder, disclose that portion of the BDC Information that it deems it is legally required to be disclosed.

(e) In the event that the Adviser or its Representatives are required to disclose any Main Street Information pursuant to applicable law, governmental rule or regulation, court order, administrative or arbitral proceeding or by any regulatory authority having jurisdiction over the Adviser and/or any of its Representatives, the Adviser or such Representative shall provide (unless prohibited by law or regulation) the Sub-Adviser with prompt written notice in advance, if possible, but otherwise promptly thereafter, of any such request or requirement so that the Sub-Adviser may seek a protective order or other appropriate remedy at its own expense and/or waive compliance with the provisions of this Section 23. If, in the absence of a

protective order or other remedy, or the receipt of a waiver of compliance with the provisions of this Section 23 by the Sub-Adviser, the Adviser or such Representative is nonetheless in the advice of counsel legally required to disclose any Main Street Information, the Adviser or such Representative may, without liability hereunder, disclose that portion of the Main Street Information that it deems it is legally required to be disclosed.

24. **THIRD PARTY BENEFICIARIES**. Except for any Indemnified Party with respect to Sections 8 and 9 hereof, such Indemnified Parties each being an intended beneficiary of this Agreement for purposes of Sections 8 and 9 hereof, this Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein, express or implied, shall give or be construed to give to any person, other than the parties hereto and such assigns, any legal or equitable rights hereunder.

[Signature Page to Follow]

WITNESS WHEREOF, the parties hereto have caused this Investment Sub-Advisory Agreement to be duly executed on the date above written.

ADVISER:

HMS ADVISER LP

By: HMS ADVISER GP LLC, its general partner

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Chief Financial Officer

SUB-ADVISER:

MAIN STREET CAPITAL PARTNERS, LLC

By: /s/ Vincent D. Foster
Name: Vincent D. Foster
Title: Senior Managing Director

MAIN STREET:

MAIN STREET CAPITAL CORPORATION

By: /s/ Vincent D. Foster
Name: Vincent D. Foster
Title: Chairman and Chief Executive Officer

BDC:

HMS INCOME FUND, INC.

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Chief Financial Officer and Secretary

EXHIBIT A
INVESTMENT ADVISORY AND ADMINISTRATIVE SERVICES AGREEMENT

See attached.

HMS INCOME FUND, INC.
Up to 150,000,000 Shares of Common Stock
DEALER MANAGER AGREEMENT
May 31, 2012

Hines Securities, Inc.
2800 Post Oak Boulevard, Suite 5000
Houston, Texas 77056-6118

Ladies and Gentlemen:

HMS Income Fund, Inc., a Maryland corporation (the "Company"), has prepared and filed with the U.S. Securities and Exchange Commission (the "SEC") a registration statement on Form N-2 registering for public sale a maximum of 150,000,000 shares (the "Shares") of its common stock, $.001 par value per share, to be issued and sold on a continuous basis at an initial price per share of $10.00 and for an aggregate purchase price of $1,500,000,000 (the "Offering"). There is no minimum number of Shares required to be sold in this Offering. Therefore, the Company intends to conduct its initial closing (the "Initial Closing") as soon as practicable after the effective date of the Registration Statement (as defined below). After the Initial Closing, the Company intends to conduct closings on a semi-monthly or other periodic basis (each, a "Periodic Closing") until conclusion of the Offering. All subscription payments will be placed in a segregated account and held in trust for the subscribers' benefit, pending release to the Company at the next scheduled Periodic Closing, or achievement of the relevant Minimum Offering (as defined below), if applicable. While we have no minimum offering amount and may execute the sale of Shares immediately following effectiveness of the Registration Statement (as defined below), certain states may require the Company to sell a minimum number or dollar amount of Shares prior to selling Shares to residents of those states (each, a "Minimum Offering").

The minimum purchase by any one person shall be $2,500 in Shares except as otherwise indicated in the Prospectus to the Registration Statement on Form N-2 (File No. 333-178548), as finally adopted or supplemented, or in any letter or memorandum from the Company to Hines Securities, Inc. (the "Dealer Manager"). The Dealer Manager is a corporation incorporated and presently in good standing in the State of Delaware, and is presently (a) registered as a broker-dealer with the SEC; (b) a member of the Financial Industry Regulatory Authority, Inc. ("FINRA"); and (c) licensed or registered with the authorities administering the securities laws in all fifty (50) states in the United States, the District of Columbia and the Commonwealth of Puerto Rico as a securities broker-dealer authorized to offer and sell to members of the public securities of the type represented by the Shares. The Company desires to retain the Dealer Manager to use its best efforts to offer and sell the Shares on behalf of the Company and to manage such offers and sales by others, and the Dealer Manager is willing and desires to accept such retention, all upon the terms and conditions set forth in this Dealer Manager Agreement (this "Agreement"). The Offering shall be made pursuant to the terms and conditions of this Agreement and the Prospectus (as defined below) and, further, pursuant to the terms and conditions of all applicable federal securities laws and applicable securities laws of all jurisdictions in which the Shares are offered and sold. It is anticipated that the Dealer Manager will enter into Selected Dealer Agreements in the form attached to this Agreement as Exhibit "A" with other broker-dealers participating in the Offering (each dealer being referred to herein as a "Dealer" and said dealers being collectively referred to herein as the "Dealers"). The Company shall have the right to approve any material modifications or addendums to the form of the Selected Dealer Agreement. Terms not defined herein shall have the same meaning as in the Prospectus. In connection therewith, the Company and the Dealer Manager hereby agree as follows:

1. Representations and Warranties of the Company

The Company represents and warrants to the Dealer Manager and each Dealer with whom the Dealer Manager enters into a Selected Dealer Agreement, during the full term of this Agreement that:

1.1 A registration statement with respect to the Company has been prepared by the Company in accordance with applicable requirements of the Securities Act of 1933, as amended (the "Securities Act"), and the applicable rules and regulations (the "Rules and Regulations") of the SEC promulgated thereunder, covering the Shares. Said registration statement, which includes a preliminary prospectus, was initially filed with the SEC on December 16, 2011. Copies of such registration statement and each amendment thereto

have been or will be delivered to the Dealer Manager. The registration statement and prospectus contained therein when declared effective by the SEC and as may be amended or modified from time to time thereafter by any amendment (as to the registration statement) and/or supplements (as to the prospectus) are respectively hereinafter referred to as the "Registration Statement" and the "Prospectus."

1.2 The Company has been duly and validly organized and formed as a corporation under the laws of the State of Maryland, with the power and authority to conduct its business as described in the Prospectus.

1.3 At the time the Registration Statement becomes effective, including the time any post-effective amendment thereto becomes effective, the Registration Statement and Prospectus will comply with the Securities Act and the Rules and Regulations, and the Prospectus and any and all authorized sales materials prepared or approved by the Company for use with potential investors in connection with the Offering ("Authorized Sales Materials"), when used in conjunction with the Prospectus, will not contain any untrue statements of material facts or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading; provided, however, that the foregoing provisions of this Section 1.3 will not extend to such statements contained in or omitted from the Registration Statement or Prospectus or Authorized Sales Materials as are primarily within the knowledge of the Dealer Manager or any of the Dealers and are based upon information either (a) furnished by a Dealer in writing to the Dealer Manager or the Company, or (b) furnished by the Dealer Manager in writing to the Company specifically for inclusion therein.

1.4 The Company intends to use the funds received from the sale of the Shares for the purposes set forth in the Prospectus.

1.5 No consent, approval, authorization or other order of any governmental authority other than expressly noted in this Agreement for the effectiveness of the Registration Statement and blue sky filings is required in connection with the execution or delivery by the Company of this Agreement or the issuance and sale by the Company of the Shares, except such as may be required under the Securities Act or applicable state securities laws.

1.6 There are no actions, suits or proceedings pending or, to the knowledge of the Company, threatened against the Company at law or in equity or before or by any court, arbitrator, federal or state commission, regulatory body or administrative agency or other governmental body, domestic or foreign: (i) asserting the invalidity of this Agreement; (ii) seeking to prevent the issuance of the Shares or the consummation of any of the transactions contemplated by this Agreement; (iii) that might materially and adversely affect the performance by the Company of its obligations under, or the validity or enforceability of, this Agreement, or the Shares; (iv) seeking to affect materially and adversely the federal income tax attributes of the Shares as described in the Prospectus or (v) that might materially and adversely affect the business or property of the Company. As of the date hereof, as of the date on which the Registration Statement (or any amendment thereto) becomes effective, and as of the date on which the Prospectus (or any supplement thereto) is filed with the SEC, there has not been and shall not have been: (A) any issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement or, to the knowledge of the Company, the institution or threat of any proceeding for that purpose, or (B) any notification with respect to the suspension of the qualification of the Shares for sale in any jurisdiction or, to the knowledge of the Company, any initiation or threat of any proceeding for such purpose.

1.7 The Company has the power and authority to enter into and perform this Agreement, and execution and delivery of this Agreement by the Company has been duly and validly authorized by all necessary corporate action. This Agreement constitutes the valid and binding agreement of the Company, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar state or federal debtor relief laws from time to time in effect which affect the enforcement of creditors' rights generally and by general equitable principles. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms of this Agreement by the Company will not conflict with or constitute a material default under any articles of incorporation, by-law, any agreement or instrument to which the Company is a party or by which it is bound, indenture, mortgage, deed of trust, lease, rule, regulation, writ, injunction or decree of any government, governmental instrumentality or court, domestic or foreign, having jurisdiction over the Company, except to the extent that the enforceability of the indemnity and/or contribution provisions contained in Section 5 of this Agreement may be limited under applicable securities laws. The Company is not a party to, bound by or in breach or violation of any indenture or other agreement or instrument, or subject to or in violation of any statute, order or regulation of any

court, regulatory body, administrative agency or governmental body having jurisdiction over it that adversely affects: (A) the ability of the Company to perform its obligations under this Agreement; or (B) the business, operations, financial condition, properties or assets of the Company, except, with respect to any indenture, agreement or other instrument, such breach that would not reasonably be expected to have a material adverse effect.

1.8 The Shares, when subscribed for, paid for and issued, will be duly and validly issued, fully paid and non-assessable and will conform, in all material respects, to the description thereof contained in the Prospectus; no holder thereof will be subject to personal liability for the obligations of the Company solely by reason of being such a holder; such Shares are not subject to any statutory preemptive rights of any stockholder of the Company; and all corporate action required to be taken for the authorization, issuance and sale of such Shares shall have been validly and sufficiently taken.

1.9 The Company is not in violation of its articles of incorporation or its bylaws, or in default of any agreement, indenture or instrument, the effect of which violation or default which would be material to the Company.

1.10 The financial statements of the Company filed as part of the Registration Statement and those included in the Prospectus present fairly in all material respects the financial position of the Company as of the date indicated and the results of its operations for the periods indicated; said financial statements have been prepared in conformity with generally accepted accounting principles applied on a consistent basis.

1.11 Any taxes, fees and other governmental charges in connection with the execution and delivery of this Agreement or the delivery and sale of the Shares have been or shall be paid on or prior to the date first above written.

1.12 The Company has complied and shall comply with all applicable federal and state laws in connection with the offer and sale of the Shares as well as the laws of any other applicable jurisdiction.

1.13 The Company has not, prior to the date of this Agreement, engaged in any activities with respect to the interests of this Agreement that would be inconsistent with any of the provisions of this Agreement, except for any activities that would not have a material adverse effect on the Company.

1.14 The Company has been organized in conformity with the requirements for qualification and taxation as a business development company for federal income tax purposes, and the Company is solely responsible for engaging in methods of operation to enable it to meet the requirements for qualification and taxation as a business development company under the Internal Revenue Code of 1986, as amended.

1.15 The Company is not and, after giving effect to the Offering of the Shares, will not be a “registered management investment company,” as such terms are used under the Investment Company Act of 1940, as amended.

2. Covenants of the Company

The Company covenants and agrees with the Dealer Manager that:

2.1 It will prepare and file with the SEC and each appropriate state securities commission, at no expense to the Dealer Manager, the Registration Statement, including all amendments and exhibits thereto. In addition, it will furnish the Dealer Manager, at no expense to the Dealer Manager, with such number of printed copies of the Registration Statement, including all amendments and exhibits thereto, as the Dealer Manager may reasonably request. It will similarly furnish to the Dealer Manager and others designated by the Dealer Manager as many copies as the Dealer Manager may reasonably request in connection with the Offering of the Shares of: (a) the Prospectus in preliminary and final form and every form of supplemental or amended prospectus; and (b) this Agreement.

2.2 It will prepare and file with the appropriate regulatory authorities, at no expense to the Dealer Manager, the Authorized Sales Materials. In addition, it will furnish the Dealer Manager, at no expense to the Dealer Manager, with such number of printed copies of Authorized Sales Materials as the Dealer Manager may reasonably request.

2.3 It will furnish such proper information and execute and file such documents as may be necessary for the Company to qualify the Shares for offer and sale under the securities laws of such jurisdictions in the United States as the Dealer Manager may reasonably designate and will file and make in each year such statements and reports as may be required. The Company will furnish to the Dealer Manager a copy of such papers filed by the Company in connection with any such qualification.

2.4 It will use its best efforts to cause the Registration Statement to become effective with the SEC and each state securities commission which it deems appropriate in its sole discretion. If at any time the SEC or any state securities commission shall issue any stop order suspending the effectiveness of the Registration Statement, and to the extent the Company determines that such action is in the best interest of its stockholders, it will use its best efforts to obtain the lifting of such order at the earliest possible time. The Company shall not accept any subscriptions for Shares during the effectiveness of any stop order if the Registration Statement becomes unavailable for use in connection with the Offering for any reason.

2.5 If at any time when a Prospectus is required to be delivered under the Securities Act any event occurs as a result of which, in the opinion of either the Company or the Dealer Manager, the Prospectus or any other prospectus then in effect would include an untrue statement of a material fact or, in view of the circumstances under which they were made, omit to state any material fact necessary to make the statements therein not misleading, the Company will promptly notify the Dealer Manager thereof (unless the information shall have been received from the Dealer Manager) and will effect the preparation of an amended or supplemental prospectus which will correct such statement or omission. The Company will then promptly prepare such amended or supplemental prospectus or prospectuses as may be necessary to comply with the requirements of Section 10 of the Securities Act.

2.6 Each of the representations and warranties contained in this Agreement are true and correct and the Company will comply with each covenant and agreement contained in this Agreement.

2.7 It will be duly qualified to do business as a foreign corporation in each jurisdiction in which such qualification is necessary.

3. Obligations, Covenants, and Representations and Warranties of Dealer Manager

3.1 Subject to the terms and conditions set forth herein, the Company hereby appoints the Dealer Manager as its agent and principal distributor for the purpose of selling for cash up to a maximum of 150,000,000 Shares through the Dealers, all of whom shall be members in good standing of FINRA, registered as a broker-dealer with the SEC and duly licensed or registered (or exempt from such licensing or registration), as a broker-dealer by the regulatory authorities in the jurisdictions in which such Dealer will conduct Share offers and sales. The Dealer Manager may also sell Shares for cash directly to its own clients, customers and employees (and certain family members of the Company and the Dealer Manager and their affiliates), subject to the terms and conditions stated in the Prospectus. The Dealer Manager hereby accepts such agency and distributorship and agrees to use its best efforts to sell the Shares on said terms and conditions. The Dealer Manager represents to the Company that it is a member in good standing of FINRA and that it and its employees and representatives have all required licenses and registrations to act under this Agreement.

3.2 Promptly after the effective date of the Registration Statement, but in no event prior to the effective date of the Registration Statement, the Dealer Manager and the Dealers shall commence the offering of the Shares for cash to the public in jurisdictions in which the Shares are registered or qualified for sale or in which such offering is otherwise permitted. The Dealer Manager and the Dealers will suspend or terminate offering of the Shares upon request of the Company at any time and will resume offering the Shares upon subsequent request of the Company.

3.3 The Dealer Manager shall, and, by virtue of entering into the Selected Dealer Agreement, each Dealer shall agree to, assure that all Share offers and sales are made in compliance with: (i) the terms of the Registration Statement, the Prospectus and this Agreement; (ii) the requirements of applicable federal and state securities laws and regulations; and (iii) the applicable rules of FINRA.

3.4 In each jurisdiction, the Dealer Manager shall and, by virtue of entering into the Selected Dealer Agreement, each Dealer shall agree to, assure that only Dealers and those of the Dealer Manager’s agents, employees or representatives who have effective licenses or registrations in such jurisdiction, as and if required by

the securities or "blue sky" laws of such jurisdiction, review the suitability of Shares for, offer Shares for sale to, solicit offers to buy Shares from, otherwise negotiate with respect to, discuss the terms or merits of an investment in the Shares with, or provide any documents relating to the Shares to, any investors resident in such jurisdiction.

3.5 The Dealer Manager shall offer or sell, and, by virtue of entering into the Selected Dealer Agreement, each Dealer shall agree to offer and sell, the Shares only in those jurisdictions specified in writing by the Company. In effecting offers or sales in a jurisdiction, the Dealer Manager shall comply with all special conditions and limitations imposed on the Dealer Manager by such jurisdiction, as set forth in the blue sky survey (indicating the jurisdictions where it is believed offers and sales of the Shares may be made under applicable securities laws), which survey shall be made available by the Company to the Dealer Manager as soon as it is received by the Company.

3.6 The Dealer Manager will not purchase Shares for its own account.

3.7 To the extent that the Dealer Manager directly, and not indirectly through any Dealer, solicits or sells Shares to investors, the Dealer Manager represents and warrants the following: The Dealer Manager has established and implemented an anti-money laundering compliance program ("AML Program") in accordance with applicable FINRA rules, SEC Rules and the Bank Secrecy Act, Title 31 U.S.C. Sections 5311-5355, as amended by the USA PATRIOT Act, and related regulations (31 C.F.R. Part 103), specifically including, but not limited to, 31 U.S.C. 5318(h) (Anti-Money Laundering Programs) and 31 C.F.R. 103.122 (Customer Identification Programs for broker-dealers) (the "AML Rules"). In addition, Dealer Manager represents that it has established and implemented a program for compliance with Executive Order 13224 and all regulations and programs administered by the Treasury Department's Office of Foreign Assets Control ("OFAC" and such program is hereinafter referred to as the "OFAC Program"), and will continue to maintain its AML Program and OFAC Program consistent with the AML Rules and OFAC requirements during the term of this Agreement. The Dealer Manager hereby agrees, upon request of the Company, to provide an annual certification to the Company that, as of the date of such certification (i) its AML Program and its OFAC Program are consistent with the AML Rules and OFAC requirements; (ii) it has continued to implement its AML Program and its OFAC Program, and (iii) it is currently in compliance with all AML Rules and OFAC requirements, specifically including, but not limited to, the Customer Identification Program requirements under Section 326 of the USA PATRIOT Act. The parties expressly agree that in no event shall the Dealer Manager be responsible for customer identification issues or violations of the covenants set forth in this Section, with respect to any investors identified or solicited solely by any Dealer.

3.8 Representations and Warranties of Dealer Manager.

The Dealer Manager represents and warrants to the Company and each Dealer with whom the Dealer Manager enters into a Selected Dealer Agreement, during the full term of this Agreement that:

(a) At all times during the Offering, it is and shall be: (i) a corporation duly organized and validly existing under the laws of the State of Delaware with full power and authority to conduct its business; (ii) a member in good standing of FINRA; and (iii) a broker-dealer registered with the SEC under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and under the securities laws of all fifty (50) states, the District of Columbia, and the Commonwealth of Puerto Rico with the authority to engage in the public offer and sale of securities of the type represented by the Shares.

(b) The Dealer Manager has the power and authority to enter into and perform this Agreement; and the execution and delivery of this Agreement by the Dealer Manager has been duly and validly authorized by all necessary action. This Agreement constitutes the valid and binding agreement of the Dealer Manager, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar state or federal debtor relief laws from time to time in effect which affect the enforcement of creditors' rights generally and by general equitable principles. The Dealer Manager is not in violation of its articles of incorporation or bylaws or in default under any agreement, indenture or instrument the effect of which violation or default would be material to the Dealer Manager. None of: (i) the execution and delivery by the Dealer Manager of this Agreement; (ii) the consummation by the Dealer Manager of any of the transactions

herein contemplated; and (iii) the compliance by the Dealer Manager with the provisions hereof, does or will, in any material respect, conflict with or result in a breach of any term or provision of the articles of incorporation or bylaws of the Dealer Manager or conflict with, result in a breach, violation or acceleration of, or constitute a default under, the terms of any indenture or other agreement or instrument to which the Dealer Manager is a party or by which it is bound or, any material statute, order or regulation applicable to the Dealer Manager of any court, regulatory body, administrative agency or governmental body having jurisdiction over the Dealer Manager. The Dealer Manager is not a party to, bound by or in breach or violation of any indenture or other agreement or instrument, or subject to or in violation of any statute, order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over it that adversely affects: (A) the ability of the Dealer Manager to perform its obligations under this Agreement; or (B) the business, operations, financial condition, properties or assets of the Dealer Manager, except, with respect to any indenture, agreement or other instrument, such breach that would not reasonably be expected to have a material adverse effect.

(c) The Dealer Manager represents and warrants to the Company and each person that signs the Registration Statement that the information under the caption "Plan of Distribution" in the Prospectus and all other information furnished to the Company by the Dealer Manager in writing expressly for use in the Registration Statement, the Prospectus, or any Authorized Sales Materials does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(d) There are no actions or proceedings against, or investigations of, the Dealer Manager pending or, to the knowledge of the Dealer Manager, threatened, before any court, arbitrator, administrative agency or other tribunal: (i) asserting the invalidity of this Agreement; (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement; or (iii) that might materially and adversely affect the performance by the Dealer Manager of its obligations under, or the validity or enforceability of, this Agreement.

(e) Solicitation and other activities by the Dealer Manager hereunder shall be undertaken only in accordance with this Agreement, the Prospectus, the Securities Act, the Exchange Act, and the applicable rules and regulations of the SEC, FINRA, and any other applicable securities or blue sky laws and regulations. The Dealer Manager represents and warrants to the Company that it will not use any sales literature not authorized and approved by the Company, use any "broker-dealer use only" materials with members of the public, or make any unauthorized verbal representations in connection with offers or sales or the Shares. The Dealer Manager further represents and warrants to the Company that it shall promptly (a) notify the Dealers of any supplement or amendment to the Prospectus or Authorized Sales Materials, and (b) supply the Dealers with reasonable quantities of the Prospectus, any Authorized Sales Materials and any supplements or amendments thereto, to the extent provided to the Dealer Manager by the Company.

4. Compensation of Dealer Manager

4.1 Except as otherwise provided in the "Plan of Distribution" section of the Prospectus, as compensation for the services rendered by the Dealer Manager, the Company agrees that it will pay to the Dealer Manager selling commissions in the amount of 7.0% of the gross proceeds of the Shares sold in the Offering, the entire amount which may be re-allowed to Dealers, plus a dealer manager fee in the amount of 3.0% of the gross proceeds of the Shares sold in the Offering, of which up to 1.5% of gross proceeds from the Shares sold in the Offering may be paid by the Dealer Manager to Dealers. For these purposes, Shares shall be deemed to be "sold" if and only if a transaction has closed with a subscriber for Shares pursuant to all applicable Offering and subscription documents, the Company has accepted the subscription agreement of such subscriber, such Shares have been fully paid for and the Periodic Closing and the relevant Minimum Offering, if applicable, have occurred. No selling commissions or dealer manager fee shall be paid with respect to Shares issued and sold pursuant to the Company's distribution reinvestment plan. The Dealer Manager may pay out of its dealer manager fee up to an additional 1.0% of gross offering proceeds from the sales of Shares sold in the Offering by a Dealer, as reimbursements for distribution and marketing-related costs and expenses, such as fees and costs associated with attending or sponsoring conferences and technology costs. The Company may also reimburse the Dealer Manager, which may in turn reimburse the Dealers, for bona fide out-of-pocket itemized and detailed due diligence expenses. Notwithstanding the foregoing, no commissions, payments or amounts whatsoever will be paid to the Dealer Manager under this Section 4.1 with respect to Shares subject to a Minimum Offering until the Minimum Offering has been achieved. Until a Minimum Offering is achieved, proceeds from the sale of Shares related to such Minimum Offering will be held in a segregated account, as described in the Prospectus, and, if such Minimum Offering is not obtained, will be returned to such investors in accordance with the terms of the Prospectus. The Company will not be liable or responsible to any Dealer for direct payment of commissions or reimbursements to any Dealer, it being the sole and exclusive responsibility of the Dealer Manager for payment of commissions, fees and reimbursements to Dealers. Notwithstanding the above, at the discretion of the Company, and upon the Dealer Manager's request, the Company may act as agent of the Dealer Manager by making direct payment of commissions to Dealers on behalf of the Dealer Manager without incurring any liability therefor.

(a) Notwithstanding this Section 4.1, as more fully described in the "Plan of Distribution" section of the Prospectus, certain sales of Shares will not be subject to all or a portion of the selling commission or dealer manager fee.

(b) In accordance with the volume discounts schedule set forth in the "Plan of Distribution" section of the Prospectus, the amount of selling commissions otherwise payable shall be reduced or eliminated with respect to sales to a subscriber or group of subscribers based upon the aggregate number of Shares purchased by such subscriber or group through the same Dealer. Dealers and/or subscribers are responsible for requesting that subscriptions be combined, if applicable, for the purpose of determining whether such subscriptions qualify for volume discounts.

(c) No selling commissions or marketing support fees shall be paid in connection with Shares purchased through the distribution reinvestment plan.

5. Indemnification

5.1 The Company shall, to the extent permitted by applicable federal and state law (including, but not limited to, federal and state securities law), indemnify and hold harmless the Dealers and the Dealer Manager, their officers, directors, partners, employees, associated persons, agents and each person, if any, who controls such Dealer or Dealer Manager within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any losses, claims, damages or liabilities, joint or several, to which such Dealers or Dealer Manager, their officers and directors, or such controlling person may become subject, under the Securities Act or the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (a) any untrue statement or alleged untrue statement of a material fact contained (i) in any Registration Statement (including the Prospectus as a part thereof) or any post-effective amendment thereto or in the Prospectus or any amendment or supplement to the Prospectus, or (ii) in any Authorized Sales Materials (when read in conjunction with the Prospectus), or (iii) any blue sky application or other document executed by the Company or on its behalf specifically for the purpose of qualifying any or all of the Shares for sale under the securities laws of any jurisdiction or based upon written information furnished by the Company under the securities laws thereof (any such application, document or information being hereinafter called a "Blue Sky Application"), or (b) the omission or alleged omission to state in the Registration Statement (including the Prospectus as a part thereof), Authorized Sales Materials (when read in conjunction with the Prospectus), or in any Blue Sky Application a material fact required to be stated therein or necessary to make the statements therein not misleading. The Company will reimburse the Dealer Manager, and its officers and directors and controlling persons, for any reasonable legal or other expenses reasonably incurred by the Dealer Manager, and its officers and directors and controlling persons, in connection with investigating or defending such loss, claim, damage, liability or action; provided that the Company will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of, or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with written information furnished to the Company by the Dealer Manager for use in the preparation of the Registration Statement, the Prospectus, such Authorized Sales Materials, or any such Blue Sky Application; and further provided that the Company will not be liable in any such case if it is determined that the Dealer Manager had knowledge of the matter or event giving rise to or resulting in such loss, claim, damage, liability or action.

5.2 The Dealer Manager will indemnify and hold harmless the Company and its officers and directors (including any persons named in any of the Registration Statements with his consent, as about to become a director), each person who has signed any of the Registration Statements and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any losses, claims, damages or liabilities to which any of the aforesaid parties may become subject, under the Securities Act or the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (a) any untrue statement of a material fact contained in the Registration Statement (including the Prospectus as a part thereof), or any Authorized Sales Materials (when read in conjunction with the Prospectus), or any Blue Sky Application, or (b) the omission to state in the Registration Statement (including the Prospectus as a part thereof), Authorized Sales Materials (when read in conjunction with the

Prospectus) or in any Blue Sky Application a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case described in clauses (a) and (b) to the extent, but only to the extent, that such untrue statement or omission was made in reliance upon and in conformity with written information furnished to the Company by or on behalf of the Dealer Manager specifically, the Prospectus, such for use with reference to the Dealer Manager in the preparation of the Registration Statement Authorized Sales Materials or any such Blue Sky Application, or (c) any failure of the Dealer Manager to comply with its obligations contained in Section 3 hereof, or (d) any untrue statement made by the Dealer Manager or its representatives or agents or omission to state a fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in connection with the offer and sale of the Shares, or (e) any material violation of this Agreement by the Dealer Manager, or (f) any failure to comply with applicable laws governing money laundry abatement and anti-terrorist financing efforts, including applicable rules of FINRA, including the SEC Rules and the USA PATRIOT Act of 2001, or (g) any other failure by the Dealer Manager, to comply with applicable rules of FINRA or the SEC Rules. The Dealer Manager will reimburse the aforesaid parties, in connection with investigation or defending such loss, claim, damage, liability or action. This indemnity agreement will be in addition to any liability which the Dealer Manager may otherwise have.

5.3 The Company and the Dealer Manager will jointly and severally indemnify and hold harmless each Dealer, its officers and directors and each person, if any, who controls such Dealer within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any losses, claims, damages or liabilities, joint or several, to which such Dealer, its officers and directors, or any such controlling person may become subject, under the Securities Act or the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (a) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (including the Prospectus as a part thereof), Authorized Sales Materials (when read in conjunction with the Prospectus) or any Blue Sky Application, or (b) the omission or alleged omission to state in the Registration Statement (including the Prospectus), Authorized Sales Material (when read in conjunction with the Prospectus) or in any Blue Sky Application a material fact required to be stated therein or necessary to make the statements therein not misleading. The Company and the Dealer Manager will reimburse Dealers and their officers and directors and controlling persons, for any reasonable legal or other expenses reasonably incurred by such Dealers and their officers and directors and controlling persons, in connection with investigating or defending such loss, claim, damage, liability or action; provided that the Company and the Dealer Manager will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of, or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with written information furnished to the Company or the Dealer Manager by or on behalf of the Dealers specifically for use in the preparation of the Registration Statement, the Prospectus, such Authorized Sales Materials or any such Blue Sky Application; and further provided that neither the Company nor the Dealer Manager will be liable in any such case if it is determined in a legal proceeding that the Dealers had knowledge of the matter or event giving rise to or resulting in such loss, claim, damage, liability or action.

Notwithstanding the foregoing, as required by Section II.G. of the Omnibus Guidelines of the North American Securities Administrators Association, Inc. (the "NASAA Omnibus Guidelines"), the indemnifications and agreements to hold harmless are further limited to the extent that no such indemnification by the Company of the Dealer Manager, or its officers, directors or control persons, pursuant to Section 5.1 above or by the Company or the Dealer Manager of a Dealer, or its officers, directors or control persons, pursuant to this Section 5.3 shall be permitted under this Agreement for, or arising out of, an alleged violation of federal or state securities laws, unless one or more of the following conditions are met: (a) there has been a successful adjudication on the merits of each count involving alleged securities law violations as to the particular indemnitee; (b) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee; or (c) a court of competent jurisdiction approves a settlement of the claims against the indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the SEC and of the published position of any state securities regulatory authority in which the securities were offered or sold as to indemnification for violations of securities laws.

5.4 Each Dealer, by its execution of a Selected Dealer Agreement with the Dealer Manager, severally will indemnify and hold harmless the Company, the Dealer Manager and each of their respective officers and directors

(including any persons named in any of the Registration Statements with his consent, as about to become a director), each person who has signed any of the Registration Statements and each person, if any, who controls the Company and the Dealer Manager within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act from and against any losses, claims, damages or liabilities to which the Company, the Dealer Manager, any such director or officer, or controlling person may become subject, under the Securities Act or the Exchange Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (a) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (including the Prospectus as a part thereof), Authorized Sales Materials (when read in conjunction with the Prospectus), or any Blue Sky Application, or (b) the omission or alleged omission to state in the Registration Statement (including the Prospectus as a part thereof), any Authorized Sales Materials (when read in conjunction with the Prospectus) or in any Blue Sky Application a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case described in clauses (a) and (b) to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company or the Dealer Manager by or on behalf of such Dealer specifically for use with reference to such Dealer in the preparation of the Registration Statement, such Authorized Sales Materials or any such Blue Sky Application, or (c) any use of sales literature not authorized or approved by the Company or use of "broker-dealer use only" materials with members of the public or unauthorized verbal representations concerning the Shares by such Dealer or Dealer's representatives or agents, or (d) any untrue statement made by such Dealer or its representatives or agents or omission to state a fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in connection with the offer and sale of the Shares, or (e) any failure by such Dealer to comply with Section X or Section XII or any other material violation of the Selected Dealer Agreement, or (f) any failure to comply with applicable laws governing money laundry abatement and anti-terrorist financing efforts, including applicable rules of FINRA, including the SEC Rules and the USA PATRIOT Act of 2001, or (g) any other failure to comply with applicable rules of FINRA, including the SEC Rules. Each such Dealer will reimburse the Company and the Dealer Manager and any such directors or officers, or controlling person, in connection with investigating or defending any such loss, claim, damage, liability or action. This indemnity agreement will be in addition to any liability which such Dealer may otherwise have.

5.5 Promptly after receipt by an indemnified party under this Section 5 of notice of the commencement of any action (but in no event in excess of 30 days after receipt of actual notice), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 5, notify in writing the indemnifying party of the commencement thereof and the omission so to notify the indemnifying party will relieve it from any liability under this Section 5 as to the particular item for which indemnification is then being sought, but not from any other liability which it may have to any indemnified party. In case any such action is brought against any indemnified party, and it notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled, to the extent it may wish, jointly with any other indemnifying party similarly notified, to participate in the defense thereof, with separate counsel. Such participation shall not relieve such indemnifying party of the obligation to reimburse the indemnified party for reasonable legal and other expenses (subject to Section 5.6) incurred by such indemnified party in defending itself, except for such expenses incurred after the indemnifying party has deposited funds sufficient to effect the settlement, with prejudice, of the claim in respect of which indemnity is sought. Any such indemnifying party shall not be liable to any such indemnified party on account of any settlement of any claim or action effected without the consent of such indemnifying party.

5.6 The indemnifying party shall pay all reasonable legal fees and expenses of the indemnified party in the defense of such claims or actions; provided, however, that the indemnifying party shall not be obliged to pay legal expenses and fees to more than one law firm in connection with the defense of similar claims arising out of the same alleged acts or omissions giving rise to such claims notwithstanding that such actions or claims are alleged or brought by one or more parties against more than one indemnified party. If such claims or actions are alleged or brought against more than one indemnified party, then the indemnifying party shall only be obliged to reimburse the expenses and fees of the one law firm that has been selected by a majority of the indemnified parties against which such action is finally brought; and in the event a majority of such indemnified parties is unable to agree on which law firm for which expenses or fees will be reimbursable by the indemnifying party, then payment shall be made to the first law firm of record representing an indemnified party against the action or claim. Such law firm shall be paid only to the extent of services performed by such law firm and no reimbursement shall be payable to such law firm on account of legal services performed by another law firm.

5.7 The indemnity agreements contained in this Section 5 shall remain operative and in full force and effect regardless of (a) any investigation made by or on behalf of any Dealer, or any person controlling any Dealer or by or on behalf of the Company, the Dealer Manager or any officer or director thereof, or by or on behalf of the Company or the Dealer Manager, (b) delivery of any Shares and payment therefor, and (c) any termination of this Agreement or any Selected Dealer Agreement. A successor of any Dealer or of any of the parties to this Agreement, as the case may be, shall be entitled to the benefits of the indemnity agreements contained in this Section 5.

6. Survival of Provisions

The respective agreements, representations and warranties of the Company and the Dealer Manager set forth in this Agreement shall remain operative and in full force and effect regardless of (a) any termination of this Agreement, (b) any investigation made by or on behalf of the Dealer Manager or any Dealer or any person controlling the Dealer Manager or any Dealer or by or on behalf of the Company or any person controlling the Company, and (c) the acceptance of any payment for the Shares. The provisions of Sections 5 and 7 hereof shall also survive such termination.

7. Applicable Law

This Agreement was executed and delivered in, and its validity, interpretation and construction shall be governed by, the laws of the State of Texas; provided however, that causes of action for violations of federal or state securities laws shall not be governed by this Section. The Company, the Dealer Manager and each Dealer hereby acknowledges and agrees that venue for any action brought hereunder or in connection herewith shall lie exclusively in Houston, Texas.

8. Counterparts

This Agreement may be executed in any number of counterparts. Each counterpart, when executed and delivered, shall be an original contract, but all counterparts, when taken together, shall constitute one and the same agreement.

9. Successors and Amendment

9.1 This Agreement shall inure to the benefit of and be binding upon the Dealer Manager and the Company and their respective successors, and to the benefit of the Dealers to the extent set forth in Sections 1 and 5 hereof. Nothing in this Agreement is intended or shall be construed to give to any other person any right, remedy or claim, except as otherwise specifically provided herein.

9.2 This Agreement may be amended by the written agreement of the Dealer Manager and the Company.

10. Term

This Agreement may be terminated by either party (a) immediately upon notice to the other party in the event that the other party shall have materially failed to comply with any of the material provisions of this Agreement on its part to be performed during the term of this Agreement or if any of the representations, warranties, covenants or agreements of such party contained herein shall not have been materially complied with or satisfied within the times specified or (b) on 60 days' written notice.

In any case, this Agreement shall expire at the close of business on the effective date that the Offering is terminated. In addition, the Dealer Manager, upon the expiration or termination of this Agreement, shall (a) promptly deposit any and all funds in its possession which were received from investors for the sale of Shares into the appropriate account; and (b) promptly deliver to the Company all records and documents in its possession which relate to the Offering which are not designated as dealer copies. The Dealer Manager, at its sole expense, may make and retain copies of all such records and documents, but shall keep all such information confidential. The Dealer Manager shall use its best efforts to cooperate with the Company to accomplish any orderly transfer of management of the Offering to a party designated by the Company. Upon expiration or termination of this Agreement, the Company shall pay to the Dealer Manager all compensation to which the Dealer Manager is or becomes entitled under Sections 3 and 4, including commissions and dealer manager fees, at such time as such compensation becomes payable.

11. Confirmation

The Company hereby agrees to prepare and send confirmations to all purchasers of Shares whose subscriptions for the purchase of Shares are accepted by the Company.

12. Suitability and Minimum Purchase Requirements.

12.1 The Dealer Manager shall, and, by virtue of entering into the Selected Dealer Agreement, each Dealer shall agree to, with respect to Share offers and sales in which they are broker of record, assure that Shares are offered and sold (including reinvestment plan purchases) pursuant thereto only to prospective investors who, in each case:

(a) meets the investor suitability standards for the purchase of Shares, including the minimum income and net worth standards and the minimum purchase requirements, set forth in the Prospectus (the "Investor Standards and Requirements");

(b) can reasonably benefit from an investment in the Shares based on such prospective investor's overall investment objectives and portfolio structure;

(c) is able to bear the economic risk of the investment based on such prospective investor's overall financial situation; and

(d) has an apparent understanding of (A) the fundamental risks of the investment; (B) the risk that such prospective investor may lose its entire investment; (C) the lack of liquidity of the Shares; (D) the background and qualifications of the Advisers of the Company; and (E) the tax consequences of the investment, including the need for such prospective investor to consult with its own advisers regarding any tax and other legal and financial consequences to such prospective investor of an investment in the Shares.

12.2 Pursuant to the terms of the Selected Dealer Agreements, the Dealer Manager shall require Dealers to make the determinations required pursuant to this Section 12 based on information they have obtained from each prospective investor, including but not limited to, such prospective investor's age, investment objectives, investment experience, income, net worth, financial situation, other investments and any other pertinent factors deemed by the Dealer Manager to be relevant. The Dealer Manager will rely upon each Dealer to gather such information and make such determinations with respect to investors solicited by such Dealer.

12.3 The Dealer Manager shall require each Dealer to maintain such records evidencing compliance with the determination of the Investor Standards and Requirements as required by this Section 12 herein, for a period not less than that required in order to comply with all applicable federal, state and other statutory and regulatory requirements.

13. Submission of Orders

13.1 Those persons who purchase Shares will be instructed by the Dealer Manager or the Dealer to make their checks payable to "HMS Income Fund, Inc." or, in the alternative, may be given instructions for wiring funds to the appropriate account. The Dealer Manager and any Dealer receiving a check not conforming to the foregoing instructions shall return such check directly to such subscriber not later than the end of the next business day following its receipt. Checks received by the Dealer Manager or Dealer which conform to the foregoing instructions shall be transmitted for deposit pursuant to one of the methods described in this Section 13. Transmittal of received investor funds will be made in accordance with the following procedures.

13.2 Where, pursuant to a Dealer's internal supervisory procedures, internal supervisory review is conducted at the same location at which subscription documents and checks are received from subscribers, checks will be transmitted by the end of the next business day following receipt by the Dealer to the Company for deposit in a segregated account until the Initial Closing or the next Periodic Closing has occurred or until the relevant Minimum Offering has been achieved, as applicable.

13.3 Where, pursuant to a Dealer's internal supervisory procedures, final internal supervisory review is conducted at a different location, checks will be transmitted by the end of the next business day following receipt by the Dealer to the office of the Dealer

conducting such final internal supervisory review (the "Final Review Office"). The Final Review Office will in turn transmit by the end of the next business day following receipt at a different location by the Final Review Office such checks to the Company for deposit in a segregated account until the Initial Closing or the next Periodic Closing has occurred or until the relevant Minimum Offering has been achieved, as applicable.

If the foregoing correctly sets forth our understanding, please indicate your acceptance thereof in the space provided below for that purpose, whereupon this letter and your acceptance shall constitute a binding agreement between us as of the date first above written.

Very truly yours,

HMS INCOME FUND, INC.

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Chief Financial Officer and Secretary

Accepted and agreed as of the date first above written.

HINES SECURITIES, INC.

By: /s/ Frank Apollo
Name: Frank Apollo
Title: Senior Vice President

EXHIBIT "A"
Form of Selected Dealer Agreement

See attached.

Exhibit (j)

CUSTODY AGREEMENT

This agreement (this "**Agreement**") dated as of May 24, 2012 between HMS INCOME LLC, a limited liability company organized and existing under the laws of the state of Maryland having a place of business located at c/o Hines Interests Limited Partnership, 1300 Post Oak Boulevard, Suite 800, Houston Texas 77056 ("**Fund**") and any additional affiliates or future subsidiaries of the Fund as provided herein and AMEGY BANK NATIONAL ASSOCIATION, a national banking association having a place of business at 1221 McKinney Street Level P-1, Houston, Texas, 77010 ("**Custodian**").

WITNESSETH:

That for and in consideration of the mutual promises hereinafter set forth the Fund and the Custodian hereby agree as follows:

ARTICLE 1
DEFINITIONS

Whenever used in this Agreement, the following words shall have the meanings set forth below:

1. "**1940 Act"** shall mean the Investment Company Act of 1940, as amended.

2. **"Authorized Person"** shall be any person, duly authorized according to a Certificate to give any Instruction with respect to one or more Accounts, such persons to be designated in the Certificate annexed hereto as Schedule 1 hereto or such other super-ceding Certificate as may be received by Custodian from time to time. Such persons so designated shall continue to be Authorized Persons until such time as Custodian receives a superseding Certificate from the Fund or an affiliate or future subsidiary of the Fund, that any such person is no longer an Authorized Person.

3. **"Book-Entry System"** shall mean the Federal Reserve/Treasury book-entry system for receiving and delivering securities, its successors and nominees.

4. **"Business Day"** shall mean any day on which Custodian and relevant Depositories are open for business.

5. "**Certificate"** shall mean any written notice, signed by an officer of the Fund or an affiliate or future subsidiary of the Fund so authorized, which certifies to Custodian the names and signatures of those persons designated Authorized Persons, and the names of the Fund's Managers (or the Successor Fund's (as defined herein) Board of Directors), or an affiliate or future subsidiary's Board of Directors or other governing authority, together with any changes which may occur from time to time.

6. "**Control Agreement**" shall mean a control agreement by and among Fund, Custodian and a lender as identified in such control agreement, including without limitation, that certain Control Agreement by and among Fund, Custodian and Capital One, National Association dated as of May 24, 2012.

7. **"Depository"** shall include (a) the Book-Entry System, (b) the Depository Trust Company, (c) any other clearing agency or securities depository registered with the Securities and Exchange Commission identified to the Fund from time to time, and (d) the respective successors and nominees of the foregoing.

8. **"Eligible Investment"** means any investment that at the time of its acquisition is one or more of the following:

(a) United States government and agency obligations;

(b) commercial paper having a rating assigned to such commercial paper by Standard & Poor's Rating Services or Moody's Investor Service, Inc. (or, if neither such organization shall rate such commercial paper at such time, by any nationally recognized rating organization in the United States of America) equal to one of the two highest ratings assigned by such organization, it being understood that as of the date hereof such ratings by Standard & Poor's Rating Services are "A1+" and "A1" and such ratings by Moody's Investor Service, Inc. are "P1" and "P2";

(c) interest bearing deposits in United States dollars in United States or Canadian banks with an unrestricted surplus of at least U.S. $250,000,000, maturing within one year; and

(d) money market funds (including funds of the bank serving as Custodian or its affiliates) or United States government securities funds designed to maintain a fixed share price and high liquidity.

9. **"Instructions"** shall mean the communications that contain all information reasonably requested by Custodian to enable Custodian to carry out Instructions which are actually received by Custodian by S.W.I.F.T., tested telex, letter, facsimile transmission, or other method or system specified by Custodian as available for use in connection with the services hereunder (if in writing, signed by two Authorized Persons). Custodian shall act on Instructions only if Custodian reasonably believes in good faith that such Instructions have been given by an Authorized Person.

10. **"Securities"** shall include, without limitation, any common stock and other equity securities, bonds, rights, warrants, debentures and other debt securities, notes, mortgages or other obligations, and any instruments representing rights to receive, purchase, or subscribe for the same, or representing any rights or interests therein (whether represented by a certificate or held in a Depository).

ARTICLE II
APPOINTMENT OF CUSTODIAN; ACCOUNTS; REPRESENTATIONS, WARRANTIES AND COVENANTS

1. (a) The Fund hereby appoints Custodian to keep and maintain all Securities and cash at any time delivered to Custodian during the term of this Agreement. The Fund hereby authorizes Custodian to hold securities in registered form in its name or the name of its nominees or other form satisfactory to the Fund. Custodian hereby accepts such appointment. Custodian agrees to establish and maintain the following accounts (each an "**Account**" and collectively, "**Accounts**"), subject only to draft or order by Custodian acting pursuant to the terms of this Agreement:

(i) a securities account in the name of the Fund for Securities, which may be received by or on behalf of Custodian for the account of the fund; and

(ii) an account in the name of the Fund ("**Cash Account**") for any and all cash received by or on behalf of Custodian for the account of the Fund.

(iii) amounts held in the Cash Account from time to time may be invested in Eligible Investments pursuant to specific written Proper Instructions (which may be standing instructions) received by the Custodian from two Authorized Persons acting on behalf of the Company. Any earnings from such investment of amounts held in the Cash Account from time to time shall be redeposited in the Cash Account (and may be reinvested at the written direction of the Company).

Custodian shall maintain books and records regarding the Accounts in accordance with industry standards relating to custody accounts of the nature described herein and as set forth in **Section 9** of **Article XIII** hereof.

(b) Custodian may from time to time establish on its books and records such sub-accounts within each Account as the Fund and the Custodian may agree (each a "**Special Account**"), and Custodian shall reflect therein such assets as the Fund may specify in Instructions.

(c) Custodian may from time to time establish, pursuant to a written agreement with and for the benefit of a broker, dealer, future commission merchant or other third party identified in Instructions, such accounts of such terms and conditions as the Fund and Custodian shall agree, and Custodian shall transfer to such account such Securities and money as the Fund may specify in Instructions.

2. The Fund hereby represents and warrants that:

(a) It is duly organized and existing under the laws of the jurisdiction of its organization, with full power to carry on its business as now conducted, to enter into this Agreement, and to perform its obligations hereunder;

(b) This Agreement has been duly authorized, executed and delivered by the Fund, approved by a resolution of its board, constitutes a valid and legally binding obligation of the Fund, enforceable in accordance with its terms, and there is no statute, regulation, rule, order or judgment binding on it, and no provision of its charter or by-laws or other contract binding on it which would prohibit its execution or performance of this Agreement;

(c) It is fully informed of the protections and risks associated with various methods of transmitting Instructions and delivering Certificates to Custodian, shall, and shall cause each Authorized Person to, safeguard and treat with extreme care any user authorization codes, passwords and/or authorization keys, understands that there may be more secure methods of transmitting or delivering the same than the methods selected by it, agrees that the security procedures (if any) to be followed in connection therewith provide a commercially reasonable degree of protection in light of its particular needs and circumstances;

3. Custodian represents and warrants that (a) assuming execution and delivery of this Agreement by the Fund, this Agreement is Custodian's legal, valid and binding obligation, enforceable in accordance with its terms; (b) it has full power and authority to enter into and has taken all necessary corporate action to authorize the execution of this Agreement; (c) in the event that it becomes necessary to engage a foreign sub-custodian, any engagement of such will be in accordance with Rule 17f-5 of the 1940 Act; and (d) it is qualified to act as a custodian pursuant to Sections 17(f) and 26(a)(1) of the 1940 Act.

4. The Fund, from time to time, may request Custodian to establish additional accounts for affiliates or subsidiaries of the Fund. Any such additional Accounts shall governed by the terms

of this Agreement and any such affiliates or subsidiaries shall furnish such Certificates and other information as Custodian may require to enable Custodian to apply with any applicable laws and regulations applicable to Custodian. Any requirements contained in this Agreement applicable to the Fund shall also apply to any Accounts maintained by Custodian for any affiliate or future subsidiary of the Fund. Custodian may require a separate agreement be executed between Custodian and affiliate or future subsidiary.

ARTICLE III
CUSTODY AND RELATED SERVICES

1. Custodian shall hold in a separate account, and physically segregate at all times from those of any other persons, firms or corporations, pursuant to the provisions hereof, all securities received by it for or for the account of the Fund. All such securities are to be held or disposed of by Custodian at all times pursuant to Instructions, pursuant to this Agreement. The Custodian shall have no power or authority to assign, hypothecate, pledge or otherwise dispose of any such securities or investments, except pursuant to the directive of the Fund.

(a) Custodian will identify in its records and hold and physically segregate, where Securities are issued in physical form, for the Fund all Securities to the Fund's Accounts.

(b) Custodian is authorized, in its discretion to utilize Depositories. With respect to each Depository, Custodian (i) shall exercise due care in accordance with reasonable commercial standards in discharging it duties as a securities intermediary to obtain and thereafter maintain Securities or other financial assets deposited or held in such Depository, and (ii) will provide promptly upon request by the Fund, such reports as are available concerning the internal accounting controls and financial strength of the Custodian. Each Depository utilized by Custodian and the Custodian shall at all times comply with rule 17f-4 under the 1940 Act.

(c) It is not currently anticipated that Custodian will utilize a foreign securities depository (as that term is defined by Rule 17f-7 under the 1940 Act).

2. Custodian shall furnish the Fund with a monthly summary of all transfers to or from the Accounts and the Fund hereby agrees to waive its right to receive trade confirmations as they occur.

3. With respect to all Securities held hereunder, Custodian shall, unless otherwise instructed to the contrary:

(a) Receive all income and other payments and advise the Fund as promptly as practicable of any such amounts due but not paid;

(b) Present for payment and receive the amount paid upon all Securities which may mature and advise the Fund as promptly as practicable of any such amounts due but not paid, provided, however, Custodian shall have no obligation to collect any payments that may due pursuant to any Securities that are promissory notes extended by the Fund;

(c) Forward to the Fund copies of all information or documents that it may actually receive from an issuer of Securities which, in the opinion of Custodian, are intended for the beneficial owner of Securities;

(d) Execute, as custodian, certificates of ownership, affidavits, declarations or other certificates under any tax laws now or hereafter in effect in connection with the collection of bond and note coupons;

(e) Hold directly or through a Depository all rights and similar Securities issued with respect to any Securities credited to an Account hereunder; and

(f) Endorse for collection checks, drafts or other negotiable instruments.

4. (a) Custodian shall notify the Fund of rights or discretionary actions with respect to Securities held hereunder, and of the date or dates by when such rights must be exercised or such action must be taken, provided that Custodian has actually received, from the Issuer or the relevant Depository or a nationally recognized bond or corporate action service to which Custodian subscribes, timely notice of such rights or discretionary corporate action or of the date or dates such rights must be exercised or such action must be taken. Absent actual receipt of such notice, Custodian shall have no liability for failing to so notify the Fund.

(b) Whenever Securities (including, but not limited to, warrants, options, tenders, options to tender or non-mandatory puts or calls) confer discretionary rights on the Fund or provide for discretionary action or alternative courses of action by the Fund, the Fund shall be responsible for making any decisions relating thereto and for directing Custodian to act. In order for Custodian to act, it must receive the Fund's Certificate or Instructions at Custodian's offices, addressed as Custodian may from time to time request, but not later than noon (Houston time) at least two (2) Business Days prior to the last scheduled date to act with respect to such securities. Absent Custodian's timely receipt of such Instructions, Custodian shall not be liable for failure to take any action relating to or to exercise any rights conferred by such Securities.

5. (a) Custodian shall transmit promptly to the Fund all written information (including, without limitation, pendency of calls and maturities of securities and expirations of rights in connection therewith) received by Custodian from issuers of the securities being held for the Fund. With respect to tender or exchange offers, Custodian shall transmit promptly to the Fund all written information received by the Custodian from issuers of the securities whose tender or exchange is sought and from the party (or his agents) making the tender or exchange offer.

(b) Custodian shall promptly deliver, or cause to be executed and delivered, to the Fund all notices, proxies and proxy soliciting materials with relation to such securities, such proxies to be executed by the registered holder of such securities (if registered otherwise than in the name of the Fund), but without indicating the manner in which such proxies are to be voted.

6. All voting rights with respect to Securities, however registered, shall be exercised by the Fund or its designee. Custodian will make available to the Fund proxy voting services upon the request of the fund in accordance with terms and conditions to be mutually agreed upon by Custodian and the Fund.

7. Custodian shall promptly advise the Fund upon Custodian's actual receipt of notification of the partial redemption, partial payment or other action affecting less than all Securities of the relevant class. If Custodian or any Depository holds any Securities in which the Fund has an interest as part of a fungible mass, Custodian or Depository may select the Securities to participate in such partial redemption, partial payment or other action in any non-discriminatory manner that it customarily uses to make such selection.

8. Custodian shall not under any circumstances accept bearer interest coupons which have been stripped from United States federal, state or local government or agency securities unless explicitly agreed to by Custodian in writing.

9. The Fund shall be liable for all taxes, assessments, duties and other governmental charges, including any interest or penalty with respect thereto (**Taxes**"), with respect to any cash or Securities held on behalf of the Fund or any transaction related thereto. The Fund shall indemnify Custodian for any amount of Tax that Custodian or any other withholding agent is required under applicable laws (whether by assessment or otherwise) to pay on behalf of, or in respect of income earned by or payments or distributions made to or for the account of the Fund (including any

payment of Tax required by reason of an earlier failure to withhold). Custodian shall, or instruct any applicable other withholding agent to, withhold the amount of any Tax which is required to be withheld under applicable law upon collection of any dividend, interest or other distribution made with respect to any Security and any proceeds or income from the sale, loan or other transfer of any Security. In the event that Custodian is required under applicable law to pay any Tax on behalf of the Fund, Custodian is hereby authorized to withdraw cash from any cash account in the amount required to pay such Tax and to use such cash, or to remit such cash to another withholding agent, for the timely payment of such Tax in the manner required by applicable law. Custodian shall provide prior notice to the Fund before taking such action. If the aggregate amount of cash in all cash accounts is not sufficient to pay such Tax, Custodian shall promptly notify the Fund of the additional amount of cash required, and the Fund shall directly deposit such additional amount in the appropriate cash account promptly after receipt of such notice, for use by Custodian as specified herein.

10. (a) For the purpose of settling Securities transactions, the Fund shall provide Custodian with sufficient immediately available funds for all transactions by such time and date as conditions in the relevant market dictate. Custodian shall provide the Fund with immediately available funds each day which result from the actual settlement of all sale transactions, based upon advices received by Custodian from Depositories. Such funds shall be in U.S. dollars.

(b) To the extent that Custodian has agreed to provide pricing or other information services in connection with this Agreement, Custodian is authorized to utilize any vendor (including brokers and dealers in Securities) reasonably believed by Custodian to be reliable to provide such information. The Fund agrees that it will provide to the Custodian on a monthly basis the balance of all promissory notes held by Custodian. The Custodian shall have no duty to verify or in any manner confirm the information provided by the Fund to Custodian relating to the value or outstanding balance of any promissory note held by Custodian. The Fund acknowledges that Custodian shall use the information provided by the Fund to prepare the monthly statement information provided to the Fund by the Custodian.

11. Until such time as Custodian receives Instructions to the contrary with respect to a particular Security, Custodian may release the identity of the Fund to an issuer which requests such information pursuant to the Shareholder Communications Act of 1985 for the specific purpose of direct communications between such issuer and shareholder.

ARTICLE IV
PURCHASE AND SALE OF SECURITIES
CREDITS TO ACCOUNT

1. Promptly after each purchase or sale of Securities by the Fund, the Fund shall deliver to Custodian Instructions, specifying all information Custodian may reasonably request to settle such purchase or sale. Custodian shall account for all purchases and sales of Securities on the actual settlement date unless otherwise agreed by Custodian.

2. The Fund understands that when Custodian is instructed to deliver Securities against payment, delivery of such Securities and receipt of payment therefore may not be completed simultaneously. Notwithstanding any provision in this Agreement to the contrary, settlements, payments and delivery of Securities may be effected by Custodian in accordance with the customary or established securities trading or securities processing practices and procedures in the jurisdiction in which the transaction occurs, including, without limitation, delivery to a purchaser or dealer therefore (or agent) against receipt with the expectation of receiving later payment for such Securities. The Fund assumes full responsibility for all risks, including, without limitation, credit risks, involved in connection with such deliveries of Securities.

3. Custodian may, as a matter of bookkeeping convenience or by separate agreement with the Fund, credit the Cash Account with the proceeds form any sale, redemption or other disposition of Securities or interest, dividends or other distributions payable on Securities prior to its actual receipt of final payment therefore. All such credits shall be conditional until Custodian's actual receipt of final payment and may be reversed by Custodian to the extent that final payment is not received. Payment with respect to a transaction will not be considered final until Custodian shall have received immediately available funds, which under local applicable law, rule and/or practice are irreversible and not subject to any security interest, levy or other encumbrance, and which are specifically applicable to such transaction.

ARTICLE V
OVERDRAFTS AND INDEBTEDNESS

1. Fund will have sufficient immediately available funds each day in the Cash Account (without regard to any Cash Account investments) to pay for the settlement of all Financial Assets delivered to the Fund against payment by Fund and credited to the Securities Account. If a debit to the Cash Account results (or will result) in a debit balance, the Custodian may, in its discretion, (a) advance an amount equal to the overdraft, (b) refuse to settle in whole or in part the transaction causing such debit balance, or (c) if any such transaction is posted to the Securities Account, reverse any such posting. If Custodian elects to make such advance, the advance will be deemed a loan to the Fund, payable on demand, bearing interest at the applicable rate charged by Custodian from time to time, for such overdrafts, from the date of such advance to the date of payment (both after as well as before judgment) and otherwise on the terms on which Custodian makes similar overdrafts available from time to time.

2. If the Custodian advances any amount to or for the benefit of the Fund, any cash held in the Securities Account shall be security for any amounts so advanced in an amount not to the exceed the amount of such an advance. If, after Custodian provides written notice to the Fund of any advance, the Fund fails to promptly repay the advance, the Custodian shall be entitled to use the Fund's available cash to repay such amount.

3. If the Fund borrows money from any bank (including Custodian if the borrowing is pursuant to a separate agreement) using securities held by Custodian hereunder as collateral for such borrowings, the Fund shall deliver to Custodian Instructions specifying with respect to each such borrowing: (a) the name of the bank, (b) the amount of the borrowing, (c) the time and date, if known, on which the loan is to be entered into, (d) the total amount payable to the Fund on the borrowing date, (e) the Securities to be delivered as collateral for such loan, including the name of the issuer, the title and number of shares or the principal amount of any particular Securities, and (f) a statement specifying whether the loan is for investment purposes or for temporary or emergency purposes and that such loan is in conformance with the 40 Act and the Fund's prospectus. Custodian shall deliver on the borrowing date specified in a Certificate the specified collateral against payment by the lending bank of the total amount of the loan payable, provided that the same conforms to the total amount payable as set forth in the Certificate. Custodian may, at the option of the lending bank, keep such collateral in its possession, but such collateral shall be subject to all rights therein given the lending bank by virtue of any promissory note or loan agreement. Upon Instructions of the Fund, Custodian shall deliver such Securities as additional collateral as may be specified in such Instructions to collateralize further any transaction described in this section. The Fund shall cause all Securities released from collateral status to be

returned directly to Custodian, and Custodian shall receive from time to time such return of collateral as may be tendered to it. In the event the Fund fails to specify in Instructions, the name of the issuer, the title and number of shares or the principal amount of any particular Securities to be delivered as collateral by Custodian, Custodian shall not be under any obligation to deliver any Securities as collateral for borrowings.

ARTICLE VI
SALE AND REDEMPTION OF SHARES

1. Whenever the Fund shall sell any shares issued by the Fund ("**Shares**") it shall deliver to Custodian a Certificate or Instructions specifying the amount of money and/or Securities to be received by Custodian for the sale of such Shares and specifically allocated to an Account.

2. Upon receipt of such money, Custodian shall credit such money to an Account as specified by the Fund.

3. Except as provided hereinafter, whenever the Fund desires Custodian to make payment out of the money held by Custodian hereunder in connection with a redemption of any Shares, it shall furnish to Custodian a Certificate of Instructions specifying the total amount to be paid for such Shares. Custodian shall make payment of such total amount to the transfer agent specified in such Certificate of Instructions out of the money held in the Account specified by the Fund.

ARTICLE VII
PAYMENT OF DIVIDENDS OR DISTRIBUTIONS

1. Whenever the Fund shall determine to pay a dividend or distribution on Shares it shall furnish to Custodian Instructions setting forth therein the declaration of such dividend or distribution, the total amount payable in cash, and the payment date.

2. Upon the payment date specified in such Instructions, Custodian shall pay out of the money held, the total amount payable to the dividend agent of the Fund specified therein.

ARTICLE VIII
CONCERNING THE CUSTODIAN

1. (a) Except as otherwise expressly provided herein, Custodian shall not be liable for any costs, expenses, damages, liabilities or claims, including attorneys' and accountants' fees (collectively, "**Losses**"), incurred by or asserted against the Fund, except those Losses arising out of Custodian's own negligence or willful misconduct. Custodian shall have no liability whatsoever for the action or inaction of any Depositories except in each such case to the extent such action or inaction is a direct result of Custodian's failure to fulfill its duties hereunder, including its duty to act in compliance with Rule 17-4 of the 1940 Act. In no event shall Custodian be liable to the Fund or any third party for special, indirect or consequential damages, or lost profits or loss of business, arising in connection with this Agreement, nor shall Custodian be liable: (i) for acting in accordance with any Certificate or Instructions actually received by Custodian and reasonably believed by Custodian to be given by an Authorized Person; (ii) for concluding that all disbursements of cash directed by the Fund, whether by a Certificate or an Instruction, are in accordance with Section 2(c) of Article II hereof; (iii) for any Losses due to forces beyond the control of Custodian, including without limitation strikes, work stoppages, acts of war or terrorism, insurrection, revolution, nuclear or natural catastrophes or acts of God, or interruptions, loss or malfunctions or utilities, communications or computer (software and hardware) services; or (iv) for any Losses arising from the applicability of any law or regulation now or hereafter in effect.

(b) Custodian may enter into subcontracts, agreements and understandings with other parties whenever and on such terms and conditions as it deems necessary or appropriate to perform its services hereunder. No such subcontract, agreement or understanding shall discharge Custodian from its obligations hereunder.

(c) The Fund agrees to indemnify Custodian and hold Custodian harmless from and against any and all Losses sustained or incurred by or asserted against Custodian by reason of any action or inaction, or arising out of Custodian's performance hereunder, including reasonable fees and expenses of counsel incurred by Custodian, provided however, that the Fund shall not indemnify Custodian for those Losses arising out of Custodian's own negligence or willful misconduct. This indemnity shall be a continuing obligation of the Fund, its successors and assigns, notwithstanding the termination of this Agreement.

2. Without limiting the generality of the foregoing, Custodian shall be under no obligation to inquire into, and shall not be liable for:

(a) Any Losses incurred by the Fund or any other person as a result of the receipt or acceptance of fraudulent, forged or invalid Securities which are otherwise not freely transferable without encumbrance in any relevant market;

(b) The validity of the issue of any Securities purchased, sold, or written by or for the Fund, the legality of the purchase, sale or writing thereof, or the propriety of the amount paid or received therefore;

(c) The legality of the sale or redemption of any Shares, or the propriety of the amount received of paid therefore;

(d) The legality of the declaration or payment of any dividend or distribution by the Fund;

(e) The legality of any borrowing by the Fund;

(f) The legality of any loan of portfolio Securities, nor shall Custodian be under any duty or obligation to see to it that any cash or collateral delivered to it by a broker, dealer or financial institution or held by it at any time as a result of such loan or portfolio Securities is adequate security for the Fund against any loss it might sustain as a result of such loan, which duty or obligation shall be the sole responsibility of the Fund. In addition, Custodian shall be under no obligation or duty to see that any broker, dealer or financial institution to which portfolio Securities of the Fund are lent makes payment to it of any dividends or interest which are payable to or for the account of the Fund during the period of such loan or at the termination of such loan, provided, however that Custodian shall promptly notify the Fund in the event that such dividends or interest are not paid and received when due.

3. Custodian will be entitled to rely on, and may act upon the advice of professional advisers in relation to matters of law, regulation or market practice (which may be the professional advisers to the Fund) and will not be liable to the Fund for any action taken or omitted pursuant to such advice, provided that the Custodian exercised reasonable care in the selection of such professional advisers and acts reasonably in reliance on such advice. Notwithstanding the foregoing, such reliance shall not effect the Custodian's liability with respect to its responsibilities under the terms of this Agreement and the 1940 Act

4. Custodian shall be under no obligation to take any action to collect any amount payable on Securities in default, or if payment is refused after due demand and presentment.

5. Custodian shall have no duty or responsibility to inquire into, make recommendations, supervise, or determine the suitability of any transaction affecting any Account.

6. The Fund shall pay to Custodian the fees and charges as may be specifically agreed upon from time to time and such other fees and charges at Custodian's standard rates for such services as may be applicable. The Fund shall reimburse Custodian for all costs associated with the conversion of the Fund's Securities hereunder and the transfer of Securities and records kept in connection with this Agreement. The Fund shall also reimburse Custodian for out-of-pocket expenses which are a normal incident of the services provided hereunder.

7. Custodian has the right to debit any cash account for any amount payable by the Fund in connection with any and all obligations of the Fund to Custodian in accordance with **Section 8** of **Article III** and **Section 1** of **Article V** hereof.

8. If the Fund elects to transmit Instructions through an on-line communications system offered by Custodian, the Fund's use thereof shall be subject to any terms and conditions that may be imposed by Custodian. If Custodian receives Instructions which appear on their face to have been transmitted by an Authorized Person via (a) computer facsimile, email, the Internet or other insecure electronic method, or (b) secure electronic transmission containing applicable authorization cods, passwords and/or authentication keys, the Fund understands and agrees that Custodian cannot determine the identity of the actual sender of such Instructions and that Custodian shall conclusively presume that such Instructions have been sent by an Authorized Person, and the Fund shall be responsible for ensuring that only Authorized Persons transmit such Instructions to Custodian. If the Fund elects (with Custodian's prior consent) to transmit Instructions through an on-line communications service owned or operated by a third party, the Fund agrees that Custodian shall not be responsible for the reliability or availability of such service.

9. The Custodian shall create and maintain all records relating to its activities and obligations under this Agreement in such manner as will meet the obligations of the Fund under the 1940 Act, including as required by to Section 31 thereof and Rules 31a-1 and 31a-2 thereunder. To the extent that the Custodian is able to do so, the Custodian shall provide assistance to the Fund (at the Fund's reasonable request) providing sub-certifications regarding certain of its services performed hereunder to the Fund in connection with the Fund's Sarbanes-Oxley Act of 2002 certification requirements. The books and records pertaining to the Fund which are in possession of Custodian shall be the property of the Fund. Such books and records shall be prepared and maintained as required by the 40 Act and the rules thereunder. The Fund, or its authorized representatives, shall have access to such books and records maintained by Custodian hereunder upon reasonable prior notice to Custodian during Custodian's normal business hours.

10. It is understood that Custodian is authorized to supply any information regarding the Accounts which is required by any law, regulation or rule now or hereafter in effect. The Custodian shall provide the Fund with any report obtained or required to be obtained by the Custodian on the system of internal accounting control of a Depository.

11. Custodian shall have no duties or responsibilities whatsoever except such duties and responsibilities as are specifically set forth in this Agreement, and no covenant or obligation shall be implied against Custodian in connection with this Agreement.

ARTICLE IX
TERMINATION

1. Either of the parties hereto may terminate this Agreement by giving to the other party a notice in writing specifying the date of such termination, which shall be not less than sixty (60) days after the date of giving such notice. In the event such notice is given by the Fund, it shall be accompanied by a copy of a resolution of the board of the Fund, certified by the Secretary or any Assistant Secretary, electing to terminate this Agreement and designating a successor custodian or custodians, each of which shall be a bank or trust company having not less than $50,000,000 aggregate capital, surplus and undivided profits (or such amount as may be required by the 1940 Act). In the event such notice is given by Custodian, the Fund shall, on or before the termination date, deliver to Custodian a copy of a resolution of the board of the Fund, certified by the Secretary or any Assistant Secretary, designating a successor custodian or custodians. In the absence of such designation by the Fund, Custodian may designate a successor custodian, which shall be a bank or trust company having not less than $50,000,000 aggregate capital, surplus and undivided profits (or such amount as may be required by the 1940 Act). Upon the date set forth in such notice this Agreement shall terminate, and Custodian shall upon receipt of a notice of acceptance by the successor custodian on that date deliver directly to the successor custodian all Securities and money then owned by the Fund and held by it as Custodian, after deducting all fees, expenses and other amounts for the payment or reimbursement of which it shall be entitled.

ARTICLE X
MISCELLANEOUS

1. The Fund agrees to furnish to Custodian a new Certificate of Authorized Persons in the event of any change in the then present Authorized Persons. Until such new Certificate is received, Custodian shall be fully protected in acting upon Certificates of Instructions of such present Authorized Persons.

2. Any notice or other instrument in writing, authorized or required by this Agreement to be given to Custodian, shall be sufficiently addressed to Custodian and received by it at its offices at 1221 McKinney Street, Level P-1, Houston, Texas, 77010, or at such other place as Custodian may from time to time designate in writing.

3. Any notice or other instrument in writing, authorized or required by this Agreement to be given to the Fund shall be sufficiently given if addressed to the Fund and received by it at its offices at c/o Hines Interests Limited Partnership, 1300 Post Oak Boulevard, Suite 800, Houston, Texas 77056, or at such other place as the Fund may from time to time designate in writing.

4. Each and every right granted to either party hereunder or under any other document delivered hereunder or in connection herewith, or allowed it by law or in equity, shall be cumulative and may be exercised from time to time. No failure on the part of either party to exercise, and no delay in exercising, any right will operate as a waiver thereof, nor will any single or partial exercise by either party of any right preclude any other or future exercise thereof or the exercise of any other right.

5. In case any provision in any obligation under this Agreement shall be invalid, illegal or unenforceable in any exclusive jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected thereby. This Agreement may not be amended or modified in any manner except by a written agreement executed by both parties. This Agreement shall extend to and shall be binding upon the parties hereto and their respective successors and assigns; provided, however, that this Agreement shall not be assignable by either party without the written consent of the other.

6. This Agreement shall be construed in accordance with the substantive laws of the State of Texas, without regard to conflicts of laws principles thereof. In the event of a conflict with applicable laws of the State of Texas, or any provision herein, and the 1940 Act, the 1940 Act shall control. The Fund and Custodian hereby consent to the jurisdiction of a state or federal court situated in Houston, Texas in connection with any dispute arising hereunder. The Fund hereby irrevocably waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such proceeding brought in such a court and claim that such proceeding brought in such a court has been brought in an inconvenient forum. The Fund and Custodian each hereby irrevocably waives any rights to trial by jury in any legal proceeding arising out of or relating to this Agreement.

7. The Fund hereby acknowledges that Custodian is subject to federal laws, including its Fund Identification Program ("**CIP**") requirements under the USA PATRIOT Act and its implementing regulations, pursuant to which Custodian must obtain, verify and record information that allows Custodian to identify the Fund. Accordingly, prior to opening an Account hereunder Custodian will ask the Fund to provide certain information including, but not limited to, the Fund's name, physical address, tax identification number and other information that will help Custodian to identify and verify the Fund's identity such as organizational documents, certificate of good standing, license to do business, or other pertinent identifying information. The Fund agrees that Custodian cannot open an Account hereunder unless and until Custodian verifies the Fund's identity in accordance with its CIP.

8. The Fund acknowledges that after the date of this Agreement, it will be merged with and into HMS Income Fund, Inc., a Maryland corporation (the "**Successor Fund**"), with the Successor Fund to be the surviving entity (the "**Merger**"). The Fund and the Successor Fund acknowledge and agree that, from and after the date of the Merger, the Fund shall be replaced as a party hereto by the Successor Fund. The Successor Fund shall deliver to the Custodian a file-stamped copy of the Articles of Merger related to the Merger promptly upon their filing with the Secretary of State of the State of Maryland.

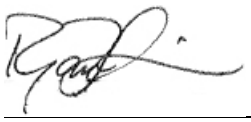
9. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument.

10. In the event of any conflict between the terms or conditions of this Agreement and the terms and conditions of the Control Agreement, the Control Agreement shall control.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURE PAGES FOLLOW]

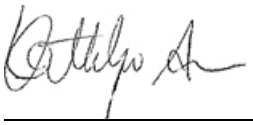
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, thereunto duly authorized, as of the day and year first above written.

HMS INCOME LLC, a Maryland limited liability company

By: 

Ryan T. Sims, Manager

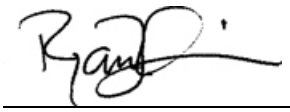
AMEGY BANK NATIONAL ASSOCIATION



By: _____
Name: Kathlyn Shen
Title: Vice President

Acknowledged and Agreed to by:

HMS INCOME FUND, INC., a Maryland corporation

By: 

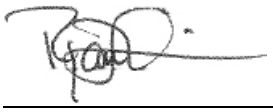
Name: Ryan Sims
Title: Chief Financial Officer and Secretary (Principal Financial and Accounting Officer)

Schedule 1

Certificate of Authorized Signatures
For
HMS INCOME LLC

To: Amegy Bank National Association
Attn: Corporate Trust
1221 McKinney Street – Level P-1
Houston, Texas 77010

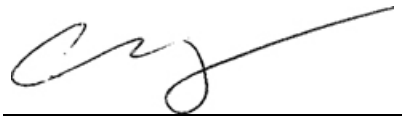
The undersigned, does hereby certify that (he/she) is a duly elected and acting officer of HMS INCOME LLC ("**Fund"**) and does hereby certify that the following person(s) named below are officers of the Fund with such title and office as appears opposite such person's name; said person(s) is a duly elected, qualified and acting incumbent of such office; and the signature appearing after said person's name is the true and correct specimen of such person's genuine signature:

Name	Office	Signature
Ryan Sims	Manager	

The undersigned is an authorized officer of the Fund and by virtue of the authority delegated to such officer by the Fund is hereby authorized to execute and deliver, on behalf of the Fund this certification and such other documents as may be necessary or incidental to the transactions and performance of duties pursuant to the Custody Agreement dated May 24, 2012 between HMS INCOME LLC and its affiliates or subsidiaries and Amegy Bank National Association.

IN WITNESS WHEREOF, the undersigned hereby certifies that this is a true and correct certification/statement as of , 2012.

Authorized Signature: _____
(Other than above-named persons)



Name: Charles Hazen
Title: Manager

(Seal, if any)

CONDITIONAL FEE WAIVER AGREEMENT

This Conditional Fee Waiver Agreement (this "Agreement") is made as of May 31, 2012 by and among HMS Income Fund, Inc. (the "Company"), HMS Adviser LP (the "Adviser") and Main Street Capital Partners, LLC (the "Sub-Adviser"). The Adviser and the Sub-Adviser are collectively referred to herein as the "Advisers."

WHEREAS, the Company maintains on file with the U.S. Securities and Exchange Commission (the 'SEC") an effective registration statement on Form N-2, as amended (File No. 333-178548) covering the continuous offering and sale of the Company's common stock pursuant to the Securities Act of 1933, as amended (the "Registration Statement");

WHEREAS, the Company and the Adviser have entered into an Investment Advisory and Administrative Services Agreement dated as of May 31, 2012, as amended (the "Advisory Agreement"), and the Company, the Adviser, the Sub-Adviser and Main Street Capital Corporation, the parent company of the Sub-Adviser, have entered into an Investment Sub-Advisory Agreement dated as of May 31, 2012 (the "Sub-Advisory Agreement" and together with the Advisory Agreement, the "Advisory Agreements"); and

WHEREAS, the Company and the Advisers have determined that it is appropriate and in the best interests of the Company for the Advisers to conditionally waive certain fees under the Advisory Agreements to the extent that some or all of the distributions paid to the Company's stockholders are estimated to represent a return of capital for purposes of U.S. federal income tax, as more fully described herein.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

1. **Waived Fees**. During the period beginning at the time that the Company's Registration Statement is declared effective by the SEC and continuing for a period of one (1) year thereafter (the "Fee Waiver Period"), the Advisers hereby agree to waive the Base Management Fee and/or Incentive Fee, proportionally, as each term is defined and further described in the Advisory Agreement, due and payable by the Company to the Advisers in the event the Company estimates that a distribution declared and payable to the Company's stockholders during the Fee Waiver Period represents, or would represent when paid, a return of capital for purposes of U.S. federal income tax. The amounts waived pursuant to the preceding sentence shall be referred to herein as the "Waived Fees." The Company shall promptly notify the Advisers of the amount of any Waived Fees and shall deduct the Waived Fees from the amount, if any, otherwise due and payable by the Company to the Adviser pursuant to the terms of the Advisory Agreement (and therefrom payable by the Adviser to the Sub-Adviser pursuant to the Sub-Advisory Agreement) for the applicable month. If the amount owed by the Company to the Adviser pursuant to the Advisory Agreement exceeds the Waived Fees, the Company shall pay any such excess amount to the Adviser in accordance with the terms of the Advisory Agreement (and therefrom payable by the Adviser to the Sub-Adviser pursuant to the Sub-Advisory Agreement).

2. **Conditional Repayment of Waived Fees**. To the extent the Company determines it to be reasonable and appropriate, the Company hereby agrees to reimburse the Advisers proportionately for any Waived Fees following any quarter in which the Company's Net Increase in Net Assets (as hereinafter defined) exceeds the amount of the Company's cumulative distributions paid to the Company's stockholders in such calendar quarter (the "Excess Net Increase Net Assets"). If payable, the amount of the reimbursement payment for any calendar quarter shall equal the lesser of (i) the Excess Net Increase in Net Assets in such calendar quarter and (ii) the aggregate amount of all Waived Fees made by the Advisers to the Company within three years prior to the last business day of such calendar quarter that have not been previously reimbursed to the Company (the "Reimbursements Payment"). If payable, the Reimbursement Payment for any calendar quarter shall be paid by the Company no later than forty-five days after the end of such calendar quarter. The repayment of all

such Waived Fees is to be made within a period not to exceed three (3) years from the end of the fiscal year in which the waiver of such Waived Fees is made. As used herein, "Net Increase in Net Assets" shall mean the sum of (i) the Company's tax basis net investment income, (ii) taxable net capital gains/losses (whether short-term or long-term), and (iii) dividends and other distributions paid to the Company on account of investments in portfolio companies (to the extent such amounts are not included in clauses (i) and (ii) above. For the avoidance of doubt, operating expenses deducted in calculating tax basis net investment income does not include offering expenses as defined in the Advisory Agreement or any accrued Incentive Fee related to net unrealized appreciation.

3. **Term and Termination of Agreement**. This Agreement shall become effective immediately upon the date hereof. Once effective, this Agreement shall remain in effect unless otherwise terminated pursuant to Section 3(a) hereof.

    a. Termination of Agreement. This Agreement may be terminated by the Advisers upon written notice to the Company, except that once effective, the Advisers may not terminate their obligations under Section 1 hereof. This Agreement shall automatically terminate in the event of (i) the termination by the Company of the Advisory Agreements or (ii) the dissolution or liquidation of the Company. Notwithstanding any provision to the contrary, if this Agreement terminates automatically pursuant to clause (i) of this Section 3(a), the Company agrees to make a repayment to the Advisers in an amount equal to all Waived Fees not previously repaid in accordance with Section 2 hereof. Such repayment shall be made to the Adviser (and shall be repaid by the Adviser to the Sub-Adviser) not later than thirty (30) days after the termination of this Agreement.

4. **Miscellaneous**.

    a. Headings. The captions of this Agreement are included for convenience only and in no way define or limit any of the provisions hereof or otherwise affect their construction or effect.

    b. Interpretation. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas (without reference to its conflicts of laws provisions) and the applicable provisions of the Investment Company Act of 1940, as amended (the "1940 Act") and the Investment Advisers Act of 1940, as amended (the "Advisers Act"). To the extent that the applicable laws of the State of Texas or any of the provisions herein, conflict with the applicable provisions of the 1940 Act or the Advisers Act, the latter shall control. Further, nothing herein contained shall be deemed to require the Company to take any action contrary to the Company's Amended and Restated Articles of Incorporation or By-Laws, as each may be amended or restated, or to relieve or deprive the Board of its responsibility for and control of the conduct of the affairs of the Company.

    c. Severability. If any provision of this Agreement shall be held or made invalid by a court decision, statute, rule or otherwise, the remainder of this Agreement shall not be affected thereby and, to this extent, the provisions of this Agreement shall be deemed to be severable.

    d. Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto, and supersedes all prior agreements or understandings (whether written or oral), with respect to the subject matter hereof.

    e. Amendments and Counterparts. This Agreement may only be amended by mutual written consent of the parties. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts shall, together, constitute only one instrument.

[Signature Page to Follow]

[Signature Page to Conditional Fee Waiver Agreement]

IN WITNESS WHEREOF, the parties have caused this Conditional Fee Waiver Agreement to be signed by their respective officers thereunto duly authorized, as of the day and year first above written.

COMPANY:

HMS INCOME FUND, INC.

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Chief Financial Officer and Secretary

ADVISER:

HMS ADVISER LP

By: HMS ADVISER GP, LLC, its general partner

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Chief Financial Officer

SUB-ADVISER:

MAIN STREET CAPITAL PARTNERS, LLC

By: /s/ Vincent D. Foster
Name: Vincent D. Foster
Title: Senior Managing Director

Exhibit (k)(3)

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "Agreement") is entered into as of May 31, 2012 by and between HMS Income LLC, a Maryland limited liability company (the "Merging Entity"), and HMS Income Fund, Inc., a Maryland corporation (the "Surviving Entity"), pursuant to the provisions of the Maryland General Corporation Law (the "MGCL") and the Maryland Limited Liability Company Act (the "Act").

1. Parties to Merger. The parties participating in the merger in accordance with the terms of this Agreement are the Merging Entity and the Surviving Entity.

2. Effective Time. The Surviving Entity has filed, pursuant to the Securities Act of 1933, as amended, a registration statement on Form N-2 (File No. 333-178548), as amended (the "Registration Statement"), with the Securities and Exchange Commission (the "SEC"), and intends to make an election to be treated as a business development company ("BDC"). It is the intention of the Merging Entity and the Surviving Entity to consummate the merger contemplated hereunder immediately prior to the SEC declaring the Registration Statement effective and the Surviving Entity filing an election to be treated as a BDC. As such, after the execution of this Agreement and immediately prior to the SEC declaring the Registration Statement effective and the Surviving Entity filing an election to be treated as a BDC, the Merging Entity and the Surviving Entity shall cause Articles of Merger to be properly executed and filed with the State Department of Assessments and Taxation of Maryland (the "SDAT")in accordance with the MGCL and the Act. The Merger (as defined below) shall become effective immediately upon the filing of the Articles of Merger with, and the acceptance for record of the Articles of Merger by, the SDAT (the "Effective Time").

3. The Merger. At the Effective Time, the Merging Entity shall be merged with and into the Surviving Entity and the separate existence of the Merging Entity shall thereupon cease to exist (the "Merger").

4. Surviving Entity; Effects of Merger. The Surviving Entity shall be the surviving entity of the Merger and shall continue to be governed by the laws of the State of Maryland, and the separate existence of the Surviving Entity with all the rights, privileges, powers and franchises of the Merging Entity, shall continue unaffected by the Merger. The Merger shall have the effects specified in the MGCL and the Act.

5. Conversion of Units of Membership Interest of the Merging Entity. At the Effective Time, the units of membership interest of the Merging Entity will be converted into the number of shares of common stock of the Surviving Entity determined by dividing the net asset value of the Merging Entity by $9.00. The net asset value of the Merging Entity will be determined within 48 hours prior to the Effective Time of the Merger by the managers of the Merging Entity and the board of directors (including a majority of non-interested members) of the Surviving Entity. The $9.00 amount represents the $10.00 per share initial offering price of the common stock of the Surviving Entity, which shares of common stock will be offered pursuant to the initial offering registered under the Registration Statement, less the $1.00 sales load not incurred.

6. Shares of Capital Stock of the Surviving Entity. There are no shares of capital stock of the Surviving Entity presently issued and outstanding. In the event shares of capital stock of the Surviving Entity are outstanding immediately prior to the Effective Time, each such share of capital stock of the Surviving Entity shall remain outstanding and remain unaffected by the Merger.

7. Governing Law. The Merger shall be governed by the laws of the State of Maryland.

8. Charter. The charter of the Surviving Entity shall be the charter of the Surviving Entity from and after the Effective Time until amended or restated as therein or by law provided.

9. Bylaws. The bylaws of the Surviving Entity as in effect immediately prior to the Effective Time shall continue in force and be the bylaws of the Surviving Entity after the Effective Time until amended as therein or by law provided.

10. Execution of Agreement; Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile, or by .pdf or similar imaging transmission, will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile, or by .pdf or similar imaging transmission, will be deemed to be their original signatures for any purpose whatsoever.

[Signature Page Follows]

[Signature Page to Agreement and Plan of Merger]

IN WITNESS WHEREOF, the undersigned have caused this Agreement and Plan of Merger to be executed as of the date first written above.

MERGING ENTITY:

HMS Income LLC

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Manager

SURVIVING ENTITY:

HMS Income Fund, Inc.

By: /s/ Ryan T. Sims
Name: Ryan T. Sims
Title: Chief Financial Officer and Secretary

Exhibit (K)(4)

CREDIT AGREEMENT

dated as of

May 24, 2012

among

HMS INCOME LLC,

as Borrower,

The Lenders Listed Herein,

as Lenders,

CAPITAL ONE, NATIONAL ASSOCIATION,

as Administrative Agent,

and

CAPITAL ONE, NATIONAL ASSOCIATION,

as Syndication Agent

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Exhibit J	-	Form of General Security Agreement
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CREDIT AGREEMENT

THIS CREDIT AGREEMENT is dated as of May 24, 2012 among HMS INCOME LLC, a Maryland limited liability company, as borrower, the LENDERS listed on the signature pages hereof, as Lenders, and CAPITAL ONE, NATIONAL ASSOCIATION, as Administrative Agent.

The parties hereto agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.01. Definitions. The terms as defined in this **Section 1.01** shall, for all purposes of this Agreement and any amendment hereto (except as otherwise expressly provided or unless the context otherwise requires), have the meanings set forth herein:

"**Acquisition**" means any transaction or series of related transactions (other than a Portfolio Investment) for the purpose of, or resulting in, directly or indirectly, (a) the acquisition by the Borrower or any Subsidiary of all or substantially all of the assets of a Person (other than a Subsidiary) or of any business or division of a Person (other than a Subsidiary), (b) the acquisition by the Borrower or any Subsidiary of more than 50% of any class of Voting Stock (or similar ownership interests) of any Person (provided that formation or organization of any Wholly Owned Subsidiary shall not constitute an "Acquisition" to the extent that the amount of the Investment in such entity is permitted under **Sections 5.08** and **5.12**), or (c) a merger, consolidation, amalgamation or other combination by the Borrower or any Subsidiary with another Person (other than a Subsidiary) if the Borrower or such Subsidiary is the surviving entity; provided that in any merger involving the Borrower, the Borrower must be the surviving entity.

"**Adjusted Borrowing Base**" means the Borrowing Base as set forth in the most recent Borrowing Base Certification Report minus the aggregate amount of Cash and Cash Equivalents included in such Borrowing Base.

"**Adjusted London InterBank Offered Rate**" applicable to any Interest Period means a rate per annum equal to the quotient obtained (rounded upwards, if necessary, to the next higher 1/100th of 1%) by dividing (i) the applicable London InterBank Offered Rate for such Interest Period by (ii) 1.00 minus the Euro-Dollar Reserve Percentage.

"**Administrative Agent**" means Capital One, in its capacity as administrative agent for the Lenders, and its successors and permitted assigns in such capacity.

"**Administrative Agent's Letter Agreement**" means that certain letter agreement, dated as of May 24, 2012, between Borrower and the Administrative Agent relating to the terms of this Agreement, and certain fees from time to time payable by the Borrower to the Administrative Agent, together with all amendments and modifications thereto. If there is any conflict between the provisions of this Agreement and the provisions of the Administrative Agent's Letter Agreement, the provisions of this Agreement will control.

"**Administrative Questionnaire**" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"**Advance Rate**" means, as to any Eligible Investment and subject to adjustment as provided in the definition of Borrowing Base, the following percentages with respect to such Eligible Investment:

Portfolio Investment	Advance Rate
Cash and Cash Equivalents	100%
Eligible Quoted Senior Bank Loan Investments (with a Value of at least 85% of par value of such Investments)	80%
Eligible Quoted Senior Bank Loan Investments (with a Value of less than 85% of par value of such Investments)	40%
Eligible Investment Grade Debt Securities (with a Value of at least 85% of par value of such Debt Securities)	80%
Eligible Investment Grade Debt Securities (with a Value of less than 85% of par value of such Debt Securities)	40%
Eligible Core Portfolio Investments	70%
Eligible Unquoted Senior Bank Loan Investments and Eligible Non-Investment Grade Debt Securities	65%

"**Advances**" means collectively the Revolver Advances and the Swing Advances. "Advance" means any one of such Advances, as the context may require.

"**Adviser**" means HMS Adviser LP, a Texas limited partnership.

"**Advisers Act**" means the Investment Advisers Act of 1940, as amended from time to time.

"**Advisory Agreement**" means the Investment Advisory and Administrative Services Agreement, executed by and between Borrower, or any successor-in-interest to the Borrower, and the Adviser.

"**Affiliate**" of any Person means (i) any other Person which directly, or indirectly through one or more intermediaries, controls such Person, (ii) any other Person which directly, or indirectly through one or more intermediaries, is controlled by or is under common control with such Person, or (iii) any other Person of which such Person owns, directly or indirectly, 10% or more of the common

stock or equivalent equity interests. As used herein, the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, the term "**Affiliate**" shall not include any Person that is an "**Affiliate**" solely by reason of the Borrower or any Subsidiary's investment therein in connection with a Core Portfolio Investment in the ordinary course of business and consistent with the Investment Policies.

"**Agreement**" means this Credit Agreement, together with all amendments and supplements hereto.

"**Applicable Laws**" means all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes, executive orders, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"**Applicable Margin**" has the meaning set forth in **Section 2.06(a)**.

"**Applicable Percentage**" means with respect to any Lender, the percentage of the total Revolver Commitments represented by such Lender's Revolver Commitment. If the Revolver Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Revolver Commitments most recently in effect, giving effect to any assignments.

"**Approved Dealer**" means a broker-dealer acceptable to the Administrative Agent in its sole discretion. The Administrative Agent acknowledges and agrees that the following broker-dealers are acceptable as Approved Dealers: Credit Suisse Group AG, Bank of America, Wells Fargo & Company, Citigroup, Inc., Goldman Sachs & Co., Deutsche Bank AG, UBS AG, Toronto Dominion Bank, Jefferies Group, Inc., Macquarie Group, Ltd., Barclays PLC, Royal Bank of Scotland, Bank of New York, Royal Bank of Canada, JP Morgan Chase & Co. and Morgan Stanley.

"**Approved Fund**" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"**Approved Pricing Service**" means a pricing or quotation service acceptable to the Administrative Agent in its sole discretion. The Administrative Agent acknowledges and agrees that the following pricing and quotation services are acceptable as an Approved Pricing Service: (i) Markit; (ii) Loan Pricing Corporation (LPC); (iii) LoanX, Inc.; and (iv) IDC.

"**Asset Coverage Ratio**" means the ratio of Consolidated Tangible Net Worth plus aggregate Revolver Advances to outstanding Revolver Advances.

"**Assignment and Assumption**" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by **Section 9.07**), and accepted by the Administrative Agent, in substantially the form of **Exhibit L** or any other form approved by the Administrative Agent.

"**Assignment of Mortgage**" means, as to each Portfolio Investment secured by an interest in real property, one or more assignments, notices of transfer or equivalent instruments, each in recordable form and sufficient under the laws of the relevant jurisdiction to reflect the transfer of the related mortgage, deed of trust, security deed or similar security instrument and all other documents

related to such Portfolio Investment and, to the extent requested by the Administrative Agent, to grant a perfected lien thereon by the Borrower in favor of the Administrative Agent on behalf of the Secured Parties, each such Assignment of Mortgage to be in form and substance acceptable to the Administrative Agent.

"**Authority**" has the meaning set forth in **Section 8.02**.

"**Bailee Agreement**" means an agreement in form and substance reasonably acceptable to the Administrative Agent and executed by a Person (other than an Obligor, a Loan Party or any of their respective Affiliates) that is in possession of any Collateral pursuant to which such Person acknowledges the Lien of the Administrative Agent for the benefit of the Secured Parties.

"**Bank Products**" means any: (a) Hedging Agreements; and (b) other services or facilities provided to any Loan Party by Capital One or any Lender that provides the initial funding of any Revolver Commitment on the Closing Date or any Additional Lender that provides the funding of a Revolver Commitment on any Commitment Increase Date (but not any assignee of any of the foregoing Lenders) or any of their respective Affiliates, in each case solely until such Person has assigned all of its interests under this Agreement (each, in such capacity, a "**Bank Product Bank**") (but excluding Cash Management Services) with respect to (i) credit cards, (ii) purchase cards, (iii) merchant services constituting a line of credit, and (iv) leasing.

"**Bankruptcy Code**" means the United States Bankruptcy Reform Act of 1978 (11 U.S.C. §§101, et. seq.), as amended from time to time.

"**Base Rate**" means for any Base Rate Advance for any day, the rate per annum equal to the higher as of such day of (i) the Prime Rate, and (ii) one-half of one percent (0.5%) above the Federal Funds Rate. For purposes of determining the Base Rate for any day, changes in the Prime Rate or the Federal Funds Rate shall be effective on the date of each such change.

"**Base Rate Advance**" means, with respect to any Advance, such Advance when such Advance bears or is to bear interest at a rate based upon the Base Rate.

"**Base Rate Borrowing**" has the meaning set forth in the definition of "Borrowing".

"**Borrower**" means HMS Income LLC, a Maryland limited liability company, and its successors and its permitted assigns.

"**Borrowing**" means a borrowing hereunder consisting of Revolver Advances made to the Borrower at the same time by all of the Lenders pursuant to **Article II**. "**Base Rate Borrowing**" means a Borrowing if such Advances are Base Rate Advances. "**Euro-Dollar Borrowing**" means a Borrowing if such Advances are Euro-Dollar Advances. "**Tranche Euro-Dollar Borrowing**" means a Borrowing if such Advances are Tranche Euro-Dollar Advances. "**Index Euro-Dollar Borrowing**" means a Borrowing if such Advances are Index Euro-Dollar Advances.

"**Borrowing Base**" means, based on the most recent Borrowing Base Certification Report which as of the date of a determination of the Borrowing Base has been received by the Administrative Agent, the sum of the applicable Advance Rates of the Value of each Eligible Investment identified in the definition of "Advance Rate" in this **Section 1.01** (including Pre-Positioned Investments); provided, however, that:

(a) in no event shall more than 20% of the aggregate value of the Borrowing Base consist of Eligible Non-Investment Grade Debt Securities and Eligible Unquoted Senior Bank Loan Investments (in each case after giving effect to Advance Rates);

(b) in no event shall more than 15% of the aggregate value of the Borrowing Base consist of debtor-in-possession Investments (in each case after giving effect to Advance Rates);

(c) for purposes of calculating the Borrowing Base, no single Portfolio Investment shall be included in the Borrowing Base at a Value in excess of (i) $3,000,000, if the Borrowing Base is less than or equal to $30,000,000 (as such Borrowing Base calculation would be determined assuming that no single Portfolio Investment is Valued at greater than $3,000,000); (ii) $5,000,000, if the Borrowing Base is greater than $30,000,000 but less than or equal to $50,000,000 (as such Borrowing Base calculation would be determined assuming that no single Portfolio Investment is Valued at greater than $5,000,000); or (iii) 10% of the Borrowing Base, if the Borrowing Base is greater than $50,000,000 (as such Borrowing Base calculation would be determined assuming that no single Portfolio Investment is Valued at greater than 10% of the Borrowing Base); and

(d) all filings and other actions required to perfect the first-priority security interest of the Administrative Agent on behalf of the Secured Parties in the Portfolio Investments comprising the Borrowing Base have been made or taken (and any Portfolio Investment for which all perfection steps have not been completed, including without limitation notes, equities and securities perfected by possession that have not yet been delivered to the Collateral Custodian or a bailee that has delivered a valid, binding and effective Bailee Agreement to the Administrative Agent in accordance with **Section 5.40**, shall be excluded from the Borrowing Base until such collateral has been perfected).

"**Borrowing Base Certification Report**" means a report in the form attached hereto as Exhibit D, and otherwise reasonably satisfactory to the Administrative Agent, certified by the chief financial officer or other authorized officer of the Borrower regarding the Eligible Investments, and including or attaching a list of all Portfolio Investments included in the Borrowing Base and the most recent Value (and the source of determination of the Value) for each. Upon receipt by the Administrative Agent, a Borrowing Base Certification Report shall be subject to the Administrative Agent's satisfactory review, acceptance or correction, in the exercise of its reasonable discretion.

"**Business Day**" means either a Domestic Business Day or Euro-Dollar Business Day, as appropriate in the given context.

"**Capital Expenditures**" means for any period the sum of all capital expenditures incurred during such period by the Borrower and its Consolidated Subsidiaries, as determined in accordance with GAAP; provided that in no event shall a Portfolio Investment be considered a Capital Expenditure.

"**Capital One**" means Capital One, National Association, and its successors.

"**Capital Securities**" means, with respect to any Person, any and all shares, interests (including membership interests and partnership interests), participations or other equivalents (however designated, whether voting or non-voting) of such Person's capital (including any instruments convertible into equity), whether now outstanding or issued after the Closing Date.

"**Cash**" means money, currency or a credit balance in any demand or deposit account with a United States federal or state chartered commercial bank of recognized standing having capital and

surplus in excess of $500 million, so long as such bank has not been a Defaulting Lender for more than three (3) business days after notice to Borrower, or its Subsidiary, as applicable, (which notice may be given by telephone or e-mail), which bank or its holding company has a short-term commercial paper rating of: (a) at least A-1 or the equivalent by Standard & Poor's Rating Services or at least P-1 or the equivalent by Moody's Investors Service, Inc., or (b) at least A-2 or the equivalent by Standard & Poor's Rating Services or at least P-2 or the equivalent by Moody's Investors Service, Inc. (or, in the case of a current Lender only, if not rated by Standard & Poor's Rating Services or Moody's Investor's Service, Inc., such Lender is rated by another rating agency acceptable to the Administrative Agent and such Lender's rating by such rating agency is not lower than its rating by such rating agency on the Closing Date) and (i) all amounts and assets credited to such account are directly and fully guaranteed or insured by the United States of America or any agency thereof (provided that the full faith and credit of the United States is pledged in support thereof) or (ii) such bank is otherwise acceptable at all times and from time to time to the Administrative Agent in its sole discretion. The Administrative Agent acknowledges that, on the Closing Date, Amegy Bank, National Association, and each current Lender hereunder are acceptable banks within the meaning of clause (b)(ii) of this definition.

"**Cash Equivalents**" means (a) securities issued or directly and fully guaranteed or insured by the United States of America or any agency thereof (provided that the full faith and credit of the United States is pledged in support thereof) with maturities of not more than one year from the date acquired; (b) time deposits and certificates of deposit with maturities of not more than one (1) year from the date acquired issued by a United States federal or state chartered commercial bank of recognized standing having capital and surplus in excess of $500 million, and which bank or its holding company has a short-term commercial paper rating of at least A-1 or the equivalent by Standard & Poor's Rating Services or at least P-1 or the equivalent by Moody's Investors Service, Inc.; and (c) investments in money market funds (i) which mature not more than ninety (90) days from the date acquired and are payable on demand, (ii) with respect to which there has been no failure to honor a request for withdrawal, (iii) which are registered under the Investment Company Act of 1940, as amended, (iv) which have net assets of at least $500,000,000 and (v) which maintain a stable share price of not less than One Dollar ($1.00) per share and are either (A) directly and fully guaranteed or insured by the United States of America or any agency thereof (provided that the full faith and credit of the United States is pledged in support thereof) or (B) maintain a rating of at least A-2 or better by Standard & Poor's Rating Services and are maintained with an investment fund manager that is otherwise acceptable at all times and from time to time to the Administrative Agent in its sole discretion; provided that, notwithstanding the foregoing, no asset, agreement, or investment maintained or entered into with, or issued, guaranteed by, or administered by a Lender that has been a Defaulting Lender for more than three (3) business days after notice to Borrower, or its Subsidiary, as applicable, (which notice may be given by telephone or e-mail) shall be a "**Cash Equivalent**" hereunder. The Administrative Agent acknowledges that, on the Closing Date, Fidelity Investments is an acceptable investment fund manager within the meaning of the foregoing clause (B).

"**Cash Interest Coverage Ratio**" means with respect to a Debt Security or a Senior Bank Loan Investment, either (a) the "Cash Interest Coverage Ratio" or comparable definition set forth in the underlying Investment Documents for such Debt Security or Senior Bank Loan Investment, or (b) in the case of any Debt Security or Senior Bank Loan Investment with respect to which the related underlying Investment Documents do not include a definition of "Cash Interest Coverage Ratio" or comparable definition, the ratio of (i) EBITDA to (ii) Cash Interest Expense of such Obligor with respect to the applicable Relevant Test Period, as calculated by the Borrower in good faith.

"**Cash Interest Expense**" means with respect to any Obligor, the amount which, in conformity with GAAP, would be set forth opposite the caption "interest expense" or any like caption reflected on the most recent financial statements delivered by such Obligor to the Borrower for such period, excluding any amortization of financing costs, any interest paid-in-kind, and any original issue discount.

"**Cash Management Services**" means any one or more of the following types of services or facilities provided to any Loan Party by Capital One or any Lender that provides the initial funding of any Revolver Commitment on the Closing Date or any Additional Lender that provides the funding of a Revolver Commitment on any Commitment Increase Date (but not any assignee of any of the foregoing Lenders) or any of their respective Affiliates, in each case solely until such Person has assigned all of its interests under this Agreement (each, in such capacity, a "**Cash Management Bank**"): (a) ACH transactions, (b) cash management services, including, without limitation, controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) foreign exchange facilities, (d) credit or debit cards, and (e) merchant services not constituting a Bank Product.

"**CERCLA**" means the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §9601 et seq. and its implementing regulations and amendments.

"**CERCLIS**" means the Comprehensive Environmental Response Compensation and Liability Information System established pursuant to CERCLA.

"**Change in Control**" means the occurrence after the Closing Date of any of the following: (i) any Person or two or more Persons acting in concert (excluding the Persons that are officers and directors of the Borrower on the Closing Date) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934) of more than 50% of the outstanding shares of the voting stock of the Borrower; (ii) as of any date a majority of the board of directors of the Borrower consists of individuals who were not either (A) directors of the Borrower as of the corresponding date of the previous year, (B) selected or nominated to become directors by the board of directors of the Borrower of which a majority consisted of individuals described in clause (A), or (C) selected or nominated to become directors by the board of directors of the Borrower of which a majority consisted of individuals described in clause (A) and individuals described in clause (B); or (iii) a representative from each of Main Street Capital Corporation and Hines are not on the board of the directors of the Borrower.

"**Change in Law**" has the meaning set forth in **Section 8.02**.

"**Chapter 303**" has the meaning set forth in **Section 9.15**.

"**Closing Certificate**" has the meaning set forth in **Section 3.01(d)**.

"**Closing Date**" means May 24, 2012.

"**Code**" means the Internal Revenue Code of 1986, as amended, or any successor Federal tax code. Any reference to any provision of the Code shall also be deemed to be a reference to any successor provision or provisions thereof.

"**Collateral**" means collectively: (1) (i) 100% of the Capital Securities of the Guarantors and of the current and future Domestic Subsidiaries of the Borrower and Guarantors; (ii) 65% of the voting and non-voting Capital Securities of any current or future Foreign Subsidiaries and (iii) all of the other present and future property and assets of the Borrower and each Guarantor including, but not limited to, machinery and equipment, inventory and other goods, accounts, accounts receivable, bank accounts, brokerage accounts, general intangibles, financial assets, investment property, license rights, patents, trademarks, copyrights, chattel paper, insurance proceeds, contract rights, hedge agreements, documents, instruments, indemnification rights, tax refunds, and cash; and (2) any other property which

secures the Obligations pursuant to the Collateral Documents; provided that, notwithstanding the foregoing, "**Collateral**" shall not include property rights in Capital Securities issued by a Person other than a Subsidiary, or in any Operating Documents of any such issuer, to the extent the security interest of the Administrative Agent does not attach thereto pursuant to the terms of the Collateral Documents.

"**Collateral Custodian**" means any and each of (i) Amegy Bank, National Association, in its capacity as Collateral Custodian under the Custodial Agreement, Deposit Account Control Agreement or other agreement with respect to the Collateral to which it is a party, together with its successors and permitted assigns and (ii) any other Person acting as a collateral custodian with respect to any Collateral under any Custodial Agreement entered into in accordance with the terms of this Agreement. Notwithstanding the foregoing, the Collateral Custodian shall at all times be satisfactory to the Administrative Agent, in its reasonable discretion.

"**Collateral Documents**" means, collectively, the Security Agreement, the Pledge Agreement, and all other agreements (including control agreements), instruments and other documents, whether now existing or hereafter in effect, pursuant to which the Borrower or any Subsidiary shall grant or convey (or shall have granted or conveyed) to the Secured Parties a Lien in, or any other Person shall acknowledge any such Lien in, property as security for all or any portion of the Obligations, as any of them may be amended, modified or supplemented from time to time.

"**Compliance Certificate**" has the meaning set forth in **Section 5.01(c)**.

"**Consolidated EBITDA**" means and includes, for the Borrower and the Consolidated Subsidiaries that are Guarantors for any period, an amount equal to the sum of (a) Consolidated Net Investment Income for such period; plus, (b) to the extent such amounts were deducted in computing Consolidated Net Investment Income for such period: (i) Consolidated Interest Expense for such period; (ii) income tax expense for such period, determined on a consolidated basis in accordance with GAAP; and (iii) Depreciation and Amortization for such period, determined on a consolidated basis in accordance with GAAP.

"**Consolidated Interest Expense**" for any period means interest, whether expensed or capitalized, in respect of Debt of the Borrower or any of its Consolidated Subsidiaries that are Guarantors outstanding during such period on a consolidated basis in accordance with GAAP.

"**Consolidated Net Investment Income**" means, for any period, the net investment income of the Borrower and the Consolidated Subsidiaries that are Guarantors set forth or reflected on the consolidated income statement of the Borrower and its Consolidated Subsidiaries for such period prepared in accordance with GAAP.

"**Consolidated Subsidiary**" means at any date any Subsidiary or other entity the accounts of which, in accordance with GAAP, would be consolidated with those of the Borrower in its consolidated financial statements as of such date.

"**Consolidated Tangible Net Worth**" means, at any time, Net Assets less the sum of the value, (to the extent reflected in determining Net Assets) as set forth or reflected on the most recent consolidated balance sheet of the Borrower and its Consolidated Subsidiaries, on a consolidated basis prepared in accordance with GAAP (but without giving effect to the operation of Accounting Standards Codification No. 825-10), of

(A) All assets which would be treated as intangible assets for balance sheet presentation purposes under GAAP, including without limitation goodwill (whether representing the excess of cost over book value of assets acquired, or otherwise), trademarks, tradenames, copyrights, patents and technologies, and unamortized debt discount and expense;

(B) To the extent not included in (A) of this definition, any amount at which the Capital Securities of the Borrower appear as an asset on the balance sheet of the Borrower and its Consolidated Subsidiaries; and

(C) Loans or advances to owners of Borrower's Capital Securities, or to directors, officers, managers or employees of Borrower and its Consolidated Subsidiaries.

In addition, notwithstanding the foregoing, solely for purposes of determining the Asset Coverage Ratio, "**Consolidated Tangible Net Worth**" shall be determined solely with respect to the assets and liabilities of the Borrower on a stand alone basis.

"**Controlled Group**" means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with any Loan Party, are treated as a single employer under Section 414 of the Code.

"**Core Portfolio Investment**" means a Portfolio Investment originated or acquired by the Borrower or any Subsidiary (or co-originated by the Borrower or any Subsidiary so long as such Portfolio Investment complies with all Borrower's Investment Policies and is subject to the same due diligence by the Borrower as Portfolio Investments originated or acquired solely by the Borrower). For avoidance of doubt, Core Portfolio Investments shall not include Cash, Cash Equivalents, any Senior Bank Loan Investment or any Debt Security.

"**Credit Exposure**" means, as to any Lender at any time, the aggregate principal amount at such time of its Revolver Advances and such Lender's participation in Swing Advances at such time.

"**Credit Party Expenses**" means, without limitation, (a) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, in connection with this Agreement and the other Loan Documents, including without limitation (i) the reasonable fees, charges and disbursements of (A) counsel for the Administrative Agent, (B) outside consultants for the Administrative Agent, (C) appraisers, (D) commercial finance examinations, and (E) all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Obligations; and (ii) in connection with (A) the syndication of the credit facilities provided for herein, (B) the administration, management, execution and delivery of this Agreement and the other Loan Documents, and the preparation, negotiation, administration and management of any amendments, modifications or waivers of the provisions of this Agreement and the other Loan Documents (whether or not the transactions contemplated thereby shall be consummated), or (C) the enforcement or protection of its rights in connection with this Agreement or the Loan Documents or efforts to preserve, protect, collect, or enforce the Collateral; and (b) all reasonable out-of-pocket expenses incurred by the Secured Parties who are not the Administrative Agent or any Affiliate of any of them, after the occurrence and during the continuance of an Event of Default.

"**Custodial Agreement**" means, collectively, the Control Agreement of even date herewith among the Administrative Agent, the Borrower and Amegy Bank, National Association, and any and each other control agreement entered into among a Person acting as Collateral Custodian, the Borrower and the Administrative Agent, in each case as the same may from time to time be amended, restated, supplemented or otherwise modified.

"**Debt**" of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money; (ii) all obligations of such Person evidenced by bonds, debentures, notes or

other similar instruments; (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business; (iv) all obligations of such Person as lessee under capital leases; (v) all obligations of such Person to reimburse any bank or other Person in respect of amounts payable under a banker's acceptance; (vi) all Redeemable Preferred Securities of such Person; (vii) all obligations (absolute or contingent) of such Person to reimburse any bank or other Person in respect of amounts which are available to be drawn or have been drawn under a letter of credit or similar instrument; (viii) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person; (ix) all Debt of others Guaranteed by such Person; (x) all obligations of such Person with respect to interest rate protection agreements, foreign currency exchange agreements or other hedging agreements (valued at the termination value thereof computed in accordance with a method approved by the International Swap Dealers Association and agreed to by such Person in the applicable hedging agreement, if any); (xi) all obligations of such Person under any synthetic lease, tax retention operating lease, sale and leaseback transaction, asset securitization, off-balance sheet loan or other off-balance sheet financing product; (xii) all obligations of such Person to purchase securities or other property arising out of or in connection with the sale of the same or substantially similar securities or property; and (xiii) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person. The Debt of any Person shall include the Debt of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefore as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Debt provide that such Person is not liable therefor.

"**Debt Security**" means a note, bond, debenture, trust receipt or other obligation, instrument or evidence of indebtedness, including over-the-counter debt securities, middle market investments, debt instruments of public and private issuers and tax-exempt securities, but specifically excluding (i) Equity Securities or (ii) any security which by its terms permits the payment obligation of the Obligor thereunder to be converted into or exchanged for equity capital of such Obligor.

"**Default**" means any condition or event which constitutes an Event of Default or which with the giving of notice or lapse of time or both would, unless cured or waived in writing, become an Event of Default.

"**Default Excess**" means, with respect to any Defaulting Lender, the excess, if any, of such Defaulting Lender's ratable portion of the aggregate Credit Exposure of all Lenders (calculated as if all Defaulting Lenders had funded all of their respective Defaulted Advances) over the aggregate outstanding principal amount of all Revolver Advances of such Defaulting Lender.

"**Default Period**" means, with respect to any Defaulting Lender, (i) in the case of any Defaulted Advance, the period commencing on the date the applicable Defaulted Advance was required to be extended to the Borrower under this Agreement, in the case of a Revolver Advance (after giving effect to any applicable grace period) and ending on the earlier of the following: (x) the date on which (A) the Default Excess with respect to such Defaulting Lender has been reduced to zero (whether by the funding of any Defaulted Advance by such Defaulting Lender or by the non-pro-rata application of any prepayment pursuant to **Section 9.08(c)**) and (B) such Defaulting Lender shall have delivered to the Borrower and the Administrative Agent a written reaffirmation of its intention to honor its obligations hereunder; and (y) the date on which the Borrower, the Administrative Agent and the Required Lenders (and not including such Defaulting Lender in any such determination, in accordance with **Section 9.08(a)**) waive the application of **Section 9.08** with respect to such Defaulted Advances of such Defaulting Lender in writing; (ii) in the case of any Defaulted Payment, the period commencing on the date the applicable Defaulted Payment was required to have been paid to the Administrative Agent or other Lender under this Agreement (after giving effect to any applicable grace period) and ending on the earlier of the following: (x) the date on which (A) such Defaulted Payment has been paid to the

Administrative Agent or other Lender, as applicable, together with (to the extent that such Person has not otherwise been compensated by the Borrower for such Defaulted Payment) interest thereon for each day from and including the date such amount is paid but excluding the date of payment, at the greater of the Federal Funds Rate plus two percent (2.0%) and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation (whether by the funding of any Defaulted Payment by such Defaulting Lender or by the application of any amount pursuant to **Section 9.08(c)**) and (B) such Defaulting Lender shall have delivered to the Administrative Agent or other Lender, as applicable, a written reaffirmation of its intention to honor its obligations hereunder with respect to such payments; and (y) the date on which the Administrative Agent or any such other Lender, as applicable waives the application of **Section 9.08** with respect to such Defaulted Payments of such Defaulting Lender in writing; and (iii) in the case of any Distress Event determined by the Administrative Agent (in its good faith judgment) or the Required Lenders (in their respective good faith judgment) to exist, the period commencing on the date that the applicable Distress Event was so determined to exist and ending on the earlier of the following: (x) the date on which (A) such Distress Event is determined by the Administrative Agent (in its good faith judgment) or the Required Lenders (in their respective good faith judgment) to no longer exist and (B) such Defaulting Lender shall have delivered to the Borrower and the Administrative Agent a written reaffirmation of its intention to honor its obligations hereunder; and (y) such date as the Borrower and the Administrative Agent mutually agree, in their sole discretion, to waive the application of **Section 9.08** with respect to such Distress Event of such Defaulting Lender.

"**Default Rate**" means, with respect to the Advances, on any day, the sum of 2% plus the then highest interest rate (including the Applicable Margin) which may be applicable to any Advance (irrespective of whether any such type of Advance is actually outstanding hereunder).

"**Defaulted Advance**" has the meaning specified in the definition of "Defaulting Lender".

"**Defaulted Investment**" means any Investment (a) that is 45 days or more past due with respect to any interest or principal payments or (b) that is or otherwise should be considered a non-accrual investment by the Borrower in connection with its Investment Policies and GAAP.

"**Defaulted Payment**" has the meaning specified in the definition of "Defaulting Lender".

"**Defaulting Lender**" means any Lender (i) that has failed to fund any portion of any Revolver Advance required to be funded by it under this Agreement (each such Revolver Advance, a "**Defaulted Advance**") within three Domestic Business Days of the date required to be funded by it hereunder, (ii) that has otherwise failed to pay over to Administrative Agent or any other Lender any other amount required to be paid by it hereunder (each such payment, a "**Defaulted Payment**") within three Domestic Business Days of the date when due, unless the subject of a good faith dispute, or (iii) as to which a Distress Event has occurred, in each case for so long as the applicable Default Period is in effect.

"**Depreciation and Amortization**" means for any period an amount equal to the sum of all depreciation and amortization expenses of the Borrower and its Consolidated Subsidiaries that are Guarantors for such period, as determined on a consolidated basis in accordance with GAAP.

"**Distress Event**" means, with respect to any Person (each, a "**Distressed Person**"), (i) a voluntary or involuntary case (or comparable proceeding) has been commenced with respect to such Person under the United States Bankruptcy Code or any other applicable debtor relief law, (ii) a custodian, conservator, receiver or similar official has been appointed for such Person or for any substantial part of such Person's assets, (iii) after the date hereof, such Person has consummated or

entered into a commitment to consummate a forced (in the good faith judgment of the Administrative Agent) liquidation, merger, sale of assets or other transaction resulting, in the good faith judgment of the Administrative Agent, in a change of ownership or operating control of such Person supported in whole or in part by guaranties, assumption of liabilities or other comparable credit support of (including without limitation the nationalization or assumption of ownership or operating control by) any Governmental Authority and the Administrative Agent (in its good faith judgment) or the Required Lenders believe (in their respective good faith judgment) that such event increases the risk that such Person could default in performing its obligations hereunder for so long as the Administrative Agent (in its good faith judgment) or the Required Lenders (in their respective good faith judgment) so believe, or (iv) such Person has made a general assignment for the benefit of creditors or has otherwise been adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent, bankrupt or deficient in meeting any capital adequacy or liquidity requirement of any Governmental Authority applicable to such Person.

"**Distressed Person**" has the meaning specified in the definition of "Distress Event".

"**Dollars**" or "**$**" means dollars in lawful currency of the United States of America.

"**Domestic Business Day**" means any day except a Saturday, Sunday or other day on which commercial banks in Texas are authorized or required by law to close.

"**Domestic Subsidiary**" means any Subsidiary which is organized under the laws of any state or territory of the United States of America.

"**EBITDA**" means, with respect to each Obligor on any Debt Security or Senior Bank Loan Investment the last four full fiscal quarters for which financial statements have been provided to the Borrower by or on behalf of any Obligor with respect to the related Debt Security or Senior Bank Loan Investment, the meaning of "EBITDA", "Adjusted EBITDA" or any comparable definition in the underlying Investment Documents for each such Debt Security or Senior Bank Loan Investment, and in any case that "EBITDA", "Adjusted EBITDA" or such comparable definition is not defined in such underlying Investment Documents, an amount, for the Obligor on such Debt Security or Senior Bank Loan Investment and any parent that is obligated pursuant to the underlying Investment Documents for such Debt Security or Senior Bank Loan Investment (determined on a consolidated basis without duplication in accordance with GAAP) equal to earnings from continuing operations for such period plus (a) interest expense, (b) income taxes, (c) depreciation and amortization for such four fiscal quarter period (to the extent deducted in determining earnings from continuing operations for such period), (d) amortization of intangibles (including, but not limited to, goodwill, financing fees and other capitalized costs), other non-cash charges and organization costs, (e) extraordinary losses in accordance with GAAP, (f) one-time, non-recurring non-cash charges consistent with the compliance statements and financial reporting packages provided by the Obligors, and (g) and any other item the Borrower in good faith deems to be appropriate; *provided* that with respect to any Obligor for which four full fiscal quarters of economic data are not available, EBITDA shall be determined for such Obligor based on annualizing the economic data from the reporting periods actually available.

"**Eligible Assignee**" means (a) a Lender, (b) an Affiliate of a Lender, and (c) an Approved Fund;provided that notwithstanding the foregoing, "**Eligible Assignee**" shall not include the Borrower or any of the Borrower's Affiliates or Subsidiaries.

"**Eligible Core Portfolio Investment**" means, on any date of determination, any Core Portfolio Investment held by Borrower or its Subsidiaries that satisfies each of the following requirements:

(i) the Core Portfolio Investment is evidenced by Investment Documents (including, in the case of any Loan other than a Noteless Loan, an original promissory note) that have been duly authorized and that are in full force and effect and constitute the legal, valid and binding obligation of the Obligor of such Core Portfolio Investment to pay the stated amount of the Loan and interest thereon, and the related Investment Documents are enforceable against such Obligor in accordance with their respective terms;

(ii) the Core Portfolio Investment was made in accordance with the terms of the Investment Policies and arose in the ordinary course of the business of Borrower, or its Subsidiary, as applicable;

(iii) such Core Portfolio Investment is a First Lien Investment, secured by a first priority, perfected security interest on all or substantially all of the assets of the Obligor;

(iv) in the case of any Core Portfolio Investment that is not solely held by the Borrower and/or its Subsidiaries, the terms and conditions of such Core Portfolio Investment provide the Borrower (and/or its Subsidiary, as applicable) with the right to vote to approve or deny any amendments, supplements, waivers or other modifications of such terms and conditions (other than such routine amendments, supplements, waivers or other modifications as are permitted to be approved by the administrative agent only without the vote of the syndicate members);

(v) the Core Portfolio Investment has an Eligible Investment Rating;

(vi) the Core Portfolio Investment is not a Defaulted Investment and no other Loan of the Obligor with respect to such Core Portfolio Investment is more than 45 days past due;

(vii) the Obligor of such Core Portfolio Investment has executed all appropriate documentation required by the Borrower, or its Subsidiary, as applicable, in accordance with the Investment Policies;

(viii) the Core Portfolio Investment, together with the Investment Documents related thereto, is a "general intangible", an "instrument", an "account", or "chattel paper" within the meaning of the UCC of all jurisdictions that govern the perfection of the security interest granted therein;

(ix) all material consents, licenses, approvals or authorizations of, or registrations or declarations with, any Governmental Authority required to be obtained, effected or given in connection with the making of such Core Portfolio Investment have been duly obtained, effected or given and are in full force and effect;

(x) the Core Portfolio Investment is denominated and payable only in Dollars in the United States;

(xi) the Core Portfolio Investment bears some current interest, which is due and payable no less frequently than quarterly;

(xii) the Core Portfolio Investment, together with the Investment Documents related thereto, does not contravene in any material respect any Applicable Laws (including, without limitation, laws, rules and regulations relating to usury, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy) and with respect to which no Obligor party thereto is in violation of any Applicable Laws or the terms and

conditions of such Investment Documents, to the extent any such violation results in or would be reasonably likely to result in (a) an adverse effect upon the value or collectability of such Core Portfolio Investment, (b) a material adverse change in, or a material adverse effect upon, any of (1) the financial condition, operations, business or properties of the Obligor or any of its respective Subsidiaries, taken as a whole, (2) the rights and remedies of the Borrower or its Subsidiary (as applicable) under the Investment Documents, or the ability of the Obligor or any other loan party thereunder to perform its obligations under the Investment Documents to which it is a party, as applicable, taken as a whole, or (3) the collateral securing the Core Portfolio Investment, or the Liens of the Borrower or its Subsidiary (as applicable) thereon or the priority of such Liens;

(xiii) the Core Portfolio Investment, together with the related Investment Documents, is fully assignable (and if such Investment is secured by a mortgage, deed of trust or similar lien on real property, and if requested by the Administrative Agent, an Assignment of Mortgage executed in blank has been delivered to the Collateral Custodian);

(xiv) the Core Portfolio Investment was documented and closed in accordance with the Investment Policies, and each original promissory note, if any, representing the portion of such Core Portfolio Investment payable to the Borrower or its Subsidiary (as applicable), has been delivered to the Collateral Custodian, duly endorsed as collateral or, in the case of a Pre-Positioned Investment, held by a bailee on behalf of the Administrative Agent, in accordance with the provisions of **Section 5.40**;

(xv) the Core Portfolio Investment is free of any Liens and the interest of the Borrower or its Subsidiary (as applicable) in all Related Property is free of any Liens other than Liens permitted under the applicable Investment Documents and all filings and other actions required to perfect the security interest of the Administrative Agent on behalf of the Secured Parties in the Core Portfolio Investment have been made or taken;

(xvi) no right of rescission, set off, counterclaim, defense or other material dispute has been asserted with respect to such Core Portfolio Investment;

(xvii) any Related Property with respect to such Core Portfolio Investment is insured in accordance with the Investment Policies;

(xviii) the primary business of the Obligor with respect to such Core Portfolio Investment is not in the gaming, nuclear waste, bio-tech, or oil or gas exploration industries;

(xix) the Core Portfolio Investment is not a loan or extension of credit made by the Borrower or one of its Subsidiaries to an Obligor solely for the purpose of making any principal, interest or other payment on such Core Portfolio Investment necessary in order to keep such Core Portfolio Investment from becoming delinquent;

(xx) such Core Portfolio Investment will not cause the Borrower (or its Subsidiary, as applicable) to be deemed to own 5.0% or more of the voting securities of any publicly registered issuer or any securities that are immediately convertible into or immediately exercisable or exchangeable for 5.0% or more of the voting securities of any publicly registered issuer;

(xxi) the financing of such Core Portfolio Investment by the Lenders does not contravene in any material respect Regulation U of the Federal Reserve Board, nor require the Lenders to undertake reporting thereunder which it would not otherwise have cause to make;

(xxii) such Core Portfolio Investment does not represent payment obligations relating to "put" rights relating to Margin Stock;

(xxiii) any taxes due and payable in connection with the making of such Core Portfolio Investment have been paid and the Obligor has been given any assurances (including with respect to the payment of transfer taxes and compliance with securities laws) required by the Investment Documents in connection with the making of the Investment;

(xxiv) the terms of the Core Portfolio Investment have not been amended or subject to a deferral or waiver the effect of which is to (A) reduce the amount (other than by reason of the repayment thereof) or extend the time for payment of principal or (B) reduce the rate or extend the time of payment of interest (or any component thereof), in each case without the consent of the Administrative Agent, not to be unreasonably withheld or delayed;

(xxv) such Core Portfolio Investment does not contain a confidentiality provision that restricts the ability of the Administrative Agent, on behalf of the Secured Parties, to exercise its rights under the Loan Documents, including, without limitation, its rights to review the Core Portfolio Investment, the related Investment File or the Borrower's credit approval file in respect of such Core Portfolio Investment;

(xxvi) the Obligor with respect to such Core Portfolio Investment is not (A) an Affiliate of the Borrower or any other Person whose investments are primarily managed by the Borrower or an Affiliate of the Borrower, unless (1) such Obligor is an Affiliate solely by reason of the Borrower's Portfolio Investment therein or Borrower's other Portfolio Investments or (2) such Core Portfolio Investment is expressly approved by the Administrative Agent (in its sole discretion) or (B) a Governmental Authority;

(xxvii) all information delivered by any Loan Party to the Administrative Agent with respect to such Core Portfolio Investment is true and correct to the knowledge of such Loan Party;

(xxviii) such Core Portfolio Investment is not an Equity Security and does not by its terms permit the payment obligation of the Obligor thereunder to be converted into or exchanged for equity capital of such Obligor;

(xxix) the proceeds of such Core Portfolio Investment are not used to finance construction projects or activities in the form of a traditional construction loan where the only collateral for the loan is the project under construction and draws are made on the loan specifically to fund construction in progress; and

(xxx) there is full recourse to the Obligor for principal and interest payments with respect to such Core Portfolio Investment.

"**Eligible Debt Security**" means, on any date of determination, any Debt Security held by Borrower or its Subsidiaries as a Portfolio Investment that meets the following conditions:

(i) the investment in the Debt Security was made in accordance with the terms of the Investment Policies applicable to "private placements", "marketable securities" or "idle funds investments";

(ii) the Debt Security has an Eligible Investment Rating;

(iii) (A) the Debt Security is rated by a debt rating agency or other Person engaged in the business of rating the creditworthiness of debt obligations and (B) a Value Triggering Event related to the Debt Security has not occurred and is continuing;

(iv) the Debt Security is not a Defaulted Investment and is not owed by an Obligor that is subject to an Insolvency Event or as to which the Borrower (or its Subsidiary, as applicable) has received notice of an imminent Insolvency Event proceeding;

(v) the Obligor of such Debt Security has executed all appropriate documentation, if any, required in accordance with applicable Investment Policies;

(vi) the Debt Security, together with the Investment Documents related thereto (if any), is a "general intangible", an "instrument", an "account", or "chattel paper", within the meaning of the UCC of all jurisdictions that govern the perfection of the security interest granted therein;

(vii) all material consents, licenses, approvals or authorizations of, or registrations or declarations with, any Governmental Authority required to be obtained, effected or given in connection with the purchase of such Debt Security have been duly obtained, effected or given and are in full force and effect;

(viii) the Debt Security is denominated and payable only in Dollars in the United States and the Obligor is organized under the laws of, and maintains its chief executive office and principal residence in, the United States or any state thereof;

(ix) the Debt Security bears current all cash interest, which is due and payable no less frequently than semi-annually;

(x) the Obligor with respect to the Debt Security is not (A) an Affiliate of the Borrower or any other Person whose investments are primarily managed by the Borrower or any Affiliate of the Borrower, unless such Debt Security is expressly approved by the Administrative Agent (in its sole discretion), (B) a Governmental Authority (except in the case of a Debt Security, with an Investment Grade Rating, issued by the United States of America or any state or municipality or other political subdivision of the United States of America) or (C) primarily in the business of gaming, nuclear waste, bio-tech or oil or gas exploration;

(xi) all information delivered by any Loan Party to the Administrative Agent with respect to such Debt Security is true and correct to the knowledge of such Loan Party;

(xii) the proceeds of such Debt Security are not used to finance construction projects or activities in the form of a traditional construction loan where the only collateral for the loan is the project under construction and draws are made on the loan specifically to fund construction in progress;

(xiii) the Debt Security is a Quoted Investment; and

(xiv) the Debt Security can be converted to Cash in 30 Business Days or fewer without a greater than ten percent (10%) reduction in the value of such Debt Security.

"**Eligible Investment Grade Debt Security**" means an Eligible Debt Security that has, as of the applicable date of determination of Value for such Eligible Debt Security, an Investment Grade Rating.

"**Eligible Investment Rating**" means, as of any date of determination with respect to a Portfolio Investment, an investment rating of "Grade 3" or better as determined in accordance with the Investment Policies.

"**Eligible Investments**" means, collectively, Cash and Cash Equivalents, the Eligible Quoted Senior Bank Loan Investments, the Eligible Investment Grade Debt Securities, the Eligible Core Portfolio Investments, the Eligible Unquoted Senior Bank Loan Investments and the Eligible Non-Investment Grade Debt Securities.

"**Eligible Non-Investment Grade Debt Security**" means an Eligible Debt Security that does not have, as of the applicable date of determination of Value for such Eligible Debt Security, an Investment Grade Rating.

"**Eligible Quoted Senior Bank Loan Investment**" means an Eligible Senior Bank Loan Investment that is a Quoted Investment.

"**Eligible Senior Bank Loan Investment**" means, on any date of determination, any Senior Bank Loan Investment of Borrower or its Subsidiaries that meets the following conditions:

(i) the Senior Bank Loan Investment is evidenced by Investment Documents that are in full force and effect and constitute the legal, valid and binding obligation of the Obligor of such Senior Bank Loan Investment to pay the stated amount of the Loan and interest thereon without right of rescission, set off, counterclaim or defense, and the related Investment Documents are enforceable against such Obligor in accordance with their respective terms and, to the knowledge of the Borrower, are not the subject of any material dispute;

(ii) the Senior Bank Loan Investment was made in accordance with the terms of the Investment Policies applicable to "private placements", "marketable securities" or "idle funds investments";

(iii) such Senior Bank Loan Investment is secured by a first priority, perfected security interest on a substantial portion of the assets of the respective Obligor(s);

(iv) the terms and conditions of such Senior Bank Loan Investment provide the Borrower or its Subsidiary, as applicable, with the power to approve or deny any amendments, supplements, waivers or other modifications of such terms and conditions that would (i) increase the commitment or other obligations of the Borrower or its Subsidiary (as applicable) thereunder, (ii) reduce the amount of, or defer the date fixed for any payment of, principal, interest or fees due or owing to Borrower or its Subsidiary (as applicable), or change the manner of application of any payments owing to Borrower or its Subsidiary (as applicable), under the Investment Documents, (iii) change the percentage of lenders under such Senior Bank Loan Investment required to take any action under the applicable Investment Documents, (iv) release or substitute all or substantially all of the collateral held as security for, or release any guaranty given to support payment of the obligations of, the Obligor under the applicable Investment Documents;

(v) the Senior Bank Loan Investment has an Eligible Investment Rating;

(vi) the terms of the Senior Bank Loan Investment have not been amended or subject to a deferral or waiver the effect of which is to (A) reduce the amount (other than by reason of the repayment thereof) or, after giving effect to any applicable grace or cure period, extend the time for payment of principal or (B) reduce the rate or, after giving effect to any applicable grace or cure period, extend the time of payment of interest (or any component thereof), in each case without the consent of the Administrative Agent, not to be unreasonably withheld or delayed;

(vii) a Value Triggering Event related to the Senior Bank Loan Investment has not occurred and is continuing;

(viii) the Senior Bank Loan Investment is not a Defaulted Investment and is not owed by an Obligor that is subject to an Insolvency Event or as to which the Borrower has received notice of an imminent Insolvency Event proceeding;

(ix) the Obligor of such Senior Bank Loan Investment has executed all appropriate documentation required in accordance with applicable Investment Policies;

(x) the Senior Bank Loan Investment, together with the Investment Documents related thereto, is a "general intangible", an "instrument", an "account", or "chattel paper", within the meaning of the UCC of all jurisdictions that govern the perfection of the security interest granted therein;

(xi) all material consents, licenses, approvals or authorizations of, or registrations or declarations with, any Governmental Authority required to be obtained, effected or given in connection with the making of such Senior Bank Loan Investment have been duly obtained, effected or given and are in full force and effect;

(xii) the Senior Bank Loan Investment is denominated and payable only in Dollars in the United States and the Obligor is organized under the laws of, and maintains its chief executive office and principal residence in, the United States or any state thereof;

(xiii) the Senior Bank Loan Investment bears current interest, which is due and payable no less frequently than semi-annually;

(xiv) the Senior Bank Loan Investment, together with the Investment Documents related thereto, does not contravene in any material respect any Applicable Laws and with respect to which no Obligor is in violation of any Applicable Laws or the terms and conditions of such Investment Documents, to the extent any such violation results in or would be reasonably likely to result in (a) an adverse effect upon the value or collectability of such Senior Bank Loan Investment, (b) a material adverse change in, or a material adverse effect upon, any of (1) the financial condition, operations, business or properties of the Obligor or any of its respective Subsidiaries, taken as a whole, (2) the rights and remedies of the Borrower or its Subsidiary (as applicable) under the Investment Documents, or the ability of the Obligor or any other loan party thereunder to perform its obligations under the Investment Documents to which it is a party, as applicable, taken as a whole, or (3) the collateral securing the Senior Bank Loan Investment, or the Liens thereon or the priority of such Liens;

(xv) the Senior Bank Loan Investment, together with the related Investment Documents, is fully assignable subject to the customary right of the obligor in a syndicated loan or credit facility to consent to an assignment (which consent shall not be unreasonably withheld) prior to an event of default under such Senior Bank Loan Investment and the customary right in a syndicated loan or credit facility of the administrative agent under such syndicated loan or credit facility to consent to the assignment (which consent shall not be unreasonably withheld);

(xvi) the Senior Bank Loan Investment was documented and closed in accordance with applicable Investment Policies, and each original promissory note, if any, representing the portion of such Senior Bank Loan Investment payable to the Borrower or its Subsidiary (as applicable) has been delivered to the Collateral Custodian, duly endorsed as collateral;

(xvii) the Senior Bank Loan Investment is free of any Liens and the interest of the Borrower or its Subsidiary (as applicable) in all Related Property is free of any Liens other than Liens permitted under the applicable Investment Documents and all filings and other actions required to perfect the security interest of the Administrative Agent on behalf of the Secured Parties in the Senior Bank Loan Investment have been made or taken;

(xviii) any Related Property with respect to such Senior Bank Loan Investment is insured in accordance with the applicable Investment Documents;

(xix) such Senior Bank Loan Investment will not cause the Borrower or any of its Subsidiaries (as applicable) to be deemed to own 5.0% or more of the voting securities of any publicly registered issuer or any securities that are immediately convertible into or immediately exercisable or exchangeable for 5.0% or more of the voting securities of any publicly registered issuer;

(xx) the financing of such Senior Bank Loan Investment by the Lenders does not contravene in any material respect Regulation U of the Federal Reserve Board, nor require the Lenders to undertake reporting thereunder which it would not otherwise have cause to make and such Senior Bank Loan Investment does not represent payment obligations relating to "put" rights relating to Margin Stock;

(xxi) any taxes due and payable in connection with the making of such Senior Bank Loan Investment have been paid and the Obligor has been given any assurances (including with respect to the payment of transfer taxes and compliance with securities laws) required by the Investment Documents in connection with the making of the Investment;

(xxii) such Senior Bank Loan Investment does not contain a confidentiality provision that restricts the ability of the Administrative Agent (assuming the Administrative Agent agrees to be bound by the terms of the applicable confidentiality provision), on behalf of the Secured Parties, to exercise its rights under the Loan Documents, including, without limitation, its rights to review the Senior Bank Loan Investment, the related Investment File or the Borrower's credit approval file in respect of such Senior Bank Loan Investment;

(xxiii) the Obligor with respect to such Senior Bank Loan Investment is not (A) an Affiliate of the Borrower or any other Person whose investments are primarily

managed by the Borrower or any Affiliate of the Borrower, unless such Senior Bank Loan Investment is expressly approved by the Administrative Agent (in its sole discretion), (B) a Governmental Authority or (C) primarily in the business of gaming, nuclear waste, bio-tech or oil or gas exploration;

(xxiv) all information delivered by any Loan Party to the Administrative Agent with respect to such Senior Bank Loan Investment is true and correct to the knowledge of such Loan Party;

(xxv) such Senior Bank Loan Investment is not (A) any type of bond, whether high yield or otherwise, or any similar financial interest, (B) an Equity Security and does not by its terms permit the payment obligation of the Obligor thereunder to be converted into or exchanged for equity capital of such Obligor or (C) a participation interest;

(xxvi) the proceeds of such Senior Bank Loan Investment are not used to finance construction projects or activities in the form of a traditional construction loan where the only collateral for the loan is the project under construction and draws are made on the loan specifically to fund construction in progress; and

(xxvii) there is full recourse to the Obligor for principal and interest payments with respect to such Senior Bank Loan Investment.

"**Eligible Unquoted Senior Bank Loan Investment**" means an Eligible Senior Bank Loan Investment that is an Unquoted Investment.

"**Environmental Authority**" means any foreign, federal, state, local or regional government that exercises any form of jurisdiction or authority under any Environmental Requirement.

"**Environmental Authorizations**" means all licenses, permits, orders, approvals, notices, registrations or other legal prerequisites for conducting the business of a Loan Party or any Subsidiary of a Loan Party required by any Environmental Requirement.

"**Environmental Judgments and Orders**" means all judgments, decrees or orders arising from or in any way associated with any Environmental Requirements, whether or not entered upon consent or written agreements with an Environmental Authority or other entity arising from or in any way associated with any Environmental Requirement, whether or not incorporated in a judgment, decree or order.

"**Environmental Laws**" means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment, including, without limitation, ambient air, surface water, groundwater or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean-up or other remediation thereof.

"**Environmental Liabilities**" means any liabilities, whether accrued, contingent or otherwise, arising from and in any way associated with any Environmental Requirements.

"**Environmental Notices**" means notice from any Environmental Authority or by any other person or entity, of possible or alleged noncompliance with or liability under any Environmental Requirement, including without limitation any complaints, citations, demands or requests from any Environmental Authority or from any other person or entity for correction of any violation of any Environmental Requirement or any investigations concerning any violation of any Environmental Requirement.

"**Environmental Proceedings**" means any judicial or administrative proceedings arising from or in any way associated with any Environmental Requirement.

"**Environmental Releases**" means releases as defined in CERCLA or under any applicable federal, state or local environmental law or regulation and shall include, in any event and without limitation, any release of petroleum or petroleum related products.

"**Environmental Requirements**" means any legal requirement relating to health, safety or the environment and applicable to a Loan Party, any Subsidiary of a Loan Party or the Properties, including but not limited to any such requirement under CERCLA or similar state legislation and all federal, state and local laws, ordinances, regulations, orders, writs, decrees and common law.

"**Equity Security**" means any equity security or other obligation or security that does not entitle the holder thereof to receive periodic payments of interest and one or more installments of principal.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor law and all rules and regulations from time to time promulgated thereunder. Any reference to any provision of ERISA shall also be deemed to be a reference to any successor provision or provisions thereof.

"**Euro-Dollar Advance**" means, with respect to any Advance, such Advance during Interest Periods when such Advance bears or is to bear interest at a rate based upon the London InterBank Offered Rate. A Euro-Dollar Advance is a "**Tranche Euro-Dollar Advance**" if such Euro-Dollar Advance has an Interest Period described in subsection (a) of the definition of "Interest Period". A Euro-Dollar Advance is an "**Index Euro-Dollar Advance**" if such Euro-Dollar Advance has an Interest Period described in subsection (b) of the definition of "Interest Period".

"**Euro-Dollar Borrowing**" has the meaning set forth in the definition of "Borrowing".

"**Euro-Dollar Business Day**" means any Domestic Business Day on which dealings in Dollar deposits are carried out in the London interbank market.

"**Euro-Dollar Reserve Percentage**" has the meaning set forth in **Section 2.06(c)**.

"**Event of Default**" has the meaning set forth in **Section 6.01**.

"**Excluded Taxes**" means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Borrower is located and (c) in the case of a Foreign Lender, any withholding tax that is imposed on amounts payable

to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new Lending Office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with **Section 2.12(e)**, except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to **Section 2.12(e)**.

"**Federal Funds Rate**" means, for any day, the rate per annum (rounded upward, if necessary, to the next higher 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Domestic Business Day next succeeding such day, provided that (i) if the day for which such rate is to be determined is not a Domestic Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Domestic Business Day as so published on the next succeeding Domestic Business Day, and (ii) if such rate is not so published for any day, the Federal Funds Rate for such day shall be the average rate charged to Capital One on such day on such transactions as determined by the Administrative Agent.

"**First Lien Investment**" means a Portfolio Investment constituting a Debt obligation (other than a Senior Bank Loan Investment) that is secured by the pledge of collateral and which has the most senior pre-petition priority in any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceedings.

"**Fiscal Quarter**" means any fiscal quarter of the Borrower.

"**Fiscal Year**" means any fiscal year of the Borrower.

"**Foreclosed Subsidiary**" shall mean any Person that becomes a direct or indirect Subsidiary of the Borrower solely as a result of the Borrower or any other Subsidiary of the Borrower acquiring the Capital Securities of such Person, through a bankruptcy, foreclosure or similar proceedings, with the intent to sell or transfer all of the Capital Securities of such Person; provided, that, in the event that the Borrower or such Subsidiary of the Borrower is unable to sell all of the Capital Securities of such Person within 180 days after the Borrower or such Subsidiary of the Borrower acquires the Capital Securities of such Person, such Person shall no longer be considered a "**Foreclosed Subsidiary**" for purposes of this Agreement.

"**Foreign Lender**" means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"**Foreign Subsidiary**" means any Subsidiary which is not a Domestic Subsidiary.

"**Fronting Exposure**" means, at any time there is a Defaulting Lender, such Defaulting Lender's Applicable Percentage of outstanding Swingline Advances made by the Swingline Lender other than Swingline Advances as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders.

"**Fund**" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"**GAAP**" means generally accepted accounting principles applied on a basis consistent with those which, in accordance with **Section 1.02**, are to be used in making the calculations for purposes of determining compliance with the terms of this Agreement.

"**Governmental Authority**" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"**Guarantee**" by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to secure, purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to provide collateral security, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The term "**Guarantee**" used as a verb has a corresponding meaning.

"**Guaranteed Obligations**" means the Obligations, including without limitation, any and all liabilities, indebtedness and obligations of any and every kind and nature, heretofore, now or hereafter owing, arising, due or payable from the Borrower to one or more of the Lenders, the Hedge Counterparties, any Secured Party, the Administrative Agent, or any of them, arising under or evidenced by this Agreement, the Notes, the Collateral Documents or any other Loan Document.

"**Guarantors**" means collectively: all direct and indirect Subsidiaries of the Borrower or Guarantors acquired, formed or otherwise in existence after the Closing Date and required to become a Guarantor pursuant to **Section 5.28**.

"**Hazardous Materials**" includes, without limitation, (a) solid or hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, 42 U.S.C. §6901 et seq. and its implementing regulations and amendments, or in any applicable state or local law or regulation, (b) any "hazardous substance", "pollutant" or "contaminant", as defined in CERCLA, or in any applicable state or local law or regulation, (c) gasoline, or any other petroleum product or by-product, including crude oil or any fraction thereof, (d) toxic substances, as defined in the Toxic Substances Control Act of 1976, or in any applicable state or local law or regulation and (e) insecticides, fungicides, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute or regulation may be amended from time to time.

"**Hedge Counterparty**" means Capital One or any Lender that provides the initial funding of any Revolver Commitment on the Closing Date or any Additional Lender that provides the funding of a Revolver Commitment on any Commitment Increase Date (but not any assignee of any of the foregoing Lenders) which Lender or Additional Lender has provided the Administrative Agent with a fully executed designation notice substantially in the form of **Schedule A** – Designation Notice, or any of their respective Affiliates, in each case solely until such Person has assigned all of its interests under this Agreement, that enters into a Hedging Agreement with the Borrower that is permitted by **Section 5.35**.

"**Hedge Transaction**" of any Person shall mean any transaction (including an agreement with respect thereto) now existing or hereafter entered into by such Person that is a rate swap, basis swap,

forward rate transaction, commodity swap, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collateral transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures.

"**Hedging Agreement**" means each agreement or amended and restated agreement between the Borrower and a Hedge Counterparty that governs one or more Hedge Transactions entered into pursuant to **Section 5.35**, which agreement shall consist of a "**Master Agreement**" in a form published by the International Swaps and Derivatives Association, Inc., together with a "**Schedule**" thereto in the form the Administrative Agent shall approve in writing, and each "**Confirmation**" thereunder confirming the specific terms of each such Hedge Transaction.

"**Hedging Obligations**" of any Person shall mean any and all obligations of such Person, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired under (i) any and all Hedge Transactions, (ii) any and all cancellations, buy backs, reversals, terminations or assignments of any Hedge Transactions and (iii) any and all renewals, extensions and modifications of any Hedge Transactions and any and all substitutions for any Hedge Transactions.

"**Hines**" means either the Advisor or Hines Interests Limited Partnership.

"**Indemnified Taxes**" means Taxes other than Excluded Taxes.

"**Index Euro-Dollar Advance**" has the meaning set forth in either the definition of "Euro-Dollar Advance" or "Revolver Advance", as appropriate to the context.

"**Index Euro-Dollar Borrowing**" has the meaning set forth in the definition of "Borrowing".

"**Information**" has the meaning, for purposes of **Section 9.09**, specified in such **Section 9.09**.

"**Insolvency Event**" means, with respect to a specified Person, (a) the filing of a decree or order for relief by a court having jurisdiction in the premises in respect of such Person or any substantial part of its property in an involuntary case under any applicable Insolvency Law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or ordering the winding-up or liquidation of such Person's affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or (b) the commencement by such Person of a voluntary case under any applicable Insolvency Law now or hereafter in effect, or the consent by such Person to the entry of an order for relief in an involuntary case under any such law, or the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or the making by such Person of any general assignment for the benefit of creditors, or the failure by such Person generally to pay its debts as such debts become due, or the taking of action by such Person in furtherance of any of the foregoing.

"**Insolvency Laws**" means the Bankruptcy Code and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, suspension of payments, or similar debtor relief laws from time to time in effect affecting the rights of creditors generally.

"**Interest Coverage Ratio**" means the ratio of Consolidated EBITDA to Consolidated Interest Expense.

"**Interest Payment Date**" means (a) with respect to any Base Rate Borrowing or Index Euro-Dollar Borrowing, the first day of each month and (b) with respect to any Tranche Euro-Dollar Borrowing, the last day of the Interest Period applicable to such Borrowing.

"**Interest Period**" means: (a) with respect to each Tranche Euro-Dollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the first month thereafter, as the Borrower may elect in the applicable Notice of Borrowing; provided that:

(i) any Interest Period (subject to clause (iii) below) which would otherwise end on a day which is not a Euro-Dollar Business Day shall be extended to the next succeeding Euro-Dollar Business Day unless such Euro-Dollar Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Euro-Dollar Business Day;

(ii) any Interest Period which begins on the last Euro-Dollar Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the appropriate subsequent calendar month) shall, subject to clause (c) below, end on the last Euro-Dollar Business Day of the appropriate subsequent calendar month; and

(iii) no Interest Period may be selected that begins before the Termination Date and would otherwise end after the Termination Date.

(b) with respect to each Base Rate Borrowing and each Index Euro-Dollar Borrowing, a calendar month (commencing on the first day of each calendar month and ending on the last day of each calendar month regardless of whether a Base Rate Borrowing or Index Euro-Dollar Borrowing is outstanding on either date); provided that:

(i) the initial Interest Period applicable to Base Rate Borrowings and Index Euro-Dollar Borrowings shall mean the period commencing on the Closing Date and ending May 31, 2012; and

(ii) the last Interest Period applicable to Base Rate Borrowings and Index Euro-Dollar Borrowings under this Agreement shall end on the Termination Date.

"**Internal Control Event**" means a material weakness in, or fraud that involves management of the Borrower, Adviser or Sub-Adviser, which fraud has a material effect on the Borrower's internal controls over public reporting.

"**Investment**" means any investment in any Person, whether by means of (i) purchase or acquisition of all or substantially all of the assets of such Person (or of a division or line of business of such Person), (ii) purchase or acquisition of obligations or securities of such Person, (iii) capital contribution to such Person, (iv) loan or advance to such Person, (v) making of a time deposit with such Person, (vi) Guarantee or assumption of any obligation of such Person or (vii) by any other means.

"**Investment Company Act**" means the Investment Company Act of 1940, as amended.

"**Investment Documents**" means, with respect to any Core Portfolio Investment or any Senior Bank Loan Investment, any related loan agreement, security agreement, mortgage, assignment, all guarantees, note purchase agreement, intercreditor and/or subordination agreements, and UCC financing statements and continuation statements (including amendments or modifications thereof) executed by the

Obligor thereof or by another Person on the Obligor's behalf in respect of such Core Portfolio Investment or Senior Bank Loan Investment and any related promissory note, including, without limitation, general or limited guaranties and, if requested by the Administrative Agent, for each Core Portfolio Investment secured by real property by a mortgage document, an Assignment of Mortgage, and for all Core Portfolio Investments or Senior Bank Loan Investments with a promissory note, an assignment thereof (which may be by allonge), in blank, signed by an officer of the Borrower.

"**Investment File**" means, as to any Core Portfolio Investments, those documents that are delivered to or held by the Collateral Custodian pursuant to the Custodial Agreement.

"**Investment Grade Rating**" means, as of any date of determination with respect to an Investment, such Investment has a rating of at least Baa3 from Moody's Investors Service, BBB- from Standard & Poor's, a division of The McGraw-Hill Companies, Inc. or BBB- from Fitch Ratings Ltd.

"**Investment Policies**" means those investment objectives, policies and restrictions of the Borrower as in effect on the Closing Date as delivered to the Administrative Agent and as later described in Borrower's annual reports on Form 10K and other filings as filed with the Securities and Exchange Commission, and any modifications or supplements as may be adopted by the Borrower from time to time in accordance with this Agreement.

"**Joinder Agreement**" means a Joinder and Reaffirmation Agreement substantially in the form of **Exhibit I**.

"**Lender**" means (a) the Swingline Lender and its successors and assigns and (b) each lender listed on the signature pages hereof as having a Revolver Commitment and such other Persons who may from time to time acquire a Revolver Commitment in accordance with the terms of this Agreement (as amended and from time to time in effect), and their respective successors and assigns.

"**Lending Office**" means, as to each Lender, its office located at its address set forth on the signature pages hereof (or identified on the signature pages hereof as its Lending Office) or such other office as such Lender may hereafter designate as its Lending Office by notice to the Borrower and the Administrative Agent.

"**Lien**" means, with respect to any asset, any mortgage, deed to secure debt, deed of trust, lien, pledge, charge, security interest, security title, preferential arrangement which has the practical effect of constituting a security interest or encumbrance, servitude or encumbrance of any kind in respect of such asset to secure or assure payment of a Debt or a Guarantee, whether by consensual agreement or by operation of statute or other law, or by any agreement, contingent or otherwise, to provide any of the foregoing. For the purposes of this Agreement, the Borrower or any Subsidiary shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"**Liquidity**" means at any time the aggregate Cash, Cash Equivalents and Eligible Debt Securities of the Borrower and the Guarantors.

"**Loan**" means any loan arising from the extension of credit to an Obligor by the Borrower in the ordinary course of business of the Borrower.

"**Loan Documents**" means this Agreement, the Notes, the Collateral Documents, the Hedging Agreements, any other document evidencing or securing the Advances, the Custodial Agreement, and any other document or instrument delivered from time to time in connection with this Agreement, the Notes, the Collateral Documents, the Hedging Agreements, the Advances, as such documents and instruments may be amended or supplemented from time to time.

"**Loan Parties**" means collectively the Borrower and each Guarantor that is now or hereafter a party to any of the Loan Documents.

"**London InterBank Offered Rate**" has the meaning set forth in **Section 2.06(c)**.

"**Margin Stock**" means "margin stock" as defined in Regulations T, U or X of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"**Material Adverse Effect**" means, with respect to any event, act, condition or occurrence of whatever nature (including any adverse determination in any litigation, arbitration, or governmental investigation or proceeding), whether singly or in conjunction with any other event or events, act or acts, condition or conditions, occurrence or occurrences, whether or not related, a material adverse change in, or a material adverse effect upon, any of (a) the financial condition, operations, business or properties of the Loan Parties and any of their respective Subsidiaries, taken as a whole, (b) the rights and remedies of the Administrative Agent or the Lenders under the Loan Documents, or the ability of the Borrower or any other Loan Party to perform its obligations under the Loan Documents to which it is a party, as applicable, or (c) the legality, validity or enforceability of any Loan Document or (d) the Collateral, or the Administrative Agent's Liens for the benefit of the Secured Parties on the Collateral or the priority of such Liens.

"**Material Contract**" has the meaning given such term in **Section 4.33**.

"**Maximum Lawful Rate**" means the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by the Lenders in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that such law permits the Lenders to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law).

"**Minimum Liquidity Requirement**" has the meaning given such term in **Section 5.04**.

"**Mortgage**" means, collectively any fee simple and leasehold mortgages, deeds of trust and deeds to secure debt by the Borrower, whether now existing or hereafter in effect, in form and content reasonably satisfactory to the Administrative Agent and in each case granting a Lien to the Administrative Agent (or a trustee for the benefit of the Administrative Agent) for the benefit of the Secured Parties in Collateral constituting real property (including certain real property leases) and related personalty, as such documents may be amended, modified or supplemented from time to time.

"**Mortgaged Property**" means, collectively, any Mortgaged Property (as defined in any Mortgage) covering the Properties.

"**Mortgaged Property Security Documents**" means collectively, any Mortgage and all other agreements, instruments and other documents, whether now existing or hereafter in effect, pursuant to which the Borrower or any Subsidiary grants or conveys to the Administrative Agent and the Secured Parties a Lien in, or any other Person acknowledges any such Lien in, real property as security for all or any portion of the Obligations, as any of them may be amended, modified or supplemented from time to time.

"**Multiemployer Plan**" has the meaning set forth in Section 4001(a)(3) of ERISA.

"**Net Assets**" means, at any time, the net assets of the Borrower and its Consolidated Subsidiaries that are Guarantors, as set forth or reflected on the most recent consolidated balance sheet of the Borrower and its Consolidated Subsidiaries prepared in accordance with GAAP.

"**Net Proceeds of Capital Securities/Conversion of Debf**" means any and all proceeds (whether cash or non-cash) or other consideration received by the Borrower or any Subsidiary of the Borrower in respect of the issuance of Capital Securities (including, without limitation, the aggregate amount of any and all Debt converted into Capital Securities), after deducting therefrom all reasonable and customary costs and expenses incurred by the Borrower or any Subsidiary directly in connection with the issuance of such Capital Securities.

"**Net Senior Leverage Ratio**" means with respect to a Debt Security or a Senior Bank Loan Investment either (a) the "Net Senior Leverage Ratio" or comparable definition set forth in the underlying Investment Documents for such Debt Security or Senior Bank Loan Investment, or (b) in the case of any Debt Security or Senior Bank Loan Investment with respect to which the related Underlying Instruments do not include a definition of "Net Senior Leverage Ratio" or comparable definition, the ratio of (i) the Senior Debt (including, without limitation, such Debt Security or Senior Bank Loan Investment) of the applicable Obligor as of the date of determination minus the Cash of such Obligor as of such date to (ii) EBITDA of such Obligor with respect to the applicable Relevant Test Period, as calculated by the Borrower in good faith.

"**Noteless Loan**" means a Core Portfolio Investment or a Senior Bank Loan Investment with respect to which (i) the underlying Investment Documents do not require the Obligor to execute and deliver a promissory note to evidence the indebtedness created under such Core Portfolio Investment or Senior Bank Loan Investment; and (ii) no Loan Party nor any Subsidiary of a Loan Party has requested or received a promissory note from the related Obligor. Except as approved by the Administrative Agent in writing, no Loan Party nor any Subsidiary of a Loan Party shall request or receive a promissory note or other instrument from any Obligor in connection with a Noteless Loan.

"**Notes**" means collectively the Revolver Notes, the Swing Advance Note and any and all amendments, consolidations, modifications, renewals, substitutions and supplements thereto or replacements thereof. "Note" means any one of such Notes.

"**Notice of Borrowing**" has the meaning set forth in**Section 2.02**.

"**Notice of Continuation or Conversion**" has the meaning set forth in**Section 2.03**.

"**Obligations**" means the collective reference to all of the following indebtedness obligations and liabilities: (a) the due and punctual payment by the Borrower of: (i) the principal of and interest on the Notes (including without limitation, any and all Revolver Advances), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and any renewals, modifications or extensions thereof, in whole or in part; (ii) each payment required to be made by the Borrower under this Agreement when and as due, including payments in respect of reimbursement of disbursements, interest thereon, and obligations, if any, to provide cash collateral and any renewals, modifications or extensions thereof, in whole or in part; and (iii) all other monetary obligations of the Borrower to the Secured Parties under this Agreement and the other Loan Documents to which the Borrower is or is to be a party and any renewals, modifications or extensions thereof, in whole or in part; (b) the due and punctual performance of all other obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is or is to be a party, and any renewals, modifications or extensions thereof, in whole or in part; (c) the due and punctual payment (whether at the stated maturity, by acceleration or otherwise) of all obligations (including any and all Hedging Obligations arising under the Hedging Agreements and obligations which, but for the automatic stay under Section

362(a) of the Bankruptcy Code, would become due), indebtedness and liabilities of the Borrower, now existing or hereafter incurred under, arising out of or in connection with any and all Hedging Agreements and any renewals, modifications or extensions thereof (including, all obligations, if any, of the Borrower as guarantor under the Credit Agreement in respect of Hedging Agreements), and the due and punctual performance and compliance by the Borrower with all of the terms, conditions and agreements contained in any Hedging Agreement and any renewals, modifications or extensions thereof; (d) the due and punctual payment and performance of all indebtedness, liabilities and obligations of any one or more of the Borrower and Guarantors arising out of or relating to any Bank Products; (e) the due and punctual payment and performance of all indebtedness, liabilities and obligations of any one or more of the Borrower and Guarantors arising out of or relating to any Cash Management Services; and (f) the due and punctual payment and performance of all obligations of each of the Guarantors under the Credit Agreement and the other Loan Documents to which they are or are to be a party and any and all renewals, modifications or extensions thereof, in whole or in part.

"**Obligor**" means, with respect to any Portfolio Investment, the Person or Persons obligated to make payments pursuant to such Portfolio Investment, including any guarantor thereof.

"**OFAC**" means The Office of Foreign Assets Control of the U.S. Department of the Treasury.

"**Officer's Certificate**" has the meaning set forth in **Section 3.01(e)**.

"**Operating Documents**" means with respect to any corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legally authorized incorporated or unincorporated entity, the bylaws, operating agreement, partnership agreement, limited partnership agreement, shareholder agreement or other applicable documents relating to the operation, governance or management of such entity.

"**Organizational Action**" means with respect to any corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legally authorized incorporated or unincorporated entity, any corporate, organizational or partnership action (including any required shareholder, member or partner action), or other similar official action, as applicable, taken by such entity.

"**Organizational Documents**" means with respect to any corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legally authorized incorporated or unincorporated entity, the articles of incorporation, certificate of incorporation, articles of organization, certificate of limited partnership or other applicable organizational or charter documents relating to the creation of such entity.

"**Other Taxes**" means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"**overadvance**" has the meaning given such term in **Section 2.01(c)**.

"**overline**" has the meaning given such term in **Section 2.01(c)**.

"**Participant**" has the meaning assigned to such term in clause (d) of **Section 9.07**.

"**Patriot Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, signed into law October 26, 2001, as amended, modified, supplemented or restated from time to time.

"**PBGC**" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"**Permitted Encumbrances**" means Liens described in **Section 5.14**.

"**Permitted Merger**" means the proposed merger between Borrower and HMS Income Fund, Inc. as set forth in the Form N-2 filed by HMS Income Fund, Inc., 1933 Act File No. 333-178548, on January 30, 2012 with the Securities and Exchange Commission.

"**Person**" means a natural person, a corporation, a limited liability company, a partnership (including without limitation, a joint venture), an unincorporated association, a trust or any other entity or organization, including, but not limited to, a Governmental Authority.

"**Plan**" means at any time an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and is either (i) maintained by a member of the Controlled Group for employees of any member of the Controlled Group or (ii) maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding 5 plan years made contributions.

"**Pledge Agreement**" means the Equity Pledge Agreement, dated as of the Closing Date, substantially in the form of **Exhibit K**, pursuant to which Borrower and, if applicable, Guarantors pledge to the Administrative Agent for the benefit of the Secured Parties, among other things, (i) all of the capital stock and equity interests of the Guarantors and of each other current or future Subsidiary of the Borrower and Guarantors except Foreign Subsidiaries; and (ii) sixty-five percent (65%) of the capital stock and equity interests of each current or future Foreign Subsidiary.

"**Portfolio Investment**" means an investment made by the Borrower in the ordinary course of business and consistent with the Investment Policies in a Person that is accounted for under GAAP as a portfolio investment of the Borrower. Portfolio Investments shall include Cash, Cash Equivalents, Core Portfolio Investments, Senior Bank Loan Investments and Debt Securities.

"**Pre-Positioned Investment**" means any Investment that will be funded with the proceeds of an Advance hereunder and which is designated by the Borrower in writing to the Administrative Agent as a "**Pre-Positioned Investment**".

"**Prime Rate**" refers to that interest rate so denominated and set by Capital One from time to time as an interest rate basis for borrowings. The Prime Rate is but one of several interest rate bases used by Capital One. Capital One lends at interest rates above and below the Prime Rate. The Prime Rate is not necessarily the lowest or best rate charged by Capital One to its customers or other banks.

"**Proceeds**" shall have the meaning given to it under the UCC and shall include without limitation the collections and distributions of Collateral, cash or non-cash.

"**Properties**" means all real property owned, leased or otherwise used or occupied by a Loan Party or any Subsidiary of a Loan Party, wherever located. "**Property**" means any one of such Properties.

"**Quarterly Payment Date**" means each March 31, June 30, September 30 and December 31, or, if any such day is not a Domestic Business Day, the next succeeding Domestic Business Day.

"**Quoted Investment**" means a Portfolio Investment for which market quotations are readily available from an Approved Pricing Service, or, in the case of Eligible Quoted Senior Bank Loan Investments, from an Approved Pricing Service or an Approved Dealer. All Eligible Quoted Senior Bank Loan Investments and Eligible Debt Securities must be Quoted Investments.

"**Receivables**" shall have the meaning assigned to the term "**Accounts**" in the Security Agreement.

"**Related Indebtedness**" has the meaning set forth in **Section 9.15**.

"**Redeemable Preferred Securities**" of any Person means any preferred stock or similar Capital Securities (including, without limitation, limited liability company membership interests and limited partnership interests) issued by such Person which is at any time prior to the Termination Date either (i) mandatorily redeemable (by sinking fund or similar payments or otherwise) or (ii) redeemable at the option of the holder thereof.

"**Register**" has the meaning set forth in **Section 9.07(c)**.

"**Related Parties**" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

"**Related Property**" means, with respect to any Portfolio Investment, any property or other assets of the Obligor thereunder pledged or purported to be pledged as collateral to secure the repayment of such Portfolio Investment.

"**Relevant Test Period**" means with respect to each Obligor on a Debt Security or a Senior Bank Loan Investment, the relevant test period for the calculation of Net Senior Leverage Ratio or Cash Interest Coverage Ratio, as applicable, for such Debt Security or Senior Bank Loan Investment in accordance with the related underlying Investment Documents or, if no such period is provided for therein, each period of the last four consecutive reported fiscal quarters of the principal Obligor on such Debt Security or Senior Bank Loan Investment; *provided* that with respect to any Debt Security or Senior Bank Loan Investment for which the relevant test period is not provided for in the related underlying Investment Documents, if four (4) consecutive fiscal quarters have not yet elapsed since the closing date of the relevant underlying Investment Documents, "Relevant Test Period" shall initially include the period from such closing date to the end of the fourth fiscal quarter thereafter, and shall subsequently include each period of the last four (4) consecutive reported fiscal quarters of such Obligor.

"**Required Lenders**" means at any time Lenders having at least 66-2/3% of the aggregate amount of the Revolver Commitments or, if the Revolver Commitments are no longer in effect, Lenders holding at least 66-2/3% of the aggregate outstanding principal amount of the Revolver Notes; provided, however, that the Revolver Commitments and any outstanding Revolver Advances of any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

"**Responsible Officer**" means, as to any Person, the president, chief executive officer, chief financial officer, senior vice president, vice president, senior managing director or treasurer of such Person.

"**Restricted Payment**" means (i) any dividend or other distribution on any shares of the Borrower's Capital Securities (except dividends payable solely in shares of its Capital Securities); (ii) any payment of management, consulting, advisory or similar fees; or (iii) any payment on account of the purchase, redemption, retirement or acquisition of (a) any shares of the Borrower's Capital Securities (except shares acquired upon the conversion thereof into other shares of its Capital Securities) or (b) any option, warrant or other right to acquire shares of the Borrower's Capital Securities.

"**Revolver Advance**" means an Advance made to the Borrower under this Agreement pursuant to**Section 2.01**. "**Tranche Euro-Dollar Advance**" means a Revolver Advance with an Interest Period described in subsection (a) of the definition of "Interest Period". "**Index Euro-Dollar Advance**" means a Revolver Advance with an Interest Period described in subsection (b) of the definition of "Interest Period".

"**Revolver Commitment**" means, with respect to each Lender, (i) the amount set forth opposite the name of such Lender on the signature pages hereof, or on any amendment, supplement or joinder that may be executed from time to time after the date hereof, or (ii) as to any Lender which enters into an Assignment and Assumption (whether as transferor Lender or as assignee thereunder), the amount of such Lender's Revolver Commitment after giving effect to such Assignment and Assumption, in each case as such amount may be reduced from time to time pursuant to **Section 2.08** or terminated pursuant to **Section 2.09**.

"**Revolver Notes**" means (a) the promissory notes of the Borrower, substantially in the form of**Exhibit B-1** hereto, evidencing the obligation of the Borrower to repay the Revolver Advances, together with all amendments, consolidations, modifications, renewals, substitutions and supplements thereto or replacements thereof and "Revolver Note" means any one of such Revolver Notes.

"**RIC**" or "regulated investment company" shall mean an investment company or business development company that qualifies for the special tax treatment provided for by subchapter M of the Code.

"**Sale/Leaseback Transaction**" means any arrangement with any Person providing, directly or indirectly, for the leasing by any Loan Party or any of its Subsidiaries of real or personal property which has been or is to be sold or transferred by any Loan Party or such Subsidiary to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of any Loan Party or such Subsidiary.

"**Sanctioned Entity**" shall mean (i) a country or a government of a country, (ii) an agency of the government of a country, (iii) an organization directly or indirectly controlled by a country or its government, (iv) a person or entity resident in or determined to be resident in a country, that is subject to a country sanctions program administered and enforced by OFAC described or referenced at http://www.ustreas.gov/offices/enforcement/ofac/ or as otherwise published from time to time.

"**Secured Parties**" shall mean collectively: (1) the Administrative Agent in its capacity as such under this Agreement, the Collateral Documents and the other Loan Documents; (2) the Lenders, (3) the Hedge Counterparties in their capacity as such under the Hedging Agreements; (4) any Bank Product Bank or Cash Management Bank; and (5) except as otherwise provided in the definitions of "Bank Products", "Cash Management Services" and "Hedging Counterparties," the successors and assigns of the foregoing.

"**Security Agreement**" means the General Security Agreement, substantially in the form of **Exhibit J**, by and between the Borrower, the Guarantors and the Administrative Agent for the benefit of the Secured Parties to be executed and delivered in connection herewith.

"**Senior Bank Loan Investment**" means a Portfolio Investment constituting a Debt obligation (including without limitation term loans, over-the-counter debt securities, middle market investments, the funded portion of revolving credit lines and letter of credit facilities and other similar loans and investments including interim loans) which is made by Borrower as a lender under a syndicated loan or credit facility.

"**Senior Debt**" means all Debt of any Person other than Debt that is junior or subordinated in right of payment or upon liquidation.

"**Special Purpose Subsidiary**" shall mean any single purpose Subsidiary created for the purpose of holding specific assets.

"**Sub-Adviser**" means Main Street Capital Partners, LLC, a Maryland limited liability company.

"**Sub-Advisory Agreement**" means any Investment Sub-Advisory Agreement executed by and among the Adviser, Sub-Adviser, Main Street Capital Corporation and Borrower, or any successor-in-interest to the Borrower.

"**Subsidiary**" of any Person means a corporation, partnership or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interest having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person; provided however, the term "Subsidiary" shall not include any Person that constitutes an investment made by the Borrower or a Subsidiary in the ordinary course of business and consistently with the Investment Policies in a Person that is accounted for under GAAP as a portfolio investment of the Borrower. Unless otherwise qualified, all references to a "**Subsidiary**" or to "**Subsidiaries**" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

"**Swing Advance**" means an Advance made by the Swingline Lender pursuant to **Section 2.01**, which must be a Base Rate Advance or an Index Euro-Dollar Advance.

"**Swing Advance Note**" means the promissory note of the Borrower, substantially in the form of **Exhibit B-2**, evidencing the obligation of the Borrower to repay the Swing Advances, together with all amendments, consolidations, modifications, renewals, and supplements thereto.

"**Swing Borrowing**" means a borrowing hereunder consisting of Swing Advances made to the Borrower by the Swingline Lender pursuant to **Article II**. A Swing Borrowing is a "**Base Rate Borrowing**" if such Swing Advances are Base Rate Advances. A Swing Borrowing is an "**Index Euro-Dollar Borrowing**" if such Swing Advances are Index Euro-Dollar Advances.

"**Swingline Lender**" means Capital One, in its capacity as lender of Swing Advances hereunder.

"**Taxes**" means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"**Termination Date**" means the earlier to occur of (i) May 24, 2015 or such date as extended pursuant to**Section 2.15**, (ii) the date the Revolver Commitments are terminated pursuant to **Section 6.01** following the occurrence of an Event of Default, or (iii) the date the Borrower terminates the Revolver Commitments entirely pursuant to **Section 2.08**.

"**Third Parties**" means all lessees, sublessees, licensees and other users of the Properties, excluding those users of the Properties in the ordinary course of the Borrower's business and on a temporary basis.

"**Title Policy**" means with respect to each Mortgaged Property, the mortgagee title insurance policy (together with such endorsements as the Administrative Agent may reasonably require) issued to the Administrative Agent in respect of such Mortgaged Property by an insurer selected by the Administrative Agent, insuring (in an amount satisfactory to the Administrative Agent) the Lien of the Administrative Agent for the benefit of the Secured Parties on such Mortgaged Property to be duly perfected and first priority, subject only to such exceptions as shall be acceptable to the Administrative Agent.

"**Total Unused Revolver Commitments**" means at any date, an amount equal to: (A) the aggregate amount of the Revolver Commitments of all of the Lenders at such time, less (B) the sum of the aggregate outstanding principal amount of the Revolver Advances of all of the Lenders at such time.

"**Tranche Euro-Dollar Advance**" has the meaning set forth in either the definition of "Euro-Dollar Advance" or "Revolver Advance", as appropriate to the context.

"**Tranche Euro-Dollar Borrowing**" has the meaning set forth in the definition of "Borrowing".

"**UCC**" means the Uniform Commercial Code as from time to time in effect in the specified jurisdiction.

"**Underlying Instruments**" means the underlying loan agreement, credit agreement, indenture or other agreement evidencing any Debt Security or Senior Bank Loan Investment, together with each other agreement that governs the terms of or secures the obligations represented by such Debt Security or Senior Bank Loan Investment or, the terms of which the holders of such Debt Security or Senior Bank Loan Investment are the beneficiaries.

"**Unquoted Investment**" means a Portfolio Investment for which market quotations from an Approved Pricing Service, or, in the case of Eligible Senior Bank Loan Investments, an Approved Pricing Service or Approved Dealer, are not readily available. Only Cash, Cash Equivalents, Eligible Core Portfolio Investments and Eligible Unquoted Senior Bank Loan Investments may be Unquoted Investments.

"**Unrestricted Cash and Cash Equivalents**" means, as of any date of determination, the Cash and Cash Equivalents of Borrower to the extent that such Cash and Cash Equivalents (a) are free and clear of all Liens (other than Liens permitted under **Sections 5.14(j)** and **5.14(l)**), any legal or equitable claim or other interest held by any other Person, and any option or right held by any other Person to acquire any such claim or other interest, (b) are not subject to any restriction pursuant to any provision of any outstanding Capital Securities issued by any Person or of any Material Contract to which it is a party or by which it or any of its property is bound (other than the Loan Documents) and (c) are the subject of a control agreement that creates a valid and perfected first-priority security interest in and lien in favor of the Administrative Agent for the benefit of the Secured Parties.

"**Unused Commitment**" means at any date, with respect to any Lender, an amount equal to its Revolver Commitment less the sum of the aggregate outstanding principal amount of the sum of its Revolver Advances.

"**Value**" means, as of any date of determination, the value assigned by the Borrower to each of its Portfolio Investments as provided below:

(a) Quoted Investments. With respect to Quoted Investments, the Borrower shall, not less frequently than once per week, or upon request of the Administrative Agent, determine the market value of such Portfolio Investments in accordance with the following methodologies, as applicable:

(i) in the case of any Portfolio Investment traded on an exchange, the closing price for such Portfolio Investment most recently posted on such exchange;

(ii) in the case of any Portfolio Investment not traded on an exchange, the fair market value thereof as determined by an Approved Pricing Service or other quotation acceptable to the Administrative Agent in its sole discretion; and

(iii) in the case of any Eligible Quoted Senior Bank Loan Investment not traded on an exchange or priced by an Approved Pricing Service, the average ask and bid prices as determined by two Approved Dealers selected by the Borrower; provided, however, that to the extent a single agent or counterparty makes the market in the Eligible Quoted Senior Bank Loan Investment, the average ask and bid prices as determined by the single Approved Dealer shall be used.

(b) Unquoted Investments. With respect to Unquoted Investments, the fair value of such Investment shall be determined, not less frequently than once per Fiscal Quarter, in accordance with, the Investment Company Act and any orders of the Securities and Exchange Commission by the Board of Directors of the Borrower in its good faith judgment and consistent with past practices as described in the Borrower's reports and other filings filed with the Securities and Exchange Commission as such practices may be amended from time to time in accordance with the last sentence in this definition of "Value", including consideration of valuation procedures of a third-party valuation firm selected by the Borrower and reasonably acceptable to the Administrative Agent, and as approved by the Administrative Agent in its reasonable credit judgment. The valuation practices described in the Borrower's reports and other filings filed with the Securities and Exchange Commission may be amended from time to time provided that the Borrower shall furnish to the Administrative Agent, prior to the effective date of any such amendment or modification, prompt notice of any changes in such practices and shall not agree or otherwise permit to occur any modification of such practices in any manner that would or would reasonably be expected to adversely affect the interests or remedies of the Administrative Agent or the Secured Parties under this Agreement or any Loan Document or impair the collectability of any Investment without the prior written consent of the Administrative Agent (in its sole discretion).

"**Value Triggering Event**" means after the related Advance with respect to a Debt Security or a Senior Bank Loan Investment, such Debt Security or Senior Bank Loan Investment has a Value of less than 65% of par value and the occurrence of any one of more of the following events:

(a) the Net Senior Leverage Ratio for any Relevant Test Period of the related Obligor with respect to such Debt Security or Senior Bank Loan Investment is (i) greater than 3.50 and (ii) greater than 0.50 higher than the original Net Senior Leverage Ratio on the date that the investment in the Debt Security or Senior Bank Loan Investment was made by Borrower; or

(b) the Cash Interest Coverage Ratio for any Relevant Test Period of the related Obligor with respect to such Debt Security or Senior Bank Loan Investment is (i) less than 1.50 to 1.00 and (ii) less than 85% of the original Cash Interest Coverage Ratio on the date that the investment in the Debt Security or Senior Bank Loan Investment was made by Borrower; or

(c) an Obligor payment default under such Debt Security or Senior Bank Loan Investment (after giving effect to any grace and/or cure period set forth in the applicable loan agreement, but not to exceed five days) (including in respect of the acceleration of the debt under the applicable loan agreement); or

(d) a default as to all or any portion of one or more payments of principal or interest has occurred in relation to any other senior or pari passu obligation for borrowed money of the related Obligor (after giving effect to any grace and/or cure period set forth in the applicable loan agreement, but not to exceed five days); or

(e) the failure of the related Obligor to deliver (i) with respect to quarterly reports, any financial statements (including unaudited financial statements) to the Administrative Agent sufficient to calculate any applicable Net Senior Leverage Ratio of the related Obligor by the date that is no later than ninety (90) days after the end of the first, second or third quarter of any fiscal year, and (ii) with respect to annual reports, any audited financial statements to the Administrative Agent sufficient to calculate any applicable Net Senior Leverage Ratio of the related Obligor by the date that is no later than one hundred and fifty (150) days after the end of any fiscal year; or

(f) any amendment or waiver of, or modification or supplement to, an Underlying Instrument governing a Loan executed on or effected on or after the date on which the Borrower acquired such Loan is entered into that amends, waives, forbears, supplements or otherwise modifies in any way the definition of "Net Senior Leverage Ratio" or "Cash Interest Coverage Ratio" (or any respective comparable definition in the applicable Underlying Instrument) or the definition of any component thereof in a manner that, in the reasonable discretion of the Administrative Agent, is materially adverse to the Administrative Agent or any Lender.

"**Voting Stock**" means securities (as such term is defined in **Section 2(1)** of the Securities Act of 1933, as amended) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to cast votes in any election of any corporate directors (or Persons performing similar functions).

"**Wholly Owned Subsidiary**" means any Subsidiary all of the Capital Securities of which are at the time directly or indirectly owned by the Borrower.

SECTION 1.02. Accounting Terms and Determinations. Unless otherwise specified herein, all terms of an accounting character used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP, applied on a basis consistent (except for changes concurred in by the Borrower's independent public accountants or otherwise required by a change in GAAP) with the most recent audited consolidated financial statements of the Borrower and its Consolidated Subsidiaries delivered to the Administrative Agent for distribution to the Lenders, unless with respect to any such change concurred in by the Borrower's independent public accountants or required or permitted by GAAP, in determining compliance with any of the provisions of this Agreement or any of the other Loan Documents: (i) the Borrower shall have objected to determining such compliance on such basis at

the time of delivery of such financial statements, or (ii) the Required Lenders shall so object in writing within 30 days after the delivery of such financial statements, in either of which events such calculations shall be made on a basis consistent with those used in the preparation of the latest financial statements as to which such objection shall not have been made (which, if objection is made in respect of the first financial statements delivered under **Section 5.01** hereof, shall mean the financial statements referred to in **Section 4.04**).

SECTION 1.03. Use of Defined Terms. All terms defined in this Agreement shall have the same meanings when used in any of the other Loan Documents, unless otherwise defined therein or unless the context shall otherwise require.

SECTION 1.04. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time; (f) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights; and (g) titles of Articles and Sections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement.

ARTICLE II
THE CREDIT

SECTION 2.01. Commitments to Make Advances. (a) Each Lender severally agrees, on the terms and conditions set forth herein, to make Revolver Advances to the Borrower from time to time before the Termination Date; provided that, immediately after each such Revolver Advance is made, the aggregate outstanding principal amount of Revolver Advances by such Lender shall not exceed the amount of the Revolver Commitment of such Lender at such time, provided further that the aggregate principal amount of all Revolver Advances shall not exceed the: lesser of: (1) the Borrowing Base; and (2) the aggregate amount of the Revolver Commitments of all of the Lenders at such time. Each Revolver Advance shall be in an aggregate principal amount of $1,000,000 or any larger multiple of $100,000 (except that any such Revolver Advance may be in the aggregate amount of the Total Unused Revolver Commitments) and shall be made from the several Lenders ratably in proportion to their respective Revolver Commitments. Within the foregoing limits, the Borrower may borrow under this Section, repay or, to the extent permitted by **Section 2.10**, prepay Revolver Advances and reborrow under this **Section 2.01** at any time before the Termination Date.

(b) In addition to the foregoing, the Swingline Lender shall from time to time, upon the request of the Borrower by delivery of a Notice of Borrowing to the Administrative Agent, if the conditions precedent in Article III have been satisfied, make Swing Advances to the Borrower in an aggregate principal amount at any time outstanding not exceeding $5,000,000; provided that, immediately

after such Swing Advance is made, the aggregate principal amount of all Revolver Advances and Swing Advances shall not exceed the lesser of: (1) the Borrowing Base; and (2) the aggregate amount of the Revolver Commitments of all of the Lenders at such time. Each Swing Advance under this **Section 2.01** shall be in an aggregate principal amount of $500,000 or any larger multiple of $100,000. Within the foregoing limits, the Borrower may borrow Swing Advances under this **Section 2.01**, prepay and reborrow Swing Advances under this **Section 2.01** at any time before the Termination Date. Solely for purposes of calculating fees under **Section 2.07**, Swing Advances shall not be considered a utilization of an Advance of the Swingline Lender or any other Lender hereunder. At any time, upon the request of the Swingline Lender, each Lender other than the Swingline Lender shall, on the third Business Day after such request is made, purchase a participating interest in Swing Advances in an amount equal to its Applicable Percentage of such Swing Advances. On such third Business Day, each Lender will immediately transfer to the Swingline Lender, in immediately available funds, the amount of its participation. Whenever, at any time after the Swingline Lender has received from any such Lender its participating interest in a Swing Advance, the Administrative Agent receives any payment on account thereof, the Administrative Agent will distribute to such Lender its participating interest in such amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's participating interest was outstanding and funded); provided, however, that in the event that such payment received by the Administrative Agent is required to be returned, such Lender will return to the Administrative Agent any portion thereof previously distributed by the Administrative Agent to it. Each Lender's obligation to purchase such participating interests shall be absolute and unconditional and shall not be affected by any circumstance, including: (i) any set-off, counterclaim, recoupment, defense or other right which such Lender or any other Person may have against the Swingline Lender requesting such purchase or any other Person for any reason whatsoever; (ii) the occurrence or continuance of a Default, Event of Default or the termination of the Commitments; (iii) any adverse change in the condition (financial, business or otherwise) of the Borrower, any Loan Party or any other Person; (iv) any breach of this Agreement by any Loan Party or any other Lender; or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(c) In the event the unpaid principal amount of the outstanding Advances ever exceeds the amount of the Note, Borrower agrees to pay the excess amount (an "**overline**") immediately upon demand by Lender. In the event the unpaid principal amount of the outstanding Advances ever exceeds the Borrowing Base, Borrower agrees to pay the excess amount (an "**overadvance**") immediately upon demand by Lender. Overlines and overadvances shall bear interest at the rate stated in the Note. If not sooner paid, interest on overlines and overadvances shall be paid on the last day of each month, until the Termination Date. Upon request of Administrative Agent, Borrower shall execute a promissory note, payable to the order of Capital One, to represent the amount of any overline and any overadvance; however, Borrower acknowledges and agrees that the records of Administrative Agent and this Agreement shall constitute conclusive evidence of any overline or overadvance and the obligation of Borrower to repay any overline and overadvance, with interest. All overlines and overadvances for which Administrative Agent has not demanded payment earlier, and all unpaid and accrued interest on overlines and overadvances not due and payable earlier, shall be due and payable on the Termination Date. Borrower acknowledges and agrees that Capital One is not obligated to fund any Advance that would create an overline or an overadvance.

SECTION 2.02. Method of Borrowing Advances.

(a) For Revolver Advances, the Borrower shall give the Administrative Agent notice in the form attached hereto as **Exhibit A** (a "**Notice of Borrowing**") prior to (i) 12:00 P.M. (Central time) at least one Domestic Business Day before each Base Rate Borrowing, and each Index Euro-Dollar Borrowing, and (ii) 11:00 A.M. (Central time) at least three (3) Euro-Dollar Business Days before each Tranche Euro-Dollar Borrowing, specifying:

(i) the date of such Borrowing, which shall be a Domestic Business Day in the case of a Base Rate Borrowing or Index Euro-Dollar Borrowing and a Euro-Dollar Business Day in the case of a Tranche Euro-Dollar Borrowing,

(ii) the aggregate amount of such Borrowing,

(iii) whether the Revolver Advances comprising such Borrowing are to be Base Rate Advances, Tranche Euro-Dollar Advances or Index Euro-Dollar Advances and

(iv) in the case of a Tranche Euro-Dollar Borrowing, the duration of the Interest Period applicable thereto, subject to the provisions of the definition of Interest Period.

(b) Upon receipt of a Notice of Borrowing requesting Revolver Advances, the Administrative Agent shall promptly notify each Lender of the contents thereof and of such Lender's ratable share of such Borrowing and such Notice of Borrowing, once received by the Administrative Agent, shall not be revocable by the Borrower.

(c) Not later than 11:00 A.M. (Central time) on the date of each Borrowing, each Lender shall make available its ratable share of such Borrowing, in Federal or other funds immediately available in Houston, Texas, to the Administrative Agent at its address referred to in or specified pursuant to **Section 9.01**. Unless the Administrative Agent determines that any applicable condition specified in **Article III** has not been satisfied, the Administrative Agent will disburse the funds so received from the Lenders to the Borrower.

(d) Notwithstanding anything to the contrary contained in this Agreement, no Euro-Dollar Borrowing may be made if there shall have occurred a Default, which Default shall not have been cured or waived.

(e) In the event that a Notice of Borrowing fails to specify whether the Revolver Advances comprising such Borrowing are to be Base Rate Advances, Tranche Euro-Dollar Advances or Index Euro-Dollar Advances, such Revolver Advances shall be made as Base Rate Advances. If the Borrower is otherwise entitled under this Agreement to repay any Revolver Advances maturing at the end of an Interest Period applicable thereto with the proceeds of a new Borrowing, and the Borrower fails to repay such Revolver Advances using its own moneys and fails to give a Notice of Borrowing in connection with such new Borrowing, a new Borrowing shall be deemed to be made on the date such Revolver Advances mature in an amount equal to the principal amount of the Revolver Advances so maturing, and the Revolver Advances comprising such new Borrowing shall be Base Rate Advances.

(f) Notwithstanding anything to the contrary contained herein, there shall not be more than five (5) Interest Periods outstanding at any given time; provided that for purposes of this **Section 2.02(f)**, neither Base Rate Advances nor Index Euro-Dollar Advances shall be deemed to have an outstanding Interest Period.

(g) For Swing Advances, the Borrower shall give the Administrative Agent notice in the form of a Notice of Borrowing prior to 1:00 P.M. (Central time) on the Domestic Business Day of the Swing Advance, specifying (i) the aggregate amount of such Advance, (ii) that it shall be a Swing Advance and (iii) whether the Swing Advance is to be a Base Rate Advance or an Index Euro-Dollar Advance. Unless the Administrative Agent determines that any applicable condition specified in Article III has not been satisfied, the Swingline Lender will make available to the Borrower the amount of any such Swing Advance.

SECTION 2.03. Continuation and Conversion Elections. By delivering a notice (a "**Notice of Continuation or Conversion**"), which shall be substantially in the form of **Exhibit C**, to the Administrative Agent on or before 12:00 P.M., Central time, on a Domestic Business Day (or Euro-Dollar Business Day, in the case of Tranche Euro-Dollar Advances outstanding), the Borrower may from time to time irrevocably elect, by notice one Domestic Business Day prior in the case of a continuation of or conversion to Base Rate Advances or Index Euro-Dollar Advances or three (3) Euro-Dollar Business Days prior in the case of a continuation of or conversion to Tranche Euro-Dollar Advances, that all, or any portion in an aggregate principal amount of $1,000,000 or any larger integral multiple of $100,000 be, (i) in the case of Base Rate Advances, converted into Euro-Dollar Advances or (ii) in the case of Euro-Dollar Advances, converted into Base Rate Advances or continued as Euro-Dollar Advances; provided, however, that (x) each such conversion or continuation shall be pro rated among the applicable outstanding Revolver Advances of all Lenders that have made such Revolver Advances, and (y) no portion of the outstanding principal amount of any Revolver Advances may be continued as, or be converted into, any Tranche Euro-Dollar Advance when any Default has occurred and is continuing. In the absence of delivery of a Notice of Continuation or Conversion with respect to any Tranche Euro-Dollar Advance at least three (3) Euro-Dollar Business Days before the last day of the then current Interest Period with respect thereto, such Tranche Euro-Dollar Advance shall, on such last day, automatically convert to a Base Rate Advance.

SECTION 2.04. Notes. The Revolver Advances of each Lender shall be evidenced by a single Revolver Note payable to the order of such Lender for the account of its Lending Office in an amount equal to the original principal amount of such Lender's Revolver Commitment. The Swing Advances of the Swingline Lender shall be evidenced by a single Swing Advance Note payable to the order of the Swingline Lender in an amount equal to the original principal amount of $5,000,000. Upon receipt of each Lender's Note pursuant to **Section 3.01**, the Administrative Agent shall deliver such Note to such Lender. Each Lender shall record, and prior to any transfer of its Note shall endorse on the schedule forming a part thereof appropriate notations to evidence, the date, amount and maturity of, and effective interest rate for, each Advance made by it, the date and amount of each payment of principal made by the Borrower with respect thereto and such schedule shall constitute rebuttable presumptive evidence of the principal amount owing and unpaid on such Lender's Note; provided that the failure of any Lender to make, or any error in making, any such recordation or endorsement shall not affect the obligation of the Borrower hereunder or under the Note or the ability of any Lender to assign its Notes. Each Lender is hereby irrevocably authorized by the Borrower so to endorse its Notes and to attach to and make a part of any Note a continuation of any such schedule as and when required.

SECTION 2.05. Maturity of Advances. Each Advance included in any Borrowing or Swing Borrowing shall mature, and the principal amount thereof, together with all accrued unpaid interest thereon, shall be due and payable on the Termination Date.

SECTION 2.06. Interest Rates.

(a) "**Applicable Margin**" means (a) with respect to any Base Rate Advance, 1.50% and (b) with respect to any Euro-Dollar Advance, 2.75%.

(b) Each Base Rate Advance shall bear interest on the outstanding principal amount thereof, for each day from the date such Advance is made until it becomes due, at a rate per annum equal to the Base Rate for such day plus the Applicable Margin. Such interest shall be payable on each Interest Payment Date while such Base Rate Advance is outstanding and on the date such Base Rate Advance is converted to a Tranche Euro-Dollar Advance or repaid. Any

overdue principal of and, to the extent permitted by applicable law, overdue interest on any Base Rate Advance shall bear interest, payable on demand, for each day until paid in full at a rate per annum equal to the Default Rate.

(c) Each Euro-Dollar Advance shall bear interest on the outstanding principal amount thereof, for the Interest Period applicable thereto, at a rate per annum equal to the sum of: (1) the Applicable Margin, plus (2) the applicable Adjusted London InterBank Offered Rate for such Interest Period. Such interest shall be payable on each applicable Interest Payment Date. Any overdue principal of and, to the extent permitted by applicable law, overdue interest on any Euro-Dollar Advance shall bear interest, payable on demand, for each day until paid in full at a rate per annum equal to the Default Rate.

The "**London InterBank Offered Rate**" applicable to any Euro-Dollar Advance means for the Interest Period of such Euro-Dollar Advance the rate per annum determined on the basis of the rate for deposits in Dollars of amounts equal or comparable to the principal amount of such Euro-Dollar Advance offered for a term comparable to such Interest Period, which rate appears on the display designated as Reuters Screen LIBOR01 Page (or such other successor page as may replace Reuters Screen LIBOR01 Page or such other service or services as may be nominated by the British Banker's Association for the purpose of displaying London InterBank Offered Rates for U.S. dollar deposits) determined as of 11:00 a.m. London, England time, two (2) Euro-Dollar Business Days prior to the first day of such Interest Period, provided that if no such offered rates appear on such page, the "London InterBank Offered Rate" for such Interest Period will be the arithmetic average (rounded upward, if necessary, to the next higher 1/100th of 1%) of rates quoted by not less than two (2) major lenders in New York City, selected by the Administrative Agent, at approximately 10:00 A.M., New York City time, two (2) Euro-Dollar Business Days prior to the first day of such Interest Period, for deposits in Dollars offered by leading European banks for a period comparable to such Interest Period in an amount comparable to the principal amount of such Euro-Dollar Advance.

"**Euro-Dollar Reserve Percentage**" means for any day that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement for a member bank of the Federal Reserve System in respect of "Eurocurrency liabilities" (or in respect of any other category of liabilities which includes deposits by reference to which the interest rate on such Euro-Dollar Advance is determined or any category of extensions of credit or other assets which includes loans by a non-United States office of any Lender to United States residents). The Adjusted London InterBank Offered Rate shall be adjusted automatically on and as of the effective date of any change in the Euro-Dollar Reserve Percentage.

(d) The Administrative Agent shall determine each interest rate applicable to the Advances hereunder in accordance with the terms of this Agreement. The Administrative Agent shall give prompt notice to the Borrower and the Lenders by facsimile of each rate of interest so determined, and its determination thereof shall be conclusive in the absence of manifest error.

(e) After the occurrence and during the continuance of an Event of Default (other than an Event of Default under **Sections 6.01(g)** or **(h)**), the principal amount of the Advances (and, to the extent permitted by applicable law, all accrued interest thereon) may, at the election of the Required Lenders, bear interest at the Default Rate; provided, however, that automatically whether or not the Required Lenders elect to do so, (i) any overdue principal of and, to the extent permitted by law, overdue interest on the Advances shall bear interest payable on demand, for each day until paid at a rate per annum equal to the Default Rate, and (ii) after the occurrence and during the continuance of an Event of Default described in **Section 6.01(g)** or **6.01(h)**, the

principal amount of the Advances (and, to the extent permitted by applicable law, all accrued interest thereon) shall bear interest payable on demand for each day until paid at a rate per annum equal to the Default Rate.

SECTION 2.07. Fees.

(a) The Borrower shall pay to the Administrative Agent for the ratable account of each Lender an unused commitment fee equal to the product of: (i) the aggregate of the daily average amounts of such Lender's Unused Commitment, times (ii) a per annum percentage equal to 0.25%. Such unused commitment fee shall accrue from but not including the Closing Date to and including the Termination Date. Unused commitment fees shall be determined quarterly in arrears and shall be payable on each Quarterly Payment Date and on the Termination Date; provided that should the Revolver Commitments be terminated at any time prior to the Termination Date for any reason, the entire accrued and unpaid fee shall be paid on the date of such termination. Any such unused commitment fee following the Closing Date until the first Quarterly Payment Date shall be prorated according to the number of days this Agreement was in effect during such Fiscal Quarter.

(b) The Borrower shall pay (i) to the Administrative Agent, for the account and sole benefit of the Administrative Agent, such fees and other amounts at such times as set forth in the Administrative Agent's Letter Agreement, and (ii) such fees and other amounts at such times as set forth in the Lenders' Letter Agreement.

SECTION 2.08. Optional Termination or Reduction of Commitments. The Borrower may, subject to any applicable prepayments pursuant to **Section 2.11**, upon at least 3 Domestic Business Day's irrevocable notice to the Administrative Agent, terminate at any time, or proportionately reduce from time to time by an aggregate amount of at least $5,000,000 or any larger multiple of $1,000,000, the Revolver Commitments; provided, however: (1) each termination or reduction, as the case may be, shall be permanent and irrevocable; (2) no such termination or reduction shall be in an amount greater than the Total Unused Revolver Commitments on the date of such termination or reduction; and (3) no such reduction pursuant to this **Section 2.08** shall result in the aggregate Revolver Commitments of all of the Lenders being reduced to an amount less than $10,000,000, unless the Revolver Commitments are terminated in their entirety, in which case all accrued fees (as provided under **Section 2.07**) shall be payable on the effective date of such termination. Each reduction shall be made ratably among the Lenders in accordance with their respective Revolver Commitments.

SECTION 2.09. Termination of Commitments. The Revolver Commitments shall terminate on the Termination Date and any Advances then outstanding (together with accrued interest thereon) shall be due and payable on such date.

SECTION 2.10. Optional Prepayments.

(a) The Borrower may prepay any Base Rate Borrowing or Index Euro-Dollar Borrowing, in whole at any time, or from time to time in part in amounts aggregating at least $1,000,000 or any larger integral multiple of $100,000 (or any lesser amount equal to the outstanding balance of such Advance), by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment, (i) upon at least one (1) Domestic Business Day's notice to the Administrative Agent any Borrowing that is a Base Rate Borrowing or Index Euro-Dollar Borrowing or (ii) without any notice, any Swing Borrowing. Each such optional prepayment shall be applied (i) first to any Swing Advances outstanding, and (ii) then applied to prepay ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (a) first, to Base Rate Advances, (b) second, to Index Euro-Dollar Advances; (c) lastly, to Tranche Euro-Dollar Advances.

(b) Subject to any payments required pursuant to the terms of **Article VIII** for such Tranche Euro-Dollar Borrowing, the Borrower may, upon at least three (3) Domestic Business Day's prior written notice, prepay in minimum amounts of $1,000,000 with additional increments of $100,000 (or any lesser amount equal to the outstanding balance of such Advances) all or any portion of the principal amount of any Tranche Euro-Dollar Borrowing prior to the maturity thereof, by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment and such payments required pursuant to the terms of **Article VIII**. Each such optional prepayment shall be applied to prepay ratably the Tranche Euro-Dollar Advances of the several Lenders included in such Tranche Euro-Dollar Borrowing.

(c) Upon receipt of a notice of prepayment pursuant to this **Section 2.10**, the Administrative Agent shall promptly notify each Lender of the contents thereof and of such Lender's ratable share of such prepayment and such notice, once received by the Administrative Agent, shall not thereafter be revocable by the Borrower.

SECTION 2.11. Mandatory Prepayments.

(a) On each date on which the Revolver Commitments are reduced or terminated pursuant to **Section 2.08** or **Section 2.09**, the Borrower shall repay or prepay such principal amount of the outstanding Revolver Advances, if any (together with interest accrued thereon and any amount due under **Section 8.05**), as may be necessary so that after such payment the aggregate unpaid principal amount of the Revolver Advances does not exceed the aggregate amount of the Revolver Commitments as then reduced. Each such payment or prepayment shall be applied (i) first to any Swing Advances outstanding, and (ii) then applied to prepay ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (a) first, to Base Rate Advances, (b) second, to Index Euro-Dollar Advances; (c) lastly, to Tranche Euro-Dollar Advances.

(b) In the event that the aggregate principal amount of all Advances at any one time outstanding shall at any time exceed the aggregate amount of the Revolver Commitments of all of the Lenders at such time, the Borrower shall immediately repay so much of the Advances as is necessary in order that the aggregate principal amount of the Advances thereafter outstanding, shall not exceed the aggregate amount of the Revolver Commitments of all of the Lenders at such time. Each such payment or prepayment shall be applied (i) first to any Swing Advances outstanding, and (ii) then applied to prepay ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (a) first, to Base Rate Advances, (b) second, to Index Euro-Dollar Advances; (c) lastly, to Tranche Euro-Dollar Advances.

(c) In the event that the aggregate principal amount of all Advances at any one time outstanding shall at any time exceed the Borrowing Base, the Borrower shall immediately repay so much of the Advances as is necessary in order that the aggregate principal amount of the Advances thereafter outstanding shall not exceed the Borrowing Base.

(d) If at any time the Borrower is not in compliance with the Minimum Liquidity Requirement, the Borrower shall immediately repay so much of the Revolver Advances as is necessary in order that, after giving effect to such repayment, the Minimum Liquidity Requirement is satisfied. Each such payment or prepayment shall be applied ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (i) first, to Base Rate Advances, and (ii) lastly to Euro-Dollar Advances.

(e) If at any time (i) the Administrative Agent on behalf of the Secured Parties does not own or have a valid and perfected first priority security interest in any Eligible Investment or (ii) any representation or warranty with respect to any Eligible Investment included in the Borrowing Base is not true and correct in all material respects, then upon the earlier of the Borrower's receipt of notice from the Administrative Agent or the Borrower becoming aware thereof, the Borrower, in its sole discretion, shall elect to either (x) repay the Advances outstanding (together with any amounts owing under **Article VIII** relating to such repayment) to the extent required by **Section 2.11(c)** after giving effect to the exclusion of such ineligible Portfolio Investment from the Borrowing Base, or (y) substitute an Eligible Investment for such ineligible Portfolio Investment; provided that no such substitution shall be permitted unless (1) such substitute Portfolio Investment is an Eligible Investment on the date of substitution, (2) after giving effect to the inclusion of the substitute Eligible Investment, no repayment of any Advances outstanding shall be required under **Section 2.11(c)** (after giving effect to the exclusion of such ineligible Portfolio Investment from the Borrowing Base), (3) all representations and warranties of the Borrower contained in **Article IV** shall be true and correct, in all material respects, as of the date of substitution, (4) all actions or additional actions (if any) necessary to perfect the security interest of the Administrative Agent in such substitute Portfolio Investment and related Collateral shall have been taken as of or prior to the date of substitution and (5) the Borrower shall deliver to the Administrative Agent on the date of such substitution (A) a certificate of a Responsible Officer certifying that each of the foregoing is true and correct as of such date and (B) a Borrowing Base Certification Report (including a calculation of the Borrowing Base after giving effect to such substitution).

(f) [Intentionally deleted].

(g) Any repayment or prepayment made pursuant to this Section shall not affect the Borrowers' obligation to continue to make payments under any Hedging Agreement, which shall remain in full force and effect notwithstanding such repayment or prepayment, subject to the terms of such Hedging Agreement.

(h) Any repayment or prepayment made pursuant to this Section shall be in cash without any prepayment premium or penalty (but including all breakage or similar costs) on the customary terms of the Administrative Agent.

SECTION 2.12. General Provisions as to Payments.

(a) The Borrower shall make each payment of principal of, and interest on, the Advances and of fees hereunder without any set off, counterclaim or any deduction whatsoever, not later than 12:00 P.M. (Central time) on the date when due, in Federal or other funds immediately available in Houston, Texas, to the Administrative Agent at its address referred to in **Section 9.01**. The Administrative Agent will promptly distribute to each Lender its ratable share of each such payment received by the Administrative Agent for the account of the Lenders.

(b) Whenever any payment of principal of, or interest on, the Base Rate Advances or of fees shall be due on a day which is not a Domestic Business Day, the date for payment thereof shall be extended to the next succeeding Domestic Business Day. Whenever any payment of principal of or interest on, the Euro-Dollar Advances shall be due on a day which is not a Euro-Dollar Business Day, the date for payment thereof shall be extended to the next succeeding Euro-Dollar Business Day unless such Euro-Dollar Business Day falls in another calendar month, in

which case the date for payment thereof shall be the next preceding Euro-Dollar Business Day. If the date for any payment of principal is extended by operation of law or otherwise, interest thereon shall be payable for such extended time.

(c) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with **Section 2.02** and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Advances. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Advance included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent

(d) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation

(e) Taxes.

(i) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if the Borrower shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (A) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (B) the Borrower shall make such deductions and (C) the Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(ii) Payment of Other Taxes by the Borrower. Without limiting the provisions of paragraph (i) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(iii) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent and each Lender, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Administrative Agent or such Lender, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(iv) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(v) Status of Lenders. Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of the foregoing, in the event that the Borrower is resident for tax purposes in the United States of America, any Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(A) duly completed copies of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(B) duly completed copies of Internal Revenue Service Form W-8ECI,

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (1) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Code, or (3) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (y) duly completed copies of Internal Revenue Service Form W-8BEN, or

(D) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.

(vi) Treatment of Certain Refunds. If the Administrative Agent or a Lender determines, in its reasonable discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses of the Administrative Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

SECTION 2.13. Computation of Interest and Fees. Interest on the Advances shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day). Utilization fees, unused commitment fees and any other fees payable hereunder shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day).

SECTION 2.14. Increase in Commitments.

(a) The Borrower shall have the right, at any time prior to the date that is one hundred eighty (180) days prior to the Termination Date by written notice to and in consultation with the Administrative Agent, to request an increase in the aggregate Revolver Commitments (each such requested increase, a "Commitment Increase"), by having one or more existing Lenders increase their respective Revolver Commitments then in effect (each, an "Increasing Lender"), by adding as a Lender with a new Revolver Commitment hereunder one or more Persons that are not already Lenders (each, an "Additional Lender"), or a combination thereof, provided that (i) any such request for a Commitment Increase shall be in a minimum amount of $5,000,000, (ii) immediately after giving effect to any Commitment Increase, (y) the aggregate Revolver Commitments shall not exceed $75,000,000 and (z) the aggregate of all Commitment Increases effected shall not exceed $60,000,000, (iii) no Default or Event of Default shall have

occurred and be continuing on the applicable Commitment Increase Date (as hereinafter defined) or shall result from any Commitment Increase, (iv) immediately after giving effect to any Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof), the Borrower shall be in compliance with the covenants contained in Article V, (v) no consent of any Lender to such Commitment Increase shall be required and no Lender shall be obligated to participate as a Lender in such Commitment Increase, and (vi) the Borrower shall give the existing Lenders the right of first refusal for participating in any such Commitment Increase by providing such notice to the Administrative Agent ten (10) Domestic Business Days before executing a commitment with any Person that is not already a Lender. An existing Lender shall have priority over Additional Lenders to participate in such requested Commitment Increase if such existing Lender provides written notice of its election to participate within ten (10) Domestic Business Days of such existing Lender's receipt of such notice. Such notice from the Borrower shall specify the requested amount of the Commitment Increase. No Lender shall have any obligation to become an Increasing Lender and any decision by a Lender to increase its Commitment shall be made in its sole discretion independently from any other Lender. Other than fees payable under the Administrative Agent's Letter Agreement, which shall be paid in accordance with its terms, any fees paid by the Borrower for a Commitment Increase to an Increasing Lender, an Additional Lender, the Administrative Agent, shall be for their own account and shall be in an amount, if any, mutually agreed upon by each such party and the Borrower, in each party's sole discretion.

(b) Each Additional Lender must qualify as an Eligible Assignee (the selection of which shall include the prior approval of the Administrative Agent). The Borrower and each Additional Lender shall execute a joinder agreement, and the Borrower and each Lender shall execute all such other documentation as the Administrative Agent and the Borrowers may reasonably require, all in form and substance reasonably satisfactory to the Administrative Agent and the Borrower, to evidence the Revolver Commitment adjustments referred to in **Section 2.14(e)**; provided that the failure of any Lender that is not an Additional Lender or an Increasing Lender to execute any such documentation shall not impair the ability of the Additional Lenders, the Increasing Lenders and the Borrower to effect a Commitment Increase pursuant to this **Section 2.14**.

(c) If the aggregate Revolver Commitments are increased in accordance with this **Section 2.14**, the Borrower (in consultation with the Administrative Agent), Increasing Lender(s) (if any) and Additional Lender(s) (if any) shall agree upon the effective date (the "Commitment Increase Date," which shall be a Domestic Business Day not less than thirty (30) days prior to the Termination Date). The Administrative Agent shall promptly notify the Lenders of such increase and the Commitment Increase Date.

(d) Notwithstanding anything set forth in this **Section 2.14** to the contrary, the Borrower shall not incur any Revolver Advances pursuant to any Commitment Increase (and no Commitment Increase shall be effective) unless the conditions set forth in **Section 2.14(a)** as well as the following conditions precedent are satisfied on the applicable Commitment Increase Date:

(i) The Administrative Agent shall have received the following, each dated the Commitment Increase Date and in form and substance reasonably satisfactory to the Administrative Agent:

(A) a supplement to this Agreement signed by the Required Lenders and each other Lender committing to the Commitment Increase, setting forth the reallocation of Commitments referred to in **Section 2.14(e)**, all other documentation required by the Administrative Agent pursuant to **Section 2.14(b)** and such other modifications, documents or items as the Administrative Agent, the Lenders or their counsel may reasonably request;

(B) an instrument, duly executed by the Borrower and each Guarantor acknowledging and reaffirming its obligations under this Agreement, the Collateral Documents, and the other Loan Documents to which it is a party;

(C) a certificate of the secretary or an assistant secretary of the Borrower and each Guarantor, certifying to and attaching the resolutions adopted by the board of directors (or similar governing body) of such party approving or consenting to such Commitment Increase;

(D) a certificate of the Chief Financial Officer or another Responsible Officer of the Borrower, certifying that (x) as of the Commitment Increase Date, all representations and warranties of the Borrower and the Guarantors contained in this Agreement and the other Loan Documents are true and correct in all material respects (except to the extent any such representation or warranty is expressly stated to have been made as of a specific date, in which case such representation or warranty is true and correct as of such date), (y) immediately after giving effect to such Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof), the Borrower is in compliance with the covenants contained in **Article V**, and (z) no Default or Event of Default has occurred and is continuing, both immediately before and after giving effect to such Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof);

(E) unless waived by the Administrative Agent and the Additional Lender(s), if any, an opinion or opinions of counsel for the Borrower and the Guarantors, in a form satisfactory to Administrative Agent and covering such matters as Administrative Agent may reasonably request, addressed to the Administrative Agent and the Lenders, together with such other documents, instruments and certificates as the Administrative Agent shall have reasonably requested; and

(F) such other documents or items that the Administrative Agent, the Lenders or their counsel may reasonably request.

(ii) In the case of any Borrowing of Revolver Advances in connection with such Commitment Increase for the purpose of funding an Acquisition, the applicable conditions set forth in this Agreement with respect to Acquisitions shall have been satisfied.

(e) On the Commitment Increase Date, (i) the aggregate principal outstanding amount of the Revolver Advances (the "**Initial Advances**") immediately prior to giving effect to the Commitment Increase shall be deemed to be repaid, (ii) immediately after the effectiveness of the Commitment Increase, the Borrower shall be deemed to have made new Borrowings of Revolver Advances (the "**Subsequent Borrowings**") in an aggregate principal amount equal to the aggregate principal amount of the Initial Advances and of the types and for the Interest Periods specified in a Notice of Borrowing delivered to the Administrative Agent in accordance with **Section 2.01**, (iii) each Lender shall pay to the Administrative Agent in immediately available funds an amount equal to the difference, if positive, between (y) such Lender's pro rata percentage (calculated after giving effect to the Commitment Increase) of the Subsequent Borrowings and (z) such Lender's pro rata percentage (calculated without giving effect to the

Commitment Increase) of the Initial Advances, (iv) after the Administrative Agent receives the funds specified in clause (iii) above, the Administrative Agent shall pay to each Lender the portion of such funds equal to the difference, if positive, between (y) such Lender's pro rata percentage (calculated without giving effect to the Commitment Increase) of the Initial Advances and (z) such Lender's pro rata percentage (calculated after giving effect to the Commitment Increase) of the amount of the Subsequent Borrowings, (v) the Lenders shall be deemed to hold the Subsequent Borrowings ratably in accordance with their respective Revolver Commitments (calculated after giving effect to the Commitment Increase), (vi) the Borrower shall pay all accrued but unpaid interest on the Initial Advances to the Lenders entitled thereto, and (vii) the signature pages hereto shall be deemed amended to reflect the Revolver Commitments of all Lenders after giving effect to the Commitment Increase. The deemed payments made pursuant to clause (i) above in respect of each Tranche Euro-Dollar Advance shall be subject to indemnification by the Borrower pursuant to the provisions of **Section 8.05** if the Commitment Increase Date occurs other than on the last day of the Interest Period relating thereto.

SECTION 2.15. Extension Options. On or prior to each of May 24, 2013 (the first anniversary of the Closing Date) and May 24, 2014 (the second anniversary of the Closing Date), the Borrower may, by notice to the Administrative Agent (who shall promptly notify the Lenders) request that the Administrative Agent and the Lenders extend the date set forth in the definition of Termination Date by one year, and the Administrative Agent and the Lenders may, each in their sole and individual discretion, elect to do so, it being understood that (i) no extension shall be effective unless all Lenders unanimously agree to extend and (ii) any Lender who has not responded to such extension request within fifteen (15) Domestic Business Days following the date of the Administrative Agent's notice of such extension request to the Lenders, shall be deemed to have rejected such request. In the event that one extension request is exercised and accepted by all Lenders, this Agreement shall be automatically amended as of May 24, 2013 to provide that the definition of Termination Date would be extended to May 24, 2016. In the event that two extension requests are exercised and accepted by all Lenders, upon effectiveness of the second extension, this Agreement shall be automatically amended as of May 24, 2014 to provide that the definition of Termination Date would be extended to May 24, 2017. Any extension pursuant to this **Section 2.15** shall be effective as of the date of the amendment to this Agreement effecting such extension and each such amendment shall be conditioned upon: (x) no Default or Event of Default and (y) continued accuracy of the representations and warranties, in each case as of the date of such amendment in all material respects. The first extension request shall expire if not made on or prior to May 24, 2013 and shall not take effect prior to May 24, 2013. The second extension request shall expire if not made on or prior to May 24, 2014 and shall not take effect prior to May 24, 2014. There shall be no more than two (2) extension requests, resulting in total extensions no longer than two (2) years, so that the Termination Date is no later than May 24, 2017.

ARTICLE III
CONDITIONS TO BORROWINGS

SECTION 3.01. Conditions to Closing and First Borrowing. The obligation of each Lender to make an Advance on the Closing Date is subject to the satisfaction of the conditions set forth in **Section 3.02** and the following additional conditions:

(a) receipt by the Administrative Agent from each of the parties hereto of a duly executed counterpart of this Agreement signed by such party;

(b) receipt by the Administrative Agent of a duly executed Revolver Note for the account of each Lender, complying with the provisions of **Section 2.04**;

(c) receipt by the Administrative Agent of an opinion of counsel to the Loan Parties, dated as of the Closing Date (or in the case of an opinion delivered pursuant to **Section 5.28** hereof such later date as specified by the Administrative Agent) in a form satisfactory to Administrative Agent and covering such matters set forth in **Exhibit E** hereto and such additional matters relating to the transactions contemplated hereby as the Administrative Agent may reasonably request;

(d) receipt by the Administrative Agent of a certificate (the "**Closing Certificate**"), dated the date of the first Borrowing, substantially in the form of **Exhibit F** hereto, signed by a chief financial officer or other authorized officer of each Loan Party, to the effect that, to his knowledge, (i) no Default has occurred and is continuing on the date of the first Borrowing and (ii) the representations and warranties of the Loan Parties contained in **Article IV** are true on and as of the date of the first Borrowing hereunder;

(e) receipt by the Administrative Agent of all documents which the Administrative Agent or any Lender may reasonably request relating to the existence of each Loan Party, the authority for and the validity of this Agreement, the Notes and the other Loan Documents, and any other matters relevant hereto, all in form and substance satisfactory to the Administrative Agent, including without limitation a certificate of incumbency of each Loan Party (the "**Officer's Certificate**"), signed by the Secretary, an Assistant Secretary, a member, manager, partner, trustee or other authorized representative of the respective Loan Party, substantially in the form of **Exhibit G** hereto, certifying as to the names, true signatures and incumbency of the officer or officers of the respective Loan Party, authorized to execute and deliver the Loan Documents, and certified copies of the following items: (i) the Loan Party's Organizational Documents; (ii) the Loan Party's Operating Documents; (iii) if applicable, a certificate of the Secretary of State of such Loan Party's state of organization as to the good standing or existence of such Loan Party, and (iv) the Organizational Action, if any, taken by the board of directors of the Loan Party or the members, managers, trustees, partners or other applicable Persons authorizing the Loan Party's execution, delivery and performance of this Agreement, the Notes and the other Loan Documents to which the Loan Party is a party;

(f) completion of due diligence to the satisfaction of the Administrative Agent with respect to the Borrower and its Subsidiaries, including but not limited to review of the Investment Policies, risk management procedures, accounting policies, systems integrity, compliance, management and organizational structure and the loan and investment portfolio of the Borrower and its Subsidiaries;

(g) the Security Agreement and the other Collateral Documents, each in form and content satisfactory to the Administrative Agent shall have been duly executed by the applicable Loan Parties and such documents shall have been delivered to the Administrative Agent and shall be in full force and effect and each document (including each UCC financing statement) required by law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent for the benefit of the Secured Parties, upon filing, recording or possession by the Administrative Agent, as the case may be, a valid, legal and perfected first-priority security interest in and lien on the Collateral described in the Collateral Documents shall have been delivered to the Administrative Agent; Borrower shall also deliver or cause to be delivered the certificates (with undated stock powers executed in blank) for all shares of stock or other equity interests pledged to the Administrative Agent for the benefit of Lenders pursuant to the Pledge Agreement;

(h) the Administrative Agent shall have received the results of a search of the UCC filings (or equivalent filings) made with respect to HMS Income LLC and the Loan Parties in the

states (or other jurisdictions) in which the Loan Parties are organized, the chief executive office of each such Person is located, any offices of such persons in which records have been kept relating to Collateral described in the Collateral Documents and the other jurisdictions in which UCC filings (or equivalent filings) are to be made pursuant to the preceding paragraph, together with copies of the financing statements (or similar documents) disclosed by such search, and accompanied by evidence satisfactory to the Administrative Agent that the Liens other than Permitted Encumbrances indicated in any such financing statement (or similar document) have been released or subordinated to the satisfaction of Administrative Agent;

(i) receipt by the Administrative Agent of a Borrowing Base Certification Report, dated as of the date of the initial Notice of Borrowing and satisfactory in all respects to the Administrative Agent;

(j) the Borrower shall have paid all fees required to be paid by it on the Closing Date, including all fees required hereunder and under the Administrative Agent's Letter Agreement to be paid as of such date, and shall have reimbursed the Administrative Agent for all fees, costs and expenses of closing the transactions contemplated hereunder and under the other Loan Documents, including the reasonable legal, audit and other document preparation costs incurred by the Administrative Agent; and

(k) such other documents or items as the Administrative Agent, the Lenders or their counsel may reasonably request.

For purposes of determining compliance with the conditions specified in this **Section 3.01**, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 3.02. Conditions to All Borrowings. The obligation of each Lender to make an Advance on the occasion of each Borrowing or Swing Borrowing is subject to the satisfaction of the following conditions:

(a) receipt by the Administrative Agent of a Notice of Borrowing as required by **Section 2.02**, together with a Borrowing Base Certification Report dated as of the date of delivery and satisfactory in all respects to the Administrative Agent;

(b) receipt by the Administrative Agent of such documentation as the Administrative Agent shall reasonably require confirming that the Borrower shall be in compliance with the Minimum Liquidity Requirement, if applicable;

(c) the fact that, immediately before and after such Borrowing or Swing Borrowing, no Default shall have occurred and be continuing;

(d) the fact that the representations and warranties of the Loan Parties contained in **Article IV** of this Agreement and the other representations and warranties contained in the Loan Documents shall be true, in all material respects, on and as of the date of such Borrowing or Swing Borrowing (except to the extent that any such representations and warranties speak as to a specific date, in which case such representations and warranties shall be true as of such date);

(e) the fact that, immediately after such Borrowing or Swing Borrowing: (A) the aggregate outstanding principal amount of the Revolver Advances of each Lender will not exceed

the amount of its Revolver Commitment and (B) the aggregate outstanding principal amount of the Revolver Advances will not exceed the aggregate amount of the Revolver Commitments of all of the Lenders as of such date;

(f) with respect to each Pre-Positioned Investment that is funded with the proceeds of such Advance, the Administrative Agent and the Collateral Custodian shall have received a faxed copy of the executed note, if any, evidencing such Pre-Positioned Investment, and, if requested in writing by the Administrative Agent, the Administrative Agent shall have received a copy of the credit analysis, underwriting materials and any similar document previously prepared by the Borrower in connection with its investment decision in such Pre-Positioned Investment; and

(g) the fact that, immediately after such Borrowing or Swing Borrowing the aggregate outstanding principal amount of the Revolver Advances will not exceed the lesser of: (A) the aggregate amount of the Revolver Commitments of all of the Lenders as of such date; and (B) the Borrowing Base.

Each Borrowing or Swing Borrowing and each Notice of Continuation or Conversion hereunder shall be deemed to be a representation and warranty by the Loan Parties on the date of such Borrowing or Swing Borrowing as to the truth and accuracy of the facts specified in clauses (c), (d) and (e) of this Section.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

The Borrower and Guarantors represent and warrant that:

SECTION 4.01. Existence and Power. As of the Closing Date, the Borrower is a limited liability company, and on and after the date of the closing of the Permitted Merger, the Borrower is a corporation, and each Guarantor, if any, is a corporation, limited liability company or other legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, as the case may be, is duly qualified to transact business in every jurisdiction where, by the nature of its business, such qualification is necessary, and has all organizational powers and all governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted.

SECTION 4.02. Organizational and Governmental Authorization; No Contravention. The execution, delivery and performance by each Loan Party of this Agreement, the Notes, the Collateral Documents and the other Loan Documents to which such Loan Party is a party (i) are within such Loan Party's organizational powers, (ii) have been duly authorized by all necessary Organizational Action, (iii) require no action by or in respect of, or filing with, any Governmental Authority that has not been obtained or made when required, (iv) do not contravene, or constitute a default under, any provision of applicable law or regulation or of the Organizational Documents and Operating Documents of such Loan Party or of any agreement, judgment, injunction, order, decree or other instrument binding upon such Loan Party or any of its Subsidiaries, and (v) do not result in the creation or imposition of any Lien on any asset of such Loan Party or any of its Subsidiaries (other than Liens in favor of the Administrative Agent for the benefit of the Secured Parties to secure the Obligations).

SECTION 4.03. Binding Effect. This Agreement constitutes a valid and binding agreement of the Loan Parties enforceable in accordance with its terms, and the Notes, the Collateral Documents and the other Loan Documents, when executed and delivered in accordance with

this Agreement, will constitute valid and binding obligations of the Loan Parties party to such Loan Document enforceable in accordance with their respective terms, provided that the enforceability hereof and thereof is subject in each case to general principles of equity and to bankruptcy, insolvency and similar laws affecting the enforcement of creditors' rights generally.

SECTION 4.04. Financial Information.

(a) The audited consolidated balance sheet of the Borrower as of December 31, 2011 and the related consolidated statements of income, shareholders' equity and cash flows for the Fiscal Year then ended, reported on by Grant Thornton LLP, copies of which have been delivered to the Administrative Agent for delivery to each of the Lenders, and drafts of the unaudited consolidated financial statements of the Borrower for the interim period ended March 31, 2012, copies of which have been delivered to each of the Lenders, fairly present, in conformity with GAAP, the consolidated financial position of the Borrower and its Consolidated Subsidiaries as of such dates and their consolidated results of operations and cash flows for such periods stated.

(b) Since December 31, 2011 there has been no event, act, condition or occurrence having a Material Adverse Effect.

SECTION 4.05. Litigation. There is no action, suit or proceeding pending, or to the knowledge of the Loan Parties threatened, against or affecting the Loan Parties or any of their respective Subsidiaries before any court or arbitrator or any Governmental Authority which in any manner draws into question the validity or enforceability of, or could impair the ability of the Loan Parties to perform their respective obligations under, this Agreement, the Notes, the Collateral Documents or any of the other Loan Documents.

SECTION 4.06. Compliance with ERISA.

(a) The Loan Parties and each member of the Controlled Group have fulfilled their obligations under the minimum funding standards of ERISA and the Code with respect to each Plan and are in compliance with the applicable provisions of ERISA and the Code, and have not incurred any liability to the PBGC or a Plan under Title IV of ERISA.

(b) Neither the Loan Parties nor any member of the Controlled Group is or ever has been obligated to contribute to any Multiemployer Plan.

(c) The assets of the Loan Parties or any Subsidiary of any Loan Party do not and will not constitute "plan assets," within the meaning of ERISA, the Code and the respective regulations promulgated thereunder. The execution, delivery and performance of this Agreement, and the borrowing and repayment of amounts hereunder, do not and will not constitute "prohibited transactions" under ERISA or the Code.

SECTION 4.07. Payment of Taxes. There have been filed on behalf of the Loan Parties and their respective Subsidiaries all Federal, state and local income, excise, property and other tax returns which are required to be filed by them and all taxes due pursuant to such returns or pursuant to any assessment received by or on behalf of the Loan Parties or any Subsidiary have been paid other than those being contested in good faith and by appropriate proceedings diligently conducted and with respect to which such Person has established adequate reserves in accordance with GAAP. The charges, accruals and reserves on the books of the Loan Parties and their respective Subsidiaries in respect of taxes or other governmental charges are, in the opinion of the Loan Parties, adequate. No Loan Party has been given or been requested to give a waiver of the statute of limitation relating to the payment of Federal, state, local or foreign taxes.

SECTION 4.08. Subsidiaries. Each of the Subsidiaries (other than any Foreclosed Subsidiary) of each Loan Party is a corporation, a limited liability company or other legal entity, duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, is duly qualified to transact business in every jurisdiction where, by the nature of its business, such qualification is necessary, and has all organizational powers and all governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted. No Loan Party has any Subsidiaries except those Subsidiaries listed on **Schedule 4.08** and as set forth in any Compliance Certificate provided to the Administrative Agent and Lenders pursuant to **Section 5.01(c)** after the Closing Date, which accurately sets forth each such Subsidiary's complete name and jurisdiction of organization.

SECTION 4.09. Investment Company Act, Etc. From and after the date of the Permitted Merger, The Borrower will qualify as a RIC and as an "investment company" that has elected to be a "business development company" as defined in Section 2(a)(48) of the Investment Company Act and is subject to regulation as such under the Investment Company Act including Section 18, as modified by Section 61, of the Investment Company Act. The business and other activities of the Borrower, including but not limited to, the making of the Advances by the Lenders, the application of the proceeds and repayment thereof by the Borrower and the consummation of the transactions contemplated by the Loan Documents to which the Borrower is a party do not result in any violations, with respect to the Borrower, of the provisions of the Investment Company Act or any rules, regulations or orders issued by the Securities and Exchange Commission thereunder.

SECTION 4.10. All Consents Required. All approvals, authorizations, consents, orders or other actions of any Person or of any Governmental Authority (if any) required in connection with the due execution, delivery and performance by the Loan Parties of this Agreement and any Loan Document to which any Loan Party is a party, have been obtained.

SECTION 4.11. Ownership of Property; Liens. Each of the Loan Parties and their respective Subsidiaries has title or the contractual right to possess its properties sufficient for the conduct of its business and none of such properties is subject to any Lien except as permitted in **Section 5.14**.

SECTION 4.12. No Default. No Loan Party or any of their respective Subsidiaries is in default in any material respect under or with respect to any material agreement, instrument or undertaking to which it is a party or by which it or any of its property is bound. No Default or Event of Default has occurred and is continuing.

SECTION 4.13. Full Disclosure. The Loan Parties have disclosed to the Lenders in writing any and all facts which, alone or in the aggregate, could reasonably be expected to have a Material Adverse Effect or to materially affect or alter the business of the Loan Parties as presently conducted.

SECTION 4.14. Environmental Matters.

(a) No Loan Party or any Subsidiary of a Loan Party is subject to any Environmental Liability which would reasonably be expected to have a Material Adverse Effect and no Loan Party or any Subsidiary of a Loan Party has been designated as a potentially responsible party under CERCLA. None of the Properties has been identified on any current or proposed (i) National Priorities List under 40 C.F.R. § 300, (ii) CERCLIS list or (iii) any list arising from a state statute similar to CERCLA.

(b) No Hazardous Materials have been or are being used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, managed or otherwise handled at, or shipped or transported to or from the Properties or are otherwise present at, on, in or under the Properties, or, to the best of the knowledge of the Loan Parties, at or from any adjacent site or facility, except for Hazardous Materials, such as cleaning solvents, pesticides and other materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, and managed or otherwise handled in minimal amounts in the ordinary course of business of such Loan Party or Subsidiary of a Loan Party in compliance with all applicable Environmental Requirements.

(c) The Loan Parties, and each of their respective Subsidiaries, has procured all Environmental Authorizations necessary for the conduct of the business contemplated on such Property, and is in compliance in all material respects with all Environmental Requirements in connection with the operation of the Properties and the Loan Party's, and each of their respective Subsidiary's, respective businesses.

SECTION 4.15. Compliance with Laws. Each Loan Party and each Subsidiary of a Loan Party is in compliance in all material respects with all applicable laws, including, without limitation, all Environmental Laws and all regulations and requirements of the Securities and Exchange Commission and the National Association of Securities Dealers, Inc. (including with respect to timely filing of reports).

SECTION 4.16. Capital Securities. All Capital Securities, debentures, bonds, notes and all other securities of each Loan Party and their respective Subsidiaries presently issued and outstanding are validly and properly issued in accordance, in all material respects, with all applicable laws, including, but not limited to, the "Blue Sky" laws of all applicable states and the federal securities laws. The issued shares of Capital Securities of each of the Loan Party's respective Subsidiaries are owned by the Loan Parties free and clear of any Lien or adverse claim.

SECTION 4.17. Margin Stock. No Loan Party nor any of their respective Subsidiaries is engaged principally, or as one of its important activities, in the business of purchasing or carrying any Margin Stock, and no part of the proceeds of any Advance will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock, or be used for any purpose which violates, or which is inconsistent with, the provisions of Regulation X of the Board of Governors of the Federal Reserve System. Following the application of the proceeds from each Advance, not more than 25% of the value of the assets, either of the Borrower only or of the Borrower and its Subsidiaries on a consolidated basis, will be "**Margin Stock**."

SECTION 4.18. Insolvency. After giving effect to the execution and delivery of the Loan Documents and the making of the Advances under this Agreement, no Loan Party will be "insolvent," within the meaning of such term as defined in § 101 of Title 11 of the United States Code or Section 2 of either the Uniform Fraudulent Transfer Act or the Uniform Fraudulent Conveyance Act, or any other applicable state law pertaining to fraudulent transfers, as each may be amended from time to time, or be unable to pay its debts generally as such debts become due, or have an unreasonably small capital to engage in any business or transaction, whether current or contemplated.

SECTION 4.19. Collateral Documents. Upon execution by the applicable Loan Parties, the Collateral Documents shall be effective to create in favor of the Administrative Agent, for the ratable benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral, securing the Obligations, and, upon (i) the filing of one or more UCC financing statements in the appropriate jurisdictions, (ii) delivery of the certificates evidencing shares of stock, membership interests and other equity interests and delivery of the original notes and other instruments representing debt or

other obligations owing to the Loan Parties to the Collateral Custodian as bailee for the Administrative Agent and (iii) execution and delivery of deposit account control agreements (in form and substance acceptable to the Administrative Agent) with any depositary bank (other than Capital One) at which any Loan Party maintains a deposit account, the Administrative Agent shall have or continue to have a fully perfected first priority Lien on, and security interest in, all right, title and interest of the applicable Loan Parties, in such Collateral and the proceeds thereof that can be perfected upon filing of one or more UCC financing statements and execution and delivery of such equity interests, notes and other instruments and such control agreements, in each case prior and superior in any right to any other Person. The representations and warranties of the Loan Parties contained in the Collateral Documents are true and correct.

SECTION 4.20. Labor Matters. There are no strikes, lockouts, slowdowns or other labor disputes against any Loan Party or any Subsidiary of any Loan Party pending or, to the knowledge of any Loan Party, threatened. The hours worked by and payment made to employees of the Loan Parties and each Subsidiary of any Loan Party have been in compliance with the Fair Labor Standards Act and any other applicable federal, state or foreign law dealing with such matters. All payments due from the Loan Parties or any of their respective Subsidiaries, or for which any claim may be made against the Loan Parties or any of their respective Subsidiaries, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of the Loan Party or such Subsidiary, as appropriate. No Loan Party or any Subsidiary of a Loan Party is party to a collective bargaining agreement.

SECTION 4.21. Patents, Trademarks, Etc. The Loan Parties and their respective Subsidiaries own, or are licensed to use, all patents, trademarks, trade names, copyrights, technology, know-how and processes, service marks and rights with respect to the foregoing that are material to the businesses, assets, operations, properties or condition (financial or otherwise) of the Loan Parties and their respective Subsidiaries taken as a whole. The use of such patents, trademarks, trade names, copyrights, technology, know-how, processes and rights with respect to the foregoing by the Loan Parties and their respective Subsidiaries, does not infringe on the rights of any Person.

SECTION 4.22. Insurance. The Loan Parties and each of their Subsidiaries has (either in the name of such Loan Party or in such Subsidiary's name), with financially sound and reputable insurance companies, insurance in at least such amounts and against at least such risks (including on all its property, and public liability and worker's compensation) as are usually insured against in the same general area by companies of established repute engaged in the same or similar business.

SECTION 4.23. Anti-Terrorism Laws. None of the Loan Parties, or any of their respective Subsidiaries, is in violation of any laws relating to terrorism or money laundering, including, without limitation, the Patriot Act.

SECTION 4.24. Ownership Structure. As of the Closing Date, **Schedule 4.24** is a complete and correct list of all Subsidiaries of the Borrower and of each Loan Party setting forth for each such Subsidiary, (i) the jurisdiction of organization of such Subsidiary, (ii) each Person holding any Capital Securities in such Subsidiary, (iii) the nature of the Capital Securities held by each such Person, and (iv) the percentage of ownership of such Subsidiary represented by such Capital Securities. Except as disclosed in such Schedule, as of the Closing Date (i) the Borrower and its Subsidiaries owns, free and clear of all Liens and has the unencumbered right to vote, all outstanding Capital Securities in each Person shown to be held by it on such Schedule, (ii) all of the issued and outstanding Capital Securities of each Person is validly issued, fully paid and nonassessable and (iii) there are no outstanding subscriptions, options, warrants, commitments, preemptive rights or agreements of any kind (including, without limitation, any stockholders' or voting trust agreements) for the issuance, sale, registration or voting of, or outstanding securities convertible into, any additional Capital Securities of any type in, any such Person.

SECTION 4.25. Reports Accurate; Disclosure. All information, Exhibits, financial statements, documents, books, records or reports furnished or to be furnished by the Loan Parties to the Administrative Agent or any Lender in connection with this Agreement or any Loan Document, including without limitation all reports furnished pursuant to **Section 4.04**, are true, complete and accurate in all material respects; it being recognized by the Administrative Agent and the Lenders that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not to be viewed as facts and that actual results during the period or periods covered by any such projections and forecasts may differ from the projected or forecasted results. Neither this Agreement, nor any Loan Document, nor any agreement, document, certificate or statement furnished to the Administrative Agent or the Lenders in connection with the transactions contemplated hereby contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. There is no fact known to any Loan Party which materially and adversely affects the Borrower and its Subsidiaries, or in the future is reasonably likely to have a Material Adverse Effect.

SECTION 4.26. Location of Offices. The state of organization of Borrower (within the meaning of Article 9 of the UCC) is Maryland. Other than with respect to the Permitted Merger, neither the Borrower nor any Guarantor has changed its name, identity, structure, existence or state of formation, whether by amendment of its Organizational Documents, by reorganization or otherwise, or has changed its state of organization (within the meaning of Article 9 of the UCC) within the four (4) months preceding the Closing Date or any subsequent date on which this representation is made.

SECTION 4.27. Affiliate Transactions. Except as permitted by **Section 5.27**, neither the Borrower nor any Subsidiary nor any other Loan Party is a party to or bound by any agreement or arrangement (whether oral or written) to which any Affiliate of the Borrower, any Subsidiary or any other Loan Party is a party.

SECTION 4.28. Broker's Fees. Except as set forth in the Administrative Agent's Letter Agreement, no broker's or finder's fee, commission or similar compensation will be payable with respect to the transactions contemplated hereby. Except as set forth in the Administrative Agent's Letter Agreement, no other similar fees or commissions will be payable by any Loan Party for any other services rendered to the Borrower or any of its Subsidiaries ancillary to the transactions contemplated hereby.

SECTION 4.29. Survival of Representations and Warranties, Etc. All statements contained in any certificate, financial statement or other instrument delivered by or on behalf of the Borrower, any Subsidiary or any other Loan Party to the Administrative Agent or any Lender pursuant to or in connection with this Agreement or any of the other Loan Documents (including, but not limited to, any such statement made in or in connection with any amendment thereto or any statement contained in any certificate, financial statement or other instrument delivered by or on behalf of any Loan Party prior to the Closing Date and delivered to the Administrative Agent or any Lender in connection with the underwriting or closing of the transactions contemplated hereby) shall constitute representations and warranties made by the Loan Parties in favor of the Administrative Agent and each of the Lenders under this Agreement. All such representations and warranties shall survive the effectiveness of this Agreement, the execution and delivery of the Loan Documents and the making of the Advances.

SECTION 4.30. Loans and Investments. No Loan Party nor any of their respective Subsidiaries has made a loan, advance or Investment which is outstanding or existing on the

Closing Date except (i) Portfolio Investments in the ordinary course of business and consistently with the Investment Policies, (ii) Investments in Subsidiaries and Affiliates as set forth on **Schedule 4.24**, (iii) Investments in Cash and Cash Equivalents, and (iv) other Investments in existence on the Closing Date and described on**Schedule 4.30**.

SECTION 4.31. No Default or Event of Default. No event has occurred and is continuing and no condition exists, or would result from any Advance or from the application of the proceeds therefrom, which constitutes or would reasonably be expected to constitute a Default or Event of Default.

SECTION 4.32. USA Patriot Act; OFAC.

(a) No Loan Party nor any Affiliate of a Loan Party is (1) a Person that resides or has a place of business in a country or territory named on such lists or which is designated as a Non-Cooperative Jurisdiction by the Financial Action Task Force on Money Laundering ("**FATF**"), or whose subscription funds are transferred from or through such a jurisdiction; (2) a "**Foreign Shell Bank**" within the meaning of the USA Patriot Act, i.e., a foreign lender that does not have a physical presence in any country and that is not affiliated with a Lender that has a physical presence and an acceptable level of regulation and supervision; or (3) a person or entity that resides in or is organized under the laws of a jurisdiction designated by the United States Secretary of the Treasury under Section 311 or 312 of the USA Patriot Act as warranting special measures due to money laundering concerns.

(b) No Loan Party or any Affiliate of a Loan Party (i) is a Sanctioned Entity, (ii) has a more than 10% of its assets located in Sanctioned Entities, or (iii) derives more than 10% of its operating income from investments in, or transactions with Sanctioned Entities. The proceeds of any Advance will not be used and have not been used to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Entity. No Loan Party or any Affiliate of a Loan Party are in violation of and shall not violate any of the country or list based economic and trade sanctions administered and enforced by OFAC that are described or referenced at http://www.ustreas.gov/offices/enforcement/ofac/ or as otherwise published from time to time.

(c) Notwithstanding anything contained in the foregoing to the contrary, no Loan Party shall have any duty to investigate or confirm that any shareholder of Borrower or any officer, director, manager, employee, owner or Affiliate of a Portfolio Investment is in compliance with the provisions of this **Section 4.32**, and any violation by any such Person shall not be a Default under this Agreement.

SECTION 4.33. Material Contracts. **Schedule 4.33** is, as of the Closing Date, a true, correct and complete listing of all contracts to which any Loan Party is a party, the breach of or failure to perform which, either by a Loan Party or other party to such contract, could reasonably be expected to have a Material Adverse Effect ("**Material Contract**"). The Borrower, its Subsidiaries and the other Loan Parties that is a party to any Material Contract has performed and is in compliance with all of the material terms of such Material Contract, and no Loan Party has knowledge of any default or event of default, or event or condition which with the giving of notice, the lapse of time, or both, would constitute such a default or event of default, that exists with respect to any such Material Contract.

SECTION 4.34. Collateral-Mortgage Property. With respect to each Mortgaged Property, if any, within the Collateral the Administrative Agent has: (i) a first priority lien upon the fee simple title to the Mortgaged Property, if any; (ii) a first priority lien upon the leases and rents applicable to the Mortgaged Property, if any; (iii) a first priority lien upon all equipment and fixtures applicable to the Mortgaged Property, if any; and (iv) all Mortgaged Property Security Documents, if any, reasonably requested by the Administrative Agent.

SECTION 4.35. Mortgaged Properties. As of the Closing Date, **Schedule 1.01** is a correct and complete list of all Mortgaged Properties, if any, included in the Collateral.

SECTION 4.36. Common Enterprise. The successful operation and condition of the Loan Parties is dependent on the continued successful performance of the functions of the group of Loan Parties as a whole and the successful operation of each of the Loan Parties is dependent on the successful performance and operation of each other Loan Party. Each Loan Party expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from (i) successful operations of each of the other Loan Parties and (ii) the credit extended by the Lenders to the Borrower hereunder, both in their separate capacities and as members of the group of companies. Each Loan Party has determined that execution, delivery, and performance of this Agreement and any other Loan Documents to be executed by such Loan Party is within its purpose, will be of direct and indirect benefit to such Loan Party, and is in its best interest.

SECTION 4.37. Investment Policies. Since the Closing Date, there have been no material changes in the Investment Policies other than in accordance with this Agreement, and the Borrower has at all times complied in all material respects with the Investment Policies with respect to each Portfolio Investment. After the Permitted Merger, the Investment Policies, to the extent described in the Borrower's annual report on Form 10-K most recently filed with the Securities and Exchange Commission or in any subsequent filings as filed with the Securities and Exchange Commission, are or will be fully and accurately described in all material respects.

SECTION 4.38. Eligibility of Portfolio Investments. On the date of each Borrowing or Swing Borrowing, (i) the information contained in the Borrowing Base Certification Report delivered pursuant to **Section 3** is an accurate and complete listing in all material respects of all the Eligible Investments that are part of the Collateral as of such date, and the information contained therein with respect to the identity of such Portfolio Investment and the amounts owing thereunder is true and correct in all material respects as of such date and (ii) each such Portfolio Investment is an Eligible Investment.

SECTION 4.39. Portfolio Investments. The Borrower has not authorized the filing of and is not aware of any financing statements against the Borrower that include a description of collateral covering the Portfolio Investments other than any financing statement that has been terminated and financing statements naming the Administrative Agent for the benefit of the Secured Parties as secured party. The Borrower is not aware of the filing of any judgment or tax Lien filings against the Borrower. Each Portfolio Investment was originated or acquired without any fraud or material misrepresentation by the Borrower or, to the best of the Borrower's knowledge, on the part of the Obligor.

SECTION 4.40. Selection Procedures. No procedures believed by the Borrower to be adverse to the interests of the Administrative Agent and the Lenders were utilized by the Borrower in identifying and/or selecting the Portfolio Investments that are part of the Eligible Investments and are included in the Borrowing Base.

SECTION 4.41. Coverage Requirement. The Advances outstanding do not exceed the lesser of (i) the aggregate amount of the Revolver Commitments of all the Lenders and (ii) the Borrowing Base.

ARTICLE V
COVENANTS

The Borrower and Guarantors agree, jointly and severally, that, so long as any Lender has any Revolver Commitment hereunder or any Obligation remains unpaid:

SECTION 5.01. Information. The Borrower will deliver to the Administrative Agent, who will then promptly deliver to each of the Lenders:

(a) as soon as available and in any event within 90 days after the end of each Fiscal Year, an audited consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such Fiscal Year and the related consolidated statements of income, shareholders' equity and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all certified by an independent public accountants reasonably acceptable to the Administrative Agent, with such certification to be free of exceptions and qualifications not acceptable to the Required Lenders; provided, that to the extent that any Special Purpose Subsidiary or Foreclosed Subsidiary that is treated as a consolidated entity and reflected on the consolidated balance sheet of the Borrower and its Subsidiaries, concurrently with the delivery of the financial statements referred to in this paragraph (a), the Borrower shall provide to the Administrative Agent a balance sheet for each such Special Purpose Subsidiary and such Foreclosed Subsidiary as of the end of such Fiscal Year and the related statements of income, stockholders' equity and cash flows (together with all footnotes thereto) of such Special Purpose Subsidiary and such Foreclosed Subsidiary for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year;

(b) as soon as available and in any event within 45 days after the end of each of the first three Fiscal Quarters of each Fiscal Year, a consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such Fiscal Quarter and the related statement of income and statement of cash flows for such Fiscal Quarter and for the portion of the Fiscal Year ended at the end of such Fiscal Quarter, setting forth in each case in comparative form the figures for the corresponding Fiscal Quarter and the corresponding portion of the previous Fiscal Year, all certified (subject to normal year-end adjustments) as to fairness of presentation, GAAP and consistency by the chief financial officer of the Borrower; provided, that to the extent that any Special Purpose Subsidiary or any Foreclosed Subsidiary that is treated as a consolidated entity and reflected on the consolidated balance sheet of the Borrower and its Subsidiaries, concurrently with the delivery of the financial statements referred to in this **paragraph (b)**, the Borrower shall provide to the Administrative Agent a balance sheet for each such Special Purpose Subsidiary and such Foreclosed Subsidiary as of the end of such Fiscal Quarter and the related statements of income, stockholders' equity and cash flows (together with all footnotes thereto) of such Special Purpose Subsidiary and such Foreclosed Subsidiary for such Fiscal Quarter, setting forth in each case in comparative form the figures for the previous Fiscal Quarter;

(c) simultaneously with the delivery of each set of financial statements referred to in clauses (a) and (b) above, a certificate, substantially in the form of **Exhibit H** and with compliance calculations in form and content satisfactory to the Administrative Agent (a "**Compliance Certificate**"), of the chief financial officer or other authorized officers of the Borrower (i) setting forth in reasonable detail the calculations required to establish whether the Loan Parties were in compliance with the requirements of **Sections 5.04, 5.05**, **5.07**, **5.09**, **5.10**, **5.11**, **5.12** and **5.37** on the date of such financial statements, (ii) setting forth the identities of the respective Subsidiaries on the date of such financial statements, and (iii) stating whether any Default exists on the date of such certificate and, if any Default then exists, setting forth the details thereof and the action which the Loan Parties are taking or propose to take with respect thereto;

(d) as soon as available and in any event within 30 days after the end of each calendar month, a monthly summary from the Collateral Custodian with respect to the Collateral subject to the Custodial Agreements with the Collateral Custodian, such summary to be in form and substance acceptable to the Administrative Agreement;

(e) within 5 Domestic Business Days after the Borrower becomes aware of the occurrence of any Default, a certificate of the chief financial officer or other authorized officer of the Borrower setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(f) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all functions of said Commission, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be;

(g) if and when the Borrower or any member of the Controlled Group (i) gives or is required to give notice to the PBGC of any "reportable event" (as defined in Section 4043 of ERISA) with respect to any Plan which might constitute grounds for a termination of such Plan under Title IV of ERISA, or knows that the plan administrator of any Plan has given or is required to give notice of any such reportable event, a copy of the notice of such reportable event given or required to be given to the PBGC; (ii) receives notice of complete or partial withdrawal liability under Title IV of ERISA, a copy of such notice; or (iii) receives notice from the PBGC under Title IV of ERISA of an intent to terminate or appoint a trustee to administer any Plan, a copy of such notice;

(h) promptly after the Borrower knows of the commencement thereof, notice of any litigation, dispute or proceeding (and any material development in respect of such proceedings) involving a claim against a Loan Party and/or any Subsidiary of a Loan Party for $1,000,000 or more in excess of amounts covered in full by applicable insurance (subject to customary deductibles);

(i) a Borrowing Base Certification Report, substantially in the form of **Exhibit D** and otherwise in form and content reasonably satisfactory to the Administrative Agent, which report is certified as to truth and accuracy by the Chief Financial Officer or other authorized officer of the Borrower and which report shall be delivered (A) while any Advances or other amounts are outstanding, by the 5th Domestic Business Day following the last day of each month and (B) otherwise, by the 10th Domestic Business Day following the last day of each Fiscal Quarter.

(j) promptly at the request of the Administrative Agent, (i) copies of the Investment Documents with respect to any Portfolio Investment and (ii) to the extent not subject to a nondisclosure provision, any valuation report received by the Borrower with respect to the Borrower's and its Subsidiaries' loan and investment portfolio, conducted by Deloitte Financial Advisory Services LLP or such other third party appraiser reasonably acceptable to the Administrative Agent; provided that, the Borrower shall use its best efforts to obtain the consent of Deloitte Financial Advisory Services LLP or such other appraiser to release such report to the Administrative Agent;

(k) promptly after the Borrower knows of a Value Triggering Event, notice of such event and the value of the affected Loan;

(l) promptly upon the occurrence of any Internal Control Event which is required to be publicly disclosed of which a Responsible Officer (other than a Responsible Officer committing the fraud constituting such Internal Control Event) has knowledge; and

(m) from time to time such additional information regarding the financial position or business of the Borrower, its Subsidiaries, and each Loan Party as the Administrative Agent, at the request of any Lender, may reasonably request.

For purposes of clauses (a), (b) and (f) of this **Section 5.01**, all financial statements and other information contained therein filed with the Securities and Exchange Commission shall be deemed delivered hereunder; provided, however, that nothing in the foregoing shall be deemed to relieve the Borrower of its obligation to deliver a Compliance Certificate pursuant to **clause (c)**.

SECTION 5.02. Inspection of Property, Books and Records. The Borrower will (i) keep, and will cause each of its Subsidiaries to keep, its books and records in conformity with GAAP for all dealings and transactions in relation to its business and activities; (ii) permit, and will cause each Subsidiary of the Borrower and each Loan Party to permit, at reasonable times with at least five (5) Domestic Business Days' prior notice (or such lesser time period agreed upon by the Administrative Agent and the Borrower), which notice shall not be required in the case of an emergency, the Administrative Agent or its designee, at the expense of the Borrower and Loan Parties, to perform periodic field audits and investigations of the Borrower, the Loan Parties and the Collateral, from time to time; and (iii) permit, and will cause each Subsidiary to permit, with at least five (5) Domestic Business Days' prior notice (or such lesser time period agreed upon by the Administrative Agent and the Borrower), the Administrative Agent or its designee, at the expense of the Borrower and the Loan Parties, to visit and inspect any of their respective properties, to examine and make abstracts from any of their respective books and records and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants; provided that the Borrower shall only be required to reimburse the Administrative Agent for only one such inspection each Fiscal Quarter unless a Default shall have occurred and be continuing. The Loan Parties agree to cooperate and assist in such visits and inspections, in each case at such reasonable times and as often as may reasonably be desired.

SECTION 5.03. Maintenance of RIC Status and Business Development Company. From and after the date of the Permitted Merger, the Borrower will maintain its status as a RIC under the Code and as a "business development company" under the Investment Company Act.

SECTION 5.04. Minimum Liquidity. The Borrower will maintain, at any time when the aggregate Revolver Advances minus Cash and Cash Equivalents exceed 85% of the Adjusted Borrowing Base, Liquidity of not less than 15% of the aggregate outstanding principal amount of the sum of all Revolver Advances as of the date of determination (the "**Minimum Liquidity Requirement**").

SECTION 5.05. Capital Expenditures. Capital Expenditures will not exceed in the aggregate in any Fiscal Year the sum of $500,000; provided that after giving effect to the incurrence of any Capital Expenditures permitted by this Section, no Default shall have occurred and be continuing (with the effect that amounts not incurred in any Fiscal Year may not be carried forward to a subsequent period).

SECTION 5.06. Sale/Leasebacks. The Loan Parties shall not, nor shall they permit any Subsidiary to, enter into any Sale/Leaseback Transaction

SECTION 5.07. Minimum Consolidated Tangible Net Worth. Consolidated Tangible Net Worth shall not be less than the sum of (i) 80.0% of the Consolidated Tangible Net Worth on the Closing Date plus (ii) 80.0% of the cumulative Net Proceeds of Capital Securities/Conversion of Debt received after the Closing Date, calculated quarterly at the end of each Fiscal Quarter.

SECTION 5.08. Acquisitions. No Loan Party or any Subsidiary of a Loan Party shall make any Acquisition, or take any action to solicit the tender of securities or proxies in respect thereof in order to effect any Acquisition.

SECTION 5.09. Interest Coverage Ratio. The Borrower will maintain, as of the end of each Fiscal Quarter, commencing with the Fiscal Quarter ending June 30, 2012, an Interest Coverage Ratio of not less than 2.00:1.00, determined as follows: (i) for the Fiscal Quarter ending June 30, 2012, for such Fiscal Quarter, (iii) for the Fiscal Quarter ending September 30, 2012, for the two Fiscal Quarters then ended, (iii) for the Fiscal Quarter ending December 31, 2012, for the three Fiscal Quarters then ended, and (iv) for the Fiscal Quarter ending March 31, 2013 and thereafter, for the four Fiscal Quarters then ended.

SECTION 5.10. Asset Coverage Ratio. The Borrower will maintain an Asset Coverage Ratio, as of the end of each Fiscal Quarter ending on the date set forth below under the heading "Testing Period" of not less than the ratio set forth below under the heading "Ratio":

Testing Period	Ratio
Closing Date through September 30, 2012	2.0 to 1
December 31, 2012 through the Termination Date	2.25 to 1

SECTION 5.11. Loans or Advances. No Loan Party nor any Subsidiary of a Loan Party shall make loans or advances to any Person except: (i) solely to the extent not prohibited by Applicable Laws, employee loans or advances that do not exceed Two Hundred Thousand Dollars ($200,000) in the aggregate at any one time outstanding made on an arms'-length basis in the ordinary course of business; (ii) deposits required by government agencies or public utilities; (iii) loans or advances to the Borrower or any Guarantor that is a Consolidated Subsidiary; (iv) loans or advances consisting of Portfolio Investments and (v) loans and advances outstanding on the Closing Date and set forth on **Schedule 5.11**; provided that after giving effect to the making of any loans, advances or deposits permitted by this**Section 5.11**, no Default shall have occurred and be continuing. All loans or advances permitted under this **Section 5.11** (excluding Noteless Loans) shall be evidenced by written promissory notes. Except as approved by the Administrative Agent in writing, no Loan Party nor any Subsidiary of a Loan Party shall request or receive a promissory note or other instrument from any Obligor in connection with a Noteless Loan.

SECTION 5.12. Restricted Payments. The Loan Parties will not declare or make any Restricted Payment during any Fiscal Year, except that:

(a) any Subsidiary of the Borrower may pay Restricted Payments to the Borrower, on at least a pro rata basis with any other shareholders if such Subsidiary is not wholly owned by the Borrower and other Wholly Owned Subsidiaries; and

(b) the Borrower may declare or make Restricted Payments from time to time in accordance with Applicable Law to owners of its Capital Securities so long as (i) at the time

when any such Restricted Payment is to be made, no Default or Event of Default has occurred and is continuing or would result therefrom; and (ii) the chief executive officer, chief financial officer or other authorized officer of the Borrower shall have certified to the Administrative Agent and Lenders as to compliance with the preceding clause (i) in a certificate attaching calculations; provided, however, that notwithstanding the existence of a Default or an Event of Default (other than an Event of Default specified in **Sections 6.01(g)** or **(h)**), the Borrower may pay dividends in an amount equal to its investment company taxable income, net tax-exempt interest and net capital gains that is required to be distributed to its shareholders in order to maintain its status as an RIC and to avoid excise taxes imposed on RICs.

SECTION 5.13. Investments. No Loan Party nor any Subsidiary of a Loan Party shall make Investments in any Person except as permitted by **Sections 5.08** and **5.11(i)** through **(iii)** and except Investments in (i) Cash and Cash Equivalents, (ii) Investments not constituting loans or advances in the Capital Securities of their respective Subsidiaries and equity investments as set forth on **Schedule 4.24** and (iii) Investments in Portfolio Investments made in the ordinary course of business and consistently with the Investment Policies.

SECTION 5.14. Negative Pledge. No Loan Party nor any Subsidiary of a Loan Party will create, assume or suffer to exist any Lien on any asset now owned or hereafter acquired by it, except:

(a) Liens existing on the date of this Agreement encumbering assets (other than Collateral) securing Debt outstanding on the date of this Agreement, in each case as described and in the principal amounts set forth on **Schedule 5.14**;

(b) Liens for taxes, assessments or similar charges, incurred in the ordinary course of business that are not yet due and payable or that are being contested in good faith and with due diligence by appropriate proceedings;

(c) pledges or deposits made in the ordinary course of business to secure payment of workers' compensation, or to participate in any fund in connection with workers' compensation, unemployment insurance, old-age pensions or other social security programs which in no event shall become a Lien prior to any Collateral Documents;

(d) Liens of mechanics, materialmen, warehousemen, carriers or other like liens, securing obligations incurred in the ordinary course of business that: (1) are not yet due and payable and which in no event shall become a Lien prior to any Collateral Documents; or (2) are being contested diligently in good faith pursuant to appropriate proceedings and with respect to which the Loan Party has established reserves reasonably satisfactory to the Administrative Agent and Required Lenders and which in no event shall become a Lien prior to any Collateral Documents;

(e) good faith pledges or deposits made in the ordinary course of business to secure performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, not in excess of ten percent (10%) of the aggregate amount due thereunder, or to secure statutory obligations, or surety, appeal, indemnity, performance or other similar bonds required in the ordinary course of business which in no event shall become a Lien prior to any Collateral Document;

(f) any Lien arising out of the refinancing, extension, renewal or refunding of any Debt secured by any Lien permitted by any of the foregoing clauses of this Section, provided that (i) such Debt is not secured by any additional assets, and (ii) the amount of such Debt secured by any such Lien is not increased;

(g) encumbrances consisting of zoning restrictions, easements or other restrictions on the use of real property, none of which materially impairs the use of such property by Borrower in the operation of its business, and none of which is violated in any material respect by existing or proposed restrictions on land use;

(h) any Lien on Margin Stock;

(i) any Lien imposed as a result of a taking under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority;

(j) Liens securing reasonable and customary fees of banks and other depository institutions on Cash and Cash Equivalents held on deposit with such banks and institutions; provided that such Liens are subordinated to the Liens described in **Section 5.14(l)**;

(k) [Intentionally omitted];

(l) Liens securing the Administrative Agent and the Secured Parties created or arising under the Loan Documents; and

(m) Liens securing Debt permitted under **Section 5.31(d)**, provided that (i) such Liens do not at any time encumber any property other than property financed by such Debt, (ii) the Debt secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition, and (iii) such Liens attach to such property concurrently with or within ninety (90) days after the acquisition thereof.

Notwithstanding anything contained in this **Section 5.14** to the contrary, no Loan Party or any Subsidiary of a Loan Party will create, assume or suffer to exist any Lien on the Collateral except the Liens in favor of the Secured Parties under the Collateral Documents and the Permitted Encumbrances.

SECTION 5.15. Maintenance of Existence, etc. Other than with respect to the Permitted Merger, each Loan Party shall, and shall cause each Subsidiary of a Loan Party to, maintain its organizational existence and carry on its business in substantially the same manner and in substantially the same line or lines of business or line or lines of business reasonably related to the business now carried on and maintained. Any Subsidiary pledging Collateral hereunder shall be organized as a corporation, limited liability company, limited partnership or other legal entity.

SECTION 5.16. Dissolution. No Loan Party nor any Subsidiary of a Loan Party shall suffer or permit dissolution or liquidation either in whole or in part or redeem or retire any shares of its own Capital Securities or that of any Subsidiary of a Loan Party, except: (1) through corporate or company reorganization to the extent permitted by **Section 5.17**; and (2) Restricted Payments permitted by **Section 5.12**.

SECTION 5.17. Consolidations, Mergers and Sales of Assets. Except for the Permitted Merger, no Loan Party will, nor will it permit any Subsidiary of a Loan Party to, consolidate or merge with or into, or sell, lease or otherwise transfer all or any substantial part of its assets to, any other Person, or discontinue or eliminate any business line or segment, provided that (a) pursuant to the consummation of an Acquisition permitted under **Section 5.08** (but not otherwise) a Loan Party may

merge with another Person if (i) such Person was organized under the laws of the United States of America or one of its states, (ii) the Loan Party is the Person surviving such merger, (iii) immediately after giving effect to such merger, no Default shall have occurred and be continuing, and (iv) if the Borrower merges with another Loan Party, the Borrower is the Person surviving such merger; (b) Subsidiaries of a Loan Party (excluding Loan Parties) may merge with one another; and (c) the foregoing limitation on the sale, lease or other transfer of assets and on the discontinuation or elimination of a business line or segment shall not prohibit (1) a transfer of assets or the discontinuance or elimination of a business line or segment (in a single transaction or in a series of related transactions) in the ordinary course of business if, after giving effect thereto the Borrower and its Subsidiaries shall be in compliance on a pro forma basis, after giving effect to such transfer, discontinuation or elimination, with the terms and conditions of this Agreement and (2) divestitures of Portfolio Investments in the ordinary course of business if, after giving effect thereto the Borrower and its Subsidiaries shall be in compliance on a pro forma basis, after giving effect to any such divestiture, with the terms and conditions of this Agreement; provided, however, that upon the occurrence and during the continuance of a Default or an Event of Default, the Borrower shall not sell, transfer or otherwise dispose of any asset (including without limitation any Portfolio Investment) without the prior written consent of the Administrative Agent. Notwithstanding anything contained in this Agreement to the contrary, as a condition to the Permitted Merger, the Borrower shall cause (i) the Adviser to enter into an agreement by and among the Administrative Agent, the Lenders, Borrower and Adviser with respect to Adviser's obligations it will have to Administrative Agent, such agreement to be in form and substance mutually acceptable to Administrative Agent and Adviser; and (ii) the Adviser and the Sub-Adviser shall have duly executed and delivered the Advisory Agreement and the Sub-Advisory Agreement, each in form and content satisfactory to the Administrative Agent and each shall be in full force and effect and each document required to be filed by each to be an investment adviser under the Advisers Act has been and evidence thereof has been delivered to Administrative Agent.

SECTION 5.18. Use of Proceeds. No portion of the proceeds of any Advance will be used by the Borrower or any Subsidiary (i) in connection with, either directly or indirectly, any tender offer for stock of any corporation with a view towards obtaining control of such other corporation (other than a Portfolio Investment; provided that the board of directors or comparable governing body of the Obligor in which such Investment is made has approved such offer and change of control), (ii) directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any Margin Stock, or (iii) for any purpose in violation of any applicable law or regulation. Except as otherwise provided herein, the proceeds of the Advances shall be used: (i) to refinance that certain senior secured single advance term loan credit facility, entered into as of December 12, 2011, from Main Street Capital Corporation to the Borrower in the maximum principal amount of $7,500,000, (ii) for working capital and other lawful corporate purposes, (iii) to pay fees and expenses incurred in connection with this Agreement and (iv) for investments in Portfolio Investments. No part of the proceeds of any Advance will be used, whether directly or indirectly, for any purpose that would violate any rule or regulation of the Board of Governors of the Federal Reserve System, including Regulations T, U or X.

SECTION 5.19. Compliance with Laws; Payment of Taxes. Each Loan Party will, and will cause each Subsidiary of a Loan Party and each member of the Controlled Group to, comply in all material respects with Applicable Laws (including but not limited to ERISA and the Patriot Act), regulations and similar requirements of governmental authorities (including but not limited to PBGC), except where the necessity of such compliance is being contested in good faith through appropriate proceedings diligently pursued. Each Loan Party will, and will cause each Subsidiary of a Loan Party to, pay promptly, prior to delinquency, all taxes, assessments, governmental charges, claims for labor, supplies, rent and other obligations which, if unpaid, might become a lien against the property of a Loan Party or any Subsidiary of a Loan Party, except liabilities being contested in good faith by appropriate proceedings diligently pursued and against which, if requested by the Administrative Agent, the Borrower shall have set up reserves in accordance with GAAP.

SECTION 5.20. Insurance. Each Loan Party will maintain, and will cause each Subsidiary of a Loan Party to maintain (either in the name of such Loan Party or in such Subsidiary's own name), with financially sound and reputable insurance companies, insurance on all its Property in at least such amounts and against at least such risks as are usually insured against in the same general area by companies of established repute engaged in the same or similar business. Upon request, the Loan Parties shall promptly furnish the Administrative Agent copies of all such insurance policies or certificates evidencing such insurance and such other documents and evidence of insurance as the Administrative Agent shall request.

SECTION 5.21. Change in Fiscal Year. No Loan Party will make any significant change in accounting treatment or reporting practices, except as required or permitted by GAAP, or change its Fiscal Year (except to conform with the Fiscal Year of the Borrower) without the consent of the Required Lenders.

SECTION 5.22. Maintenance of Property. Each Loan Party shall, and shall cause each Subsidiary of a Loan Party to, maintain all of its properties and assets in good condition, repair and working order, ordinary wear and tear excepted.

SECTION 5.23. Environmental Notices. Each Loan Party shall furnish to the Lenders and the Administrative Agent prompt written notice of all Environmental Liabilities, pending, threatened or anticipated Environmental Proceedings, Environmental Notices, Environmental Judgments and Orders, and Environmental Releases at, on, in, under or in any way affecting in any material respects the Properties or any adjacent property, and all facts, events, or conditions that could lead to any of the foregoing.

SECTION 5.24. Environmental Matters. No Loan Party or any Subsidiary of a Loan Party will, and the Loan Parties shall use commercially reasonable efforts not to permit any Third Party to, use, produce, manufacture, process, treat, recycle, generate, store, dispose of, manage at, or otherwise handle or ship or transport to or from the Properties any Hazardous Materials except for Hazardous Materials such as cleaning solvents, pesticides and other similar materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed, managed or otherwise handled in minimal amounts in the ordinary course of business in compliance with all applicable Environmental Requirements.

SECTION 5.25. Environmental Release. Each Loan Party agrees that upon the occurrence of an Environmental Release at, under or on any of the Properties it will act immediately to investigate the extent of, and to take appropriate remedial action to eliminate, such Environmental Release, whether or not ordered or otherwise directed to do so by any Environmental Authority.

SECTION 5.26. Intentionally Omitted.

SECTION 5.27. Transactions with Affiliates. No Loan Party nor any Subsidiary of a Loan Party shall enter into, or be a party to, any transaction with any Affiliate of a Loan Party or such Subsidiary (which Affiliate is not a Loan Party or a Subsidiary of a Loan Party), except as permitted by law and in the ordinary course of business and pursuant to reasonable terms which are no less favorable to the Loan Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person which is not an Affiliate.

SECTION 5.28. Joinder of Subsidiaries.

(a) The Loan Parties shall cause any Person which becomes a Domestic Subsidiary of a Loan Party (other than a Foreclosed Subsidiary) after the Closing Date to become a party to,

and agree to be bound by the terms of, this Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents pursuant to a Joinder Agreement in the form attached hereto as **Exhibit I** and otherwise satisfactory to the Administrative Agent in all respects and executed and delivered to the Administrative Agent within ten (10) Domestic Business Days after the day on which such Person became a Domestic Subsidiary. The Loan Parties shall also cause the items specified in **Section 3.01(c)**, **(e)**, **(g)** and **(h)** to be delivered to the Administrative Agent concurrently with the instrument referred to above, modified appropriately to refer to such instrument and such Subsidiary.

(b) The Loan Parties shall, or shall cause any Subsidiary (the "**Pledgor Subsidiary**") to pledge: (a) the lesser of 65% or the entire interest owned by the Loan Parties and such Pledgor Subsidiary, of the Capital Securities or equivalent equity interests in any Person which becomes a Foreign Subsidiary after the Closing Date; and (b) the entire interest owned by the Loan Parties and such Pledgor Subsidiary, of the Capital Securities or equivalent equity interest in any Person which becomes a Domestic Subsidiary after the Closing Date, all pursuant to a Joinder Agreement described above executed and delivered by the Loan Parties or such Pledgor Subsidiary to the Administrative Agent within ten (10) Domestic Business Days after the day on which such Person became a Domestic Subsidiary and shall deliver to the Collateral Custodian, as bailee for the Administrative Agent, such shares of capital stock together with stock powers executed in blank. The Loan Parties shall also cause the items specified in **Section 3.01(c)**, **(e)**, **(g)** and **(h)** to be delivered to the Administrative Agent concurrently with the Joinder Agreement referred to above, modified appropriately to refer to such Joinder Agreement, the pledgor and such Subsidiary.

(c) Once any Subsidiary becomes a party to this Agreement in accordance with**Section 5.28(a)** or any Capital Securities (or equivalent equity interests) of a Subsidiary are pledged to the Administrative Agent in accordance with **Section 5.28(b)**, such Subsidiary thereafter shall remain a party to this Agreement and the Capital Securities (or equivalent equity interests) in such Subsidiary (including, without limitation, all initial Subsidiaries) shall remain subject to the pledge to the Administrative Agent, as the case may be, even if such Subsidiary ceases to be a Subsidiary; provided that if a Subsidiary ceases to be a Subsidiary of the Borrower as a result of the Borrower's transfer or sale of all of the Capital Securities of such Subsidiary owned by Borrower in accordance with and to the extent permitted by the terms of **Section 5.17**, the Administrative Agent and the Lenders agree to release such Subsidiary from this Agreement and release the Capital Securities of such Subsidiary from the Pledge Agreement.

SECTION 5.29. No Restrictive Agreement. No Loan Party will, nor will any Loan Party permit any of its Subsidiaries to, enter into, after the date of this Agreement, any indenture, agreement, instrument or other arrangement that, directly or indirectly, prohibits or restrains, or has the effect of prohibiting or restraining, or imposes materially adverse conditions upon, any of the following by the Loan Party or any such Subsidiary: (i) the incurrence or payment of Debt, (ii) the granting of Liens (other than normal and customary restrictions on the granting of Liens on Capital Securities issued by a Person other than a Subsidiary in respect of any Portfolio Investment made in the ordinary course of business) or (iii) the making of loans, advances or Investments or the sale, assignment, transfer or other disposition of property, real, personal or mixed, tangible. No Loan Party will, nor will any Loan Party permit any of its Subsidiaries to, enter into, after the date of this Agreement, any indenture, agreement, instrument or other arrangement that, directly or indirectly, prohibits or restrains, or has the effect of prohibiting or restraining, or imposes materially adverse conditions upon, the ability of the Loan Party or any of its Subsidiaries to declare or pay Restricted Payments or other distributions in respect of Capital Securities of the Loan Party or any Subsidiary.

SECTION 5.30. Partnerships and Joint Ventures. Without the prior written consent of the Required Lenders, no Loan Party shall become a general partner in any general or limited partnership or a joint venturer in any joint venture.

SECTION 5.31. Additional Debt. No Loan Party or Subsidiary of a Loan Party shall directly or indirectly issue, assume, create, incur or suffer to exist any Debt or the equivalent (including obligations under capital leases), except for: (a) the Debt owed to the Lenders and Hedge Counterparties under the Loan Documents; (b) the Debt existing and outstanding on the Closing Date described on **Schedule 5.31**; (c) purchase money Debt hereafter incurred by the Borrower or any of its Subsidiaries to finance the purchase of equipment so long as (i) such Debt when incurred shall not exceed the purchase price of the asset(s) financed, and (ii) the aggregate outstanding principal amount of all Debt permitted under this clause (c) shall not at any time exceed $1,000,000.00; and (d) convertible Debt incurred after the date hereof with a maturity when incurred not less than one year after the Termination Date (after giving effect to any extensions of the Termination Date which have been exercised at the time of incurrence of the Debt but not giving effect to any extensions exercised after the incurrence of such Debt) and with terms no more restrictive than those in this Agreement, so long as such Debt is (i) unsecured and (ii) subject to subordination terms as are market for such Debt, including indefinite payment blockage on any payment default with respect to the Obligations (after the expiration of any cure periods) and not less than one year payment blockage on any non-payment default with respect to the Obligations (after the expiration of any cure periods). For the avoidance of doubt, any convertible Debt incurred after the date hereof shall not be deemed to be in violation of clause (e) as a result of extensions to the Termination Date effective after the original incurrence of such convertible Debt.

SECTION 5.32. Deposit Accounts. As soon as reasonably practical after the Closing Date but in no event greater than within: (a) seven (7) Business Days after the Closing Date, the Borrower shall transfer substantially all of the cash from certain deposit accounts (account numbers 0053749339 and 0053749320) held at Amegy Bank National Association to accounts governed by the Custodial Agreement, and (b) ninety (90) days after the Closing Date, the Borrower shall close such deposit accounts (account numbers 0053749339 and 0053749320) held at Amegy Bank National Association, and send notice to Administrative Agent confirming closure of such deposit accounts. Except as permitted in this **Section 5.32** all deposit accounts of Borrower shall be governed by the Custodial Agreement.

SECTION 5.33. Modifications of Organizational Documents. The Borrower shall not, and shall not permit any Loan Party or other Subsidiary to, amend, supplement, restate or otherwise modify its Organizational Documents or Operating Documents or other applicable document if such amendment, supplement, restatement or other modification has or would reasonably be expected to have a Material Adverse Effect.

SECTION 5.34. ERISA Exemptions. The Loan Parties shall not permit any of their respective assets to become or be deemed to be "plan assets" within the meaning of ERISA, the Code and the respective regulations promulgated thereunder.

SECTION 5.35. Hedge Transactions. The Loan Parties will not, and will not permit any of their Subsidiaries to, enter into any Hedge Transaction, other than Hedge Transactions entered into in the ordinary course of business to hedge or mitigate risks to which the Loan Parties are exposed in the conduct of their business or the management of their liabilities. Solely for the avoidance of doubt, the Borrower acknowledges that a Hedge Transaction entered into for speculative purposes or of a speculative nature (which shall be deemed to include any Hedge Transaction under which any Loan Party is or may become obliged to make any payment (i) in connection with the purchase by any third party of any common stock or any Debt or (ii) as a result of changes in the market value of any common stock or any Debt) is not a Hedge Transaction entered into in the ordinary course of business to hedge or mitigate risks.

SECTION 5.36. Performance of Loan Documents. Each Loan Party will at its own expense duly fulfill and comply with all obligations on its part to be fulfilled or complied with under or in connection with the Collateral and all documents related thereto and will do nothing to impair the rights of any Loan Party or the Administrative Agent, as agent for the Secured Parties, or of the Secured Parties in, to and under the Collateral. Each Loan Party shall clearly and unambiguously set forth, in a manner reasonably satisfactory to the Administrative Agent, in its financial statements filed with the Securities and Exchange Commission that the Administrative Agent, as agent for the Secured Parties has the interest therein granted by the Loan Parties pursuant to the Loan Documents.

SECTION 5.37. Operating Leases. No Loan Party nor any Subsidiary of a Loan Party shall create, assume or suffer to exist any operating lease except operating leases which: (A) (1) are entered into in the ordinary course of business, and (2) the aggregate indebtedness, liabilities and obligations of the Loan Parties under all such operating leases during any period of four (4) consecutive Fiscal Quarters shall at no time exceed $500,000; (B) are between a Borrower or Guarantor, as landlord and a Borrower or Guarantor as tenant; or (C) are set forth on **Schedule 5.37**.

SECTION 5.38. [Intentionally omitted].

SECTION 5.39. Compliance with Investment Policies and Investment Documents. The Borrower shall, and shall cause its Subsidiaries to, comply at all times with its Investment Policies in all material respects and, at their own expense, timely and fully perform and comply with all material provisions, covenants and other promises required to be observed by each of them under the Portfolio Investments and the related Investment Documents. The Borrower shall furnish to the Administrative Agent, prior to its effective date, prompt notice of any changes in the Investment Policies and shall not agree to or otherwise permit to occur any modification of the Investment Policies in any manner that would or would reasonably be expected to adversely affect the interests or remedies of the Administrative Agent or the Secured Parties under this Agreement or any Loan Document or impair the collectability of any Portfolio Investment without the prior written consent of the Administrative Agent (in its sole discretion).

SECTION 5.40. Delivery of Collateral to Collateral Custodian. As soon as reasonably practical after making a Portfolio Investment but in no event greater than within sixty (60) days, the Borrower shall deliver possession of all "instruments" (within the meaning of Article 9 of the UCC) not constituting part of "chattel paper" (within the meaning of Article 9 of the UCC) that evidence any Investment, including all original promissory notes, and certificated securities to the Administrative Agent for the benefit of the Secured Parties, or to a Collateral Custodian on its behalf, indorsed in blank without recourse and transfer powers executed in blank, as applicable; provided, however, that notwithstanding the foregoing, with respect to any Pre-Positioned Investment, the Borrower shall (i) have a copy of the executed note, if any, evidencing such Pre-Positioned Investment and any certificates representing Capital Securities pledged in connection with such Pre-Positioned Investment faxed to a Collateral Custodian on the applicable date of Borrowing or Swing Borrowing with the original to be received by such Collateral Custodian within five (5) Domestic Business Days after such date of Borrowing or Swing Borrowing; provided that, prior to delivery thereof, such original and endorsement are held in the custody of a bailee that has delivered a valid, binding and effective Bailee Agreement to the Administrative Agent.

SECTION 5.41. Custody Agreements. No Loan Party shall enter into any custody agreement or equivalent arrangement with any person to hold securities, cash or other assets of any Loan Party unless the Person acting as custodian shall have delivered a Custodial Agreement and, if requested by the Administrative Agent, a control agreement, to the Administrative Agent (in each case in form and substance satisfactory to the Administrative Agent).

ARTICLE VI
DEFAULTS

SECTION 6.01. Events of Default. If one or more of the following events ("**Events of Default**") shall have occurred and be continuing:

(a) the Borrower shall fail to pay when due any principal of any Advance (including, without limitation, any Advance or portion thereof to be repaid pursuant to **Section 2.11**) or shall fail to pay any interest on any Advance within three Domestic Business Days after such interest shall become due, or any Loan Party shall fail to pay any fee or other amount payable hereunder within three Domestic Business Days after such fee or other amount becomes due; or

(b) any Loan Party shall fail to observe or perform any covenant contained in**Section 5.01(e)** and **(i)**, **5.02 (ii)** and **(iii)**, **5.03**, **5.04**, **5.05**, **5.06**, **5.07**, **5.08**, **5.09**, **5.10**, **5.12**, **5.13**, **5.14**, **5.16**, **5.17**, **5.18**, **5.29**, **5.31**, **5.33**, **5.34**, and **5.41**; or

(c) any Loan Party shall fail to observe or perform any covenant or agreement contained or incorporated by reference in this Agreement (other than those covered by clause (a) or (b) above or clauses (n) or (q) below) or any other Loan Document; provided that such failure continues for (1) ten (10) days in the case of **Section 5.01**, **Section 5.11** or **5.27** or (2) otherwise, thirty days, in each case after the earlier of (A) the first day on which any Loan Party has knowledge of such failure or (B) written notice thereof has been given to the Borrower by the Administrative Agent at the request of any Lender; or

(d) any representation, warranty, certification or statement made or deemed made by the Loan Parties in**Article IV** of this Agreement, any other Loan Document or in any financial statement, material certificate or other material document or report delivered pursuant to any Loan Document shall prove to have been untrue or misleading in any material respect when made (or deemed made); or

(e) any Loan Party or any Subsidiary of a Loan Party shall fail to make any payment in respect of Debt (other than the Notes) having an aggregate principal amount in excess of $500,000.00 after expiration of any applicable cure or grace period; or

(f) any event or condition shall occur which results in the acceleration of the maturity of Debt outstanding of any Loan Party or any Subsidiary of a Loan Party in an aggregate principal amount in excess of $500,000.00 or the mandatory prepayment or purchase of such Debt by any Loan Party (or its designee) or such Subsidiary of a Loan Party (or its designee) prior to the scheduled maturity thereof, or enables (or, with the giving of notice or lapse of time or both, would enable) the holders of such Debt or commitment to provide such Debt or any Person acting on such holders' behalf to accelerate the maturity thereof, terminate any such commitment or require the mandatory prepayment or purchase thereof prior to the scheduled maturity thereof, without regard to whether such holders or other Person shall have exercised or waived their right to do so; or

(g) any Loan Party or any Subsidiary of a Loan Party shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, administrator, custodian or other similar

official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally, or shall admit in writing its inability, to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or

(h) an involuntary case or other proceeding shall be commenced against any Loan Party or any Subsidiary of a Loan Party seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, administrator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against any Loan Party or any Subsidiary of a Loan Party under the federal bankruptcy laws as now or hereafter in effect; or

(i) any Loan Party or any member of the Controlled Group shall fail to pay when due any material amount which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans shall be filed under Title IV of ERISA by any Loan Party, any member of the Controlled Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any such Plan or Plans or a proceeding shall be instituted by a fiduciary of any such Plan or Plans to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any such Plan or Plans must be terminated; or

(j) one or more judgments or orders for the payment of money in an aggregate amount in excess of $500,000.00 (after taking into account the application of insurance proceeds) shall be rendered against any Loan Party or any Subsidiary of a Loan Party and such judgment or order shall continue unsatisfied and unstayed for a period of 30 days; or

(k) a federal tax lien shall be filed against any Loan Party or any Subsidiary of a Loan Party under Section 6323 of the Code or a lien of the PBGC shall be filed against any Loan Party or any Subsidiary of a Loan Party under Section 4068 of ERISA and in either case such lien shall remain undischarged for a period of 30 days after the date of filing; or

(l) a Change in Control shall occur; or

(m) the Administrative Agent, as agent for the Secured Parties, shall fail for any reason to have a valid first priority security interest in any of the Collateral (other than by reason of any act or omission solely on behalf of the Administrative Agent); or

(n) a default or event of default shall occur and be continuing under any of the Collateral Documents or any Loan Party shall fail to observe or perform any material obligation to be observed or performed by it under any Collateral Document, and such default, event of default or failure to perform or observe any obligation continues beyond any applicable cure or grace period provided in such Collateral Document; or

(o) a default or event of default shall occur and be continuing under any of the Material Contracts that would reasonably be likely to have a Material Adverse Effect or any Loan Party shall fail to observe or perform any material provision or any payment obligation to be observed or performed by it under any Material Contract, and such default, event of default or failure to perform or observe any such provision or obligation continues beyond any applicable cure or grace period provided in such Material Contract; or

(p) (i) any of the Guarantors shall fail to pay when due any Guaranteed Obligations (after giving effect to any applicable grace period) or shall fail to pay any fee or other amount payable hereunder when due; or (ii) any Guarantor shall disaffirm, contest or deny its obligations under **Article X;** or

(q) if the Borrower at any time fails to own (directly or indirectly, through Wholly Owned Subsidiaries) 100% of the outstanding shares of the voting stock, voting membership interests or equivalent equity interests of each Guarantor; or

(r) any Loan Party shall (or shall attempt to) disaffirm, contest or deny its obligations under any Loan Document or any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms; or

(s) a Collateral Custodian that is in the possession of any Collateral (1) shall (or shall attempt to) disaffirm, contest or deny its obligations under, or terminates or attempts to terminate, or is in default of its obligations under, a Custodial Agreement or (2) ceases in any respect to be acceptable to the Administrative Agent in its reasonable discretion and, in each case, such Collateral Custodian is not replaced by, and any Collateral held by such Collateral Custodian is not delivered to, a replacement Collateral Custodian satisfactory to the Administrative Agent within 10 days after (A) the first date of such occurrence, in the case of clause (1) or (B) the date written notice thereof has been given to the Borrower by the Administrative Agent, in the case of clause (2); or

(t) the Advisory Agreement or Sub-Advisory Agreement are terminated without the prior written consent of the Required Lenders; or

(u) the Borrower agrees or consents to, or otherwise permits any amendment, modification, change, supplement or rescission of or to the Investment Policies in whole or in part that has or would reasonably be expected to adversely affect the interests or remedies of the Administrative Agent or the Secured Parties under this Agreement or any Loan Document or impair the collectability of any Portfolio Investment without the prior written consent of the Administrative Agent; or

(v) the occurrence of any event, act or condition which the Required Lenders determine either does or has a reasonable probability of causing a Material Adverse Effect,

then, and in every such event, the Administrative Agent shall (i) if requested by the Required Lenders, by written notice to the Borrower terminate the Revolver Commitments and they shall thereupon terminate and (ii) if requested by the Required Lenders, by notice to the Borrower declare the Notes (together with accrued interest thereon) and all other amounts payable hereunder and under the other Loan Documents to be, and the Notes (together with all accrued interest thereon) and all other amounts payable hereunder and under the other Loan Documents shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties; provided that if any Event of Default specified in clause (g) or (h) above occurs with respect to any Loan Party or any Subsidiary of a Loan Party, without any notice to any Loan Party or any other act by the Administrative Agent or the Lenders, the Revolver Commitments shall thereupon automatically terminate and the Notes (together with accrued interest thereon) and all other amounts payable hereunder and under the other Loan Documents shall automatically become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan

Parties. Notwithstanding the foregoing, the Administrative Agent shall have available to it all rights and remedies provided under the Loan Documents (including, without limitation, the rights of a secured party pursuant to the Collateral Documents) and in addition thereto, all other rights and remedies at law or equity, and the Administrative Agent shall exercise any one or all of them at the request of the Required Lenders.

SECTION 6.02. Notice of Default. The Administrative Agent shall give written notice to the Borrower of any Default under **Section 6.01(c)** promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

SECTION 6.03. [Intentionally omitted.]

SECTION 6.04. Allocation of Proceeds. If an Event of Default has occurred and not been waived, and the maturity of the Notes has been accelerated pursuant to Article VI hereof, all payments received by the Administrative Agent hereunder or under the other Loan Documents, in respect of any principal of or interest on the Obligations or any other amounts payable by the Borrower or any other Loan Party hereunder or under the other Loan Documents, shall be applied by the Administrative Agent in the following order:

(a) To payment of that portion of the Obligations constituting fees, indemnities, Credit Party Expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under **Article VIII** and **Section 2.12)** payable to the Administrative Agent in its capacity as such; and then

(b) To payment of that portion of the Obligations constituting indemnities, Credit Party Expenses and other amounts (other than principal, interest and fees) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under **Article VIII** and **Section 2.12**), ratably among them in proportion to the amounts described in this clause payable to them; and then

(c) To payment of that portion of the Obligations constituting accrued and unpaid interest on the Advances and other Obligations, and fees (including unused commitment fees), ratably among the Lenders in proportion to the respective amounts described in this clause payable to them; and then

(d) To payment of that portion of the Obligations constituting unpaid principal of the Swing Advances; and then

(e) To payment of that portion of the Obligations constituting unpaid principal of the Revolver Advances, ratably among the Lenders in proportion to the respective amounts described in this clause held by them; and then

(f) To payment of all other Obligations (excluding any Obligations arising from Cash Management Services and Bank Products), ratably among the Secured Parties in proportion to the respective amounts described in this clause held by them; and then

(g) To payment of all other Obligations arising from Bank Products and Cash Management Services to the extent secured under the Collateral Documents, ratably among the Secured Parties in proportion to the respective amounts described in this clause held by them; and then

(h) The balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Loan Parties or as otherwise required by law.

ARTICLE VII
THE ADMINISTRATIVE AGENT

SECTION 7.01. Appointment and Authority. Each of the Lenders hereby irrevocably appoints Capital One to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions.

SECTION 7.02. Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "**Lender**" or "**Lenders**" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders

SECTION 7.03. Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in **Sections 9.05** and **6.01**) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower or a Lender.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in **Article III** or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

SECTION 7.04. Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of an Advance that by its terms must be fulfilled to the satisfaction of a Lender the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Advance. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

SECTION 7.05. Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

SECTION 7.06. Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in the United States of America, or an Affiliate of any such bank with an office in the United States of America. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this paragraph. Upon the acceptance of a

successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this paragraph). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

SECTION 7.07. Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

SECTION 7.08. [Intentionally omitted.]

SECTION 7.09. Other Agents. The Borrower and each Lender hereby acknowledges that any Lender designated as an "Agent" on the signature pages hereof (other than the Administrative Agent) shall not have any obligations, duties or liabilities hereunder other than in its capacity as a Lender.

SECTION 7.10. Hedging Agreements, Cash Management Services and Bank Products. Except as otherwise expressly set forth herein or in any Collateral Document, no Bank Product Bank, Cash Management Bank or Hedge Counterparty that obtains the guarantees hereunder or any Collateral by virtue of the provisions hereof or of any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) or any Guaranty (including the release or impairment of any Guaranty) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this **Article VII** to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under or related to Cash Management Services, Bank Products and Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank, Bank Product Bank or Hedge Counterparty, as the case may be.

ARTICLE VIII
CHANGE IN CIRCUMSTANCES; COMPENSATION

SECTION 8.01. Basis for Determining Interest Rate Inadequate or Unfair. If on or prior to the first day of any Interest Period:

(a) the Administrative Agent reasonably determines that deposits in Dollars (in the applicable amounts) are not being offered in the relevant market for such Interest Period, or

(b) the Required Lenders advise the Administrative Agent that the London InterBank Offered Rate as determined by the Administrative Agent will not adequately and fairly reflect the cost to such Lenders of funding the Euro-Dollar Advances for such Interest Period,

the Administrative Agent shall forthwith give written notice thereof to the Borrower and the Lenders, whereupon until the Administrative Agent notifies the Borrower that the circumstances giving rise to such suspension no longer exist, the obligations of the Lenders to make Euro-Dollar Advances specified in such notice, or to permit continuations or conversions into Euro-Dollar Advances, shall be suspended. Unless the Borrower notifies the Administrative Agent at least two (2) Euro-Dollar Business Days before the date of any Borrowing or Swing Borrowing of Euro-Dollar Advances for which a Notice of Borrowing has previously been given, or continuation or conversion into such Euro-Dollar Advances for which a Notice of Continuation or Conversion has previously been given, that it elects not to borrow or so continue or convert on such date, such Borrowing or Swing Borrowing shall instead be made as a Base Rate Borrowing, or such Euro-Dollar Advance shall be converted to a Base Rate Advance.

SECTION 8.02. Illegality. If, after the date hereof, the adoption of any applicable law, rule, treaty or regulation, or any change in any existing or future law, rule, treaty or regulation, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof (any such authority, bank or agency being referred to as an "Authority" and any such event being referred to as a "**Change in Law**"), or compliance by any Lender (or its Lending Office) with any request or directive (whether or not having the force of law) of any Authority shall make it unlawful or impossible for any Lender (or its Lending Office) to make, maintain or fund its Euro-Dollar Advances and such Lender shall so notify the Administrative Agent, the Administrative Agent shall forthwith give written notice thereof to the other Lenders and the Borrower, whereupon until such Lender notifies the Borrower and the Administrative Agent that the circumstances giving rise to such suspension no longer exist, the obligation of such Lender to make or permit continuations or conversions of Euro-Dollar Advances shall be suspended. Before giving any notice to the Administrative Agent pursuant to this Section, such Lender shall designate a different Lending Office if such designation will avoid the need for giving such notice and will not, in the judgment of such Lender, be otherwise disadvantageous to such Lender. If such Lender shall determine that it may not lawfully continue to maintain and fund any of its portion of the outstanding Euro-Dollar Advances to maturity and shall so specify in such notice, the Borrower shall immediately prepay in full the then outstanding principal amount of the Euro-Dollar Advances of such Lender, together with accrued interest thereon and any amount due such Lender pursuant to **Section 8.05**. Concurrently with prepaying such Euro-Dollar Advances, the Borrower shall borrow a Base Rate Advance in an equal principal amount from such Lender (on which interest and principal shall be payable contemporaneously with the related Euro-Dollar Advances of the other Lenders), and such Lender shall make such a Base Rate Advance.

SECTION 8.03. Increased Cost and Reduced Return.

(a) If after the date hereof, a Change in Law or compliance by any Lender (or its Leading Office) with any request or directive (whether or not having the force of law) of any Authority shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the applicable Euro-Dollar Reserve Percentage) with respect to this Agreement; or

(ii) subject any Lender to any tax of any kind whatsoever (other than the Excluded Taxes) with respect to this Agreement or any Euro-Dollar Advances made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Indemnified Taxes or Other Taxes covered by **Section 2.08(e)** and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender); or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Euro-Dollar Advances by such Lender or participation therein;

and the result of any of the foregoing is to increase the cost to such Lender of making or maintaining any Euro-Dollar Advance (or of maintaining its obligation to make any such Advance), or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount) then, upon written request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) If any Lender determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Revolver Commitments of such Lender or the Advances made by such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

SECTION 8.04. Base Rate Advances Substituted for Affected Euro-Dollar Advances If (i) the obligation of any Lender to make or maintain a Euro-Dollar Advance has been suspended pursuant to **Section 8.02** or (ii) any Lender has demanded compensation under **Section 8.03**, and the Borrower shall, by at least five (5) Euro-Dollar Business Days' prior notice to such Lender through the Administrative Agent, have elected that the provisions of this Section shall apply to such Lender, then, unless and until such Lender notifies the Borrower that the circumstances giving rise to such suspension or demand for compensation no longer apply:

(a) all Advances which would otherwise be made by such Lender as or permitted to be continued as or converted into Euro-Dollar Advances shall instead be made as or converted into Base Rate Advances, (in all cases interest and principal on such Advances shall be payable contemporaneously with the related Euro-Dollar Advances of the other Lenders), and

(b) after its portion of the Euro-Dollar Advance has been repaid, all payments of principal which would otherwise be applied to repay such Euro-Dollar Advance shall be applied to repay its Base Rate Advance instead.

In the event that the Borrower shall elect that the provisions of this Section shall apply to any Lender, the Borrower shall remain liable for, and shall pay to such Lender as provided herein, all amounts due such Lender under **Section 8.03** in respect of the period preceding the date of conversion of such Lender's portion of any Advance resulting from the Borrower's election.

SECTION 8.05. Compensation. Upon the request of any Lender, delivered to the Borrower and the Administrative Agent, the Borrower shall pay to such Lender such amount or amounts as shall compensate such Lender for any loss, cost or expense incurred by such Lender as a result of:

(a) any payment or prepayment (pursuant to **Sections 2.10**, **2.11**, **6.01**, **8.02** or otherwise) of a Euro-Dollar Advance on a date other than the last day of an Interest Period for such Advance; or

(b) any failure by the Borrower to prepay a Euro-Dollar Advance on the date for such prepayment specified in the relevant notice of prepayment hereunder; or

(c) any failure by the Borrower to borrow a Euro-Dollar Advance on the date for the Borrowing of which such Euro-Dollar Advance is a part specified on the Closing Date;

such compensation to include, without limitation, an amount equal to the excess, if any, of (x) the amount of interest which would have accrued on the amount so paid or prepaid or not prepaid or borrowed for the period from the date of such payment, prepayment or failure to prepay or borrow to the last day of the then current Interest Period for such Euro-Dollar Advance (or, in the case of a failure to prepay or borrow, the Interest Period for such Euro-Dollar Advance which would have commenced on the date of such failure to prepay or borrow) at the applicable rate of interest for such Euro-Dollar Advance provided for herein over (y) the amount of interest (as reasonably determined by such Lender) such Lender would have paid on deposits in Dollars of comparable amounts having terms comparable to such period placed with it by leading lenders in the London interbank market (if such Advance is a Euro-Dollar Advance).

ARTICLE IX
MISCELLANEOUS

SECTION 9.01. Notices Generally.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

(i) if to the Borrower or any other Loan Party, to it at c/o Hines Interests Limited Partnership, 2800 Post Oak Boulevard, Suite 4800, Houston, Texas 77056, Attention of Ryan T. Sims; Telephone No. (713) 621-8000; Facsimile No. (713) 966-7660;

(ii) if to the Administrative Agent, to Capital One, National Association, at its address set forth on its signature page hereof, Attention of Bobby Hamilton; Facsimile No. (713) 706-5499; Telephone No. (713) 435-5276;

(iii) if to a Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said **paragraph (b)**.

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to **Article II** if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Change of Address, Etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

SECTION 9.02. No Waivers. No failure or delay by the Administrative Agent or any Lender in exercising any right, power or privilege hereunder or under any Note or other Loan Document shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with **Article VI** for the benefit of all the Lenders; provided, however, that the foregoing shall

not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Lender from exercising setoff rights in accordance with **Section 9.04**, or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under the Bankruptcy Code or any other applicable debtor relief law.

SECTION 9.03. Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Loan Parties shall, jointly and severally, pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all reasonable out-of-pocket expenses incurred by the Administrative Agent or any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Advances made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Advances.

(b) Indemnification by the Loan Parties. The Loan Parties shall, jointly and severally, indemnify the Administrative Agent (and any sub-agent thereof) and each Lender and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, penalties, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Advance or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or Environmental Releases on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. To the extent that a Loan Party for any reason fails to pay any amount required under **paragraph (a)** or **(b)** of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), or any Related Party of any of the foregoing,

each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this paragraph (c) are subject to the provisions of **Sections 9.10** and **9.13**.

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Loan Parties shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Advance or the use of the proceeds thereof. No Indemnitee referred to in **paragraph (b)** above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable promptly after demand therefor.

SECTION 9.04. Setoffs; Sharing of Set-Offs; Application of Payments.

(a) If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or their respective Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

(b) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Advances or other Obligations (excluding any Obligations arising under or related to Cash Management Services, Bank Products and Hedging Agreements) hereunder or under any other Loan Document resulting in such Lender's receiving payment of a proportion of the aggregate amount of its Advances and accrued interest thereon or other such Obligations (excluding any Obligations arising under or related to Cash Management Services, Bank Products and Hedging Agreements) greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at

face value) participations in the Advances and such other Obligations (excluding any Obligations arising under or related to Cash Management Services, Bank Products and Hedging Agreements) of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Advances and other amounts owing them, provided that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this paragraph shall not be construed to apply to (x) any payment made by a Loan Party pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Advances to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this paragraph shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Loan Party in the amount of such participation.

SECTION 9.05. Amendments and Waivers.

(a) Any provision of this Agreement, the Notes or any other Loan Documents may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Borrower and the Required Lenders (and, if the rights or duties of the Administrative Agent are affected thereby, by the Administrative Agent); provided that no such amendment or waiver shall, unless signed by all the Lenders, (i) increase the Revolver Commitment of any Lender or subject any Lender to any additional obligation (it being understood and agreed that a waiver of any condition precedent set forth in **Section 3.02** or of any Default or Event of Default is not considered an increase in Revolver Commitments of any Lender or any Lender's obligation to fund), (ii) reduce the principal of or decrease the rate of interest on any Advance or decrease any fees hereunder, (iii) defer the date fixed for any payment of principal of (including any extension of the Termination Date but excluding mandatory prepayments) or interest on any Advance or any fees hereunder; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate, (iv) reduce the amount of principal, decrease the amount of interest or decrease the amount of fees due on any date fixed for the payment thereof; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate, (v) change the percentage of the Revolver Commitments or of the aggregate unpaid principal amount of the Notes, or the percentage of Lenders, which shall be required for the Lenders or any of them to take any action under this Section or any other provision of this Agreement, (vi) change the application of any payments made under this Agreement or the other Loan Documents in a manner that would alter any pro rata sharing requirements, (vii) release, share or substitute all or substantially all of the Collateral held as security for the Obligations, (viii) change or modify the definition of "Required Lenders," or this **Section 9.05**, or (ix) change the definition of the term "Borrowing Base", "Eligible Portfolio Investment", "Unrestricted Cash and Cash Equivalents" or any component definition of any of them if as a result thereof the

amounts available to be borrowed by the Borrower would be increased without the consent of each Lender, provided that the foregoing shall not limit the discretion of the Administrative Agent to change, establish or eliminate any reserves or to make determinations with respect to the eligibility or value of any Investment, (x) release any guaranty given to support payment of the Guaranteed Obligations, or (xi) amend or waive any provision of the Loan Documents in any manner that permits a Defaulting Lender to cure its status as a Defaulting Lender without requiring such Defaulting Lender to pay in full its unfunded obligations. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver, or consent hereunder (and any amendment, waiver, or consent which by its terms requires the consent of all Lenders may be effected with the consent of all Lenders other than Defaulting Lenders) provided that, without in any way limiting **Section 9.08**, any such amendment, waiver, or consent that would increase or extend the term of the Revolver Commitment or Revolver Advances of such Defaulting Lender, extend the date fixed for the payment of principal or interest owing to such Defaulting Lender hereunder, reduce the principal amount of any obligation owing to such Defaulting Lender, reduce the amount of or the rate or amount of interest on any amount owing to such Defaulting Lender or of any fee payable to such Defaulting Lender hereunder, or alter the terms of this proviso, will require the consent of such Defaulting Lender. Notwithstanding the foregoing, (1) the Hedging Agreements, the Administrative Agent's Letter Agreement and the agreements evidencing the Bank Products and Cash Management Services may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto and (2) any Commitment Increase meeting the conditions set forth in **Section 2.14** shall not require the consent of any Lender other than (i) the Required Lenders and (ii) those Lenders, if any, which have agreed to increase their Revolver Commitment in connection with the proposed Commitment Increase.

(b) Notwithstanding anything in clause (a), (i) unless also signed by the Administrative Agent, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document, and (ii) the Administrative Agent's Letter Agreement may be amended, or rights or privileges thereunder waived, only by means of a written agreement executed by all of the parties thereto. Additionally, notwithstanding anything to the contrary herein, each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Advances, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and the Required Lenders shall determine whether or not to allow a Loan Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

(c) Notwithstanding anything to the contrary, unless signed by the Swingline Lender, no amendment, waiver of consent shall affect the rights or duties of the Swingline Lender under this Agreement or any other Loan Document.

SECTION 9.06. Margin Stock Collateral. Each of the Lenders represents to the Administrative Agent and each of the other Lenders that it in good faith is not, directly or indirectly (by negative pledge or otherwise), relying upon any Margin Stock as collateral in the extension or maintenance of the credit provided for in this Agreement.

SECTION 9.07. Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party may assign

or otherwise transfer any of its rights or obligations hereunder and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of **paragraph (b)** of this Section, (ii) by way of participation in accordance with the provisions of **paragraph (d)** of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of **paragraph (f)** of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in **paragraph (d)** of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolver Commitment and the Revolver Advances at the time owing to it); provided that

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Revolver Commitment and the Revolver Advances at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Revolver Commitment (which for this purpose includes Revolver Advances outstanding thereunder) or, if the applicable Revolver Commitment is not then in effect, the principal outstanding balance of the Revolver Advances of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "**Trade Date**" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than $2,000,000, unless each of the Administrative Agent and, so long as no Default has occurred and is continuing, the Borrower otherwise consent (each such consent not to be unreasonably withheld or delayed);

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Revolver Advances or the Revolver Commitment assigned;

(iii) no assignment shall be made to any Defaulting Lender or its Subsidiaries or Affiliates;

(iv) any assignment of a Revolver Commitment must be approved by the Administrative Agent unless the Person that is the proposed assignee is itself a Lender with a Revolver Commitment (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee); and

(v) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500, and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to **paragraph (c)** of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the

extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of **Sections 8.03** and **9.03** with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with **paragraph (d)** of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices in Houston, Texas a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolver Commitments of, and principal amounts of the Revolver Advances owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). In addition, the Administrative Agent shall maintain on the Register the designation, and the revocation of designation, of any Lender as a Defaulting Lender of which it has received notice. The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Revolver Commitment and/or the Revolver Advances owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in **Section 9.05(a)(i)** through **(x)** (inclusive) that affects such Participant. Subject to **paragraph (e)** of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of **Sections 8.01** through **8.05** inclusive to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to **paragraph (b)** of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of **Section 9.04** as though it were a Lender, provided such Participant agrees to be subject to **Section 9.04** as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under **Section 8.03** than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant

that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of **Section 2.12** unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with **Section 2.12** as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.08. Defaulting Lenders. Notwithstanding anything contained in this Agreement, if any Lender becomes a Defaulting Lender, then, to the extent permitted by Applicable Laws:

(a) during any Default Period with respect to such Defaulting Lender, such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in **Section 9.05(a)**;

(b) until such time as the Default Excess with respect to such Defaulting Lender shall have been reduced to zero:

except as otherwise provided in this **Section 9.08**, any payment of principal, interest, fees, or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to **Article VI** or otherwise, and including any amounts made available to the Administrative Agent by such Defaulting Lender pursuant to **Section 9.08)**, shall be deemed paid to and redirected by such Defaulting Lender to be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment of any amounts owing by such Defaulting Lender to the Swingline Lender hereunder; third, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Revolver Advances under this Agreement; fourth, as the Borrower may request, so long as no Default exists and is continuing, to the funding of any Revolver Advance in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, to the payment of any amounts owing to the Lenders or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender or the Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; sixth, so long as no Default exists and is continuing, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and seventh, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Revolver Advance in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Revolver Advance was made at a time when the conditions set forth in **Section 3.02** were satisfied or waived,

such payment shall be applied solely to pay the Revolver Advance of all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Revolver Advance of that Defaulting Lender;

(c) until such time as all Defaulted Payments with respect to such Defaulting Lender shall have been paid, the Administrative Agent may (in its discretion) apply any amounts thereafter received by the Administrative Agent for the account of such Defaulting Lender to satisfy such Defaulting Lender's obligations to make such Defaulted Payments until such Defaulted Payments have been fully paid;

(d) no assignments otherwise permitted by **Section 9.07** shall be made to a Defaulting Lender or any of its Subsidiaries or Affiliates that are Distressed Persons;

(e) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Swingline Advances shall be reallocated among the Lenders which are not a Defaulting Lender at such time (each, a "**Non-Defaulting Lender**") in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (x) the conditions set forth in **Section 3.02** are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolver Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(f) Repayment of Swing Advances. If the reallocation described in **subsection (e)** above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, prepay Swingline Advances in an amount equal to the Swingline Lenders' Fronting Exposure. So long as any Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Advances unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Advance.

Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) as provided in the above **Section 9.08(b)** to pay amounts owed by a Defaulting Lender shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

SECTION 9.09. Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those

of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Loan Parties or their Affiliates.

For purposes of this Section, "**Information**" means all information received from the Loan Parties or any of their Subsidiaries relating to the Loan Parties or any of their Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Loan Parties or any of their Subsidiaries. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.10. Representation by Lenders. Each Lender hereby represents that it is a commercial lender or financial institution which makes loans in the ordinary course of its business and that it will make its Advances hereunder for its own account in the ordinary course of such business; provided, however, that, subject to **Section 9.07**, the disposition of the Note or Notes held by that Lender shall at all times be within its exclusive control.

SECTION 9.11. Obligations Several. The obligations of each Lender hereunder are several, and no Lender shall be responsible for the obligations or commitment of any other Lender hereunder. Nothing contained in this Agreement and no action taken by the Lenders pursuant hereto shall be deemed to constitute the Lenders to be a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt and each Lender shall be entitled to protect and enforce its rights arising out of this Agreement or any other Loan Document and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

SECTION 9.12. Survival of Certain Obligations. **Sections 8.03(a)**, **8.03(b)**, **8.05**, **9.03** and **9.09**, and the obligations of the Loan Parties thereunder, shall survive, and shall continue to be enforceable notwithstanding, the termination of this Agreement, and the Revolver Commitments and the payment in full of the principal of and interest on all Advances.

SECTION 9.13. Governing Law. This Agreement and each Note shall be construed in accordance with and governed by the law of the State of Texas.

SECTION 9.14. Severability. In case any one or more of the provisions contained in this Agreement, the Notes or any of the other Loan Documents should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby and shall be enforced to the greatest extent permitted by law.

SECTION 9.15. Interest. It is expressly stipulated and agreed to be the intent of the Borrower and the Lenders at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the indebtedness evidenced by any Note or any Loan Document, and the Related Indebtedness (or applicable United States federal law to the extent that it permits the Lenders to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the Applicable Law is ever judicially interpreted so as to render usurious any amount

(a) contracted for, charged, taken, reserved or received pursuant to any Note, any of the other Loan Documents or any other communication or writing by or between the Borrower and the Lenders related to the transaction or transactions that are the subject matter of the Loan Documents, (b) contracted for, charged, taken, reserved or received by reason of the Lenders' exercise of the option to accelerate the maturity of any Note and/or any and all indebtedness paid or payable by the Borrower to the Lenders pursuant to any Loan Document other than any Note (such other indebtedness being referred to in this Section as the "**Related Indebtedness**"), or (c) the Borrower will have paid or the Lenders will have received by reason of any voluntary prepayment by the Borrower of any Note, then it is the Borrower's and the Lenders' express intent that all amounts charged in excess of the Maximum Lawful Rate shall be automatically canceled, ab initio, and all amounts in excess of the Maximum Lawful Rate theretofore collected by the Lenders shall be credited on the principal balance of any Note and (or, if any Note has been or would thereby be paid in full, refunded to the Borrower), and the provisions of any Note and the other Loan Documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the Applicable Law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if any Note has been paid in full before the end of the stated term of any such Note, then the Borrower and the Lenders agree that the Lenders shall, with reasonable promptness after the Agent discovers or is advised by any Co-Borrower that interest was received in an amount in excess of the Maximum Lawful Rate, either refund such excess interest to the Borrower and/or credit such excess interest against such Note and/or any Related Indebtedness then owing by the Borrower to the Lenders. The Borrower hereby agrees that as a condition precedent to any claim seeking usury penalties against the Lenders, the Borrower will provide written notice to the Agent, advising the Lenders in reasonable detail of the nature and amount of the violation, and the Lenders shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to the Borrower or crediting such excess interest against the Note to which the alleged violation relates and/or the Related Indebtedness then owing by the Borrower to the Lenders. All sums contracted for, charged, taken, reserved or received by the Lenders for the use, forbearance or detention of any debt evidenced by any Note and/or the Related Indebtedness shall, to the extent permitted by Applicable Law, be amortized or spread, using the actuarial method, throughout the stated term of such Note and/or the Related Indebtedness (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of any Note and/or the Related Indebtedness does not exceed the Maximum Lawful Rate from time to time in effect and applicable to such Note and/or the Related Indebtedness for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to any Note and/or any of the Related Indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of the Lenders to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration. To the extent that the Lenders are relying on Chapter 303 of the Texas Finance Code (as amended, "**Chapter 303**") to determine the Maximum Lawful Rate payable on any such Note and/or any other portion of the Indebtedness, the Lenders will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303. To the extent federal law permits the Lenders to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, the Lenders will rely on federal law instead of such Chapter 303 for the purpose of determining the Maximum Lawful Rate. Additionally, to the extent permitted by Applicable Law now or hereafter in effect, the Lenders may, at their option and from time to time, utilize any other method of establishing the Maximum Lawful Rate under such Chapter 303 or under other Applicable Law by giving notice, if required, to the Borrower as provided by Applicable Law now or hereafter in effect.

SECTION 9.16. Interpretation. No provision of this Agreement or any of the other Loan Documents shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

SECTION 9.17. Counterparts; Integration; Effectiveness; Electronic Execution.

(a) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in **Section 3.01**, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e. "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement

(b) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.18. Jurisdiction; Waiver of Venue; Service of Process; Waiver of Jury Trial

(a) Submission to Jurisdiction. Each Loan Party irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of the State of Texas sitting in Harris County, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such Texas State court or, to the fullest extent permitted by applicable law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or its properties in the courts of any jurisdiction.

(b) Waiver of Venue. The Borrower irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (a) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in **Section 9.01**. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

(d) Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.19. Independence of Covenants. All covenants under this Agreement and the other Loan Documents shall be given independent effect so that if a particular action or condition is not permitted by any such covenant, the fact that it would be permitted by an exception to, or would be otherwise allowed by, another covenant shall not avoid the occurrence of a Default if such action is taken or such condition exists.

SECTION 9.20. Concerning Certificates. All certificates required hereunder to be delivered by the Borrower, any Guarantor or any Subsidiary and that are required to be executed or certified by the Chief Financial Officer or any other authorized officer of the Borrower, any Guarantor or any Subsidiary shall be executed or certified by such officer in such capacity solely on behalf of the entity for whom he is acting, and not in any individual capacity; provided that nothing in the foregoing shall be deemed as a limitation on liability of any officer for any acts of willful misconduct, fraud, intentional misrepresentation or dishonesty in connection with such execution or certification.

ARTICLE X
GUARANTY

SECTION 10.01. Unconditional Guaranty. Each Guarantor hereby irrevocably, unconditionally and jointly and severally guarantees, each as a primary obligor and not merely as a surety, to the Administrative Agent, the Lenders and the other Secured Parties the due and punctual payment of the principal of and the premium, if any, and interest on the Guaranteed Obligations and any and all other amounts due under or pursuant to the Loan Documents, when and as the same shall become due and payable (whether at stated maturity or by optional or mandatory prepayment or by declaration, redemption or otherwise) in accordance with the terms of the Loan Documents. The Guarantors' guaranty under this Section is an absolute, present and continuing guarantee of payment and not of collectability, and is in no way conditional or contingent upon any attempt to collect from the Borrower, any of the Guarantors or any other guarantor of the Guaranteed Obligations (or any portion thereof) or upon any other action, occurrence or circumstances whatsoever. In the event that the Borrower or any Guarantor shall fail so to pay any such principal, premium, interest or other amount to the Administrative Agent, a Lender or any other Secured Party, the Guarantors will pay the same forthwith, without demand, presentment, protest or notice of any kind (all of which are waived by the Guarantors to the fullest extent

permitted by law), in lawful money of the United States, at the place for payment specified in the Loan Documents or specified by such Administrative Agent in writing, to such Administrative Agent. The Guarantors further agree, promptly after demand, to pay to the Administrative Agent, the Lenders and the other Secured Parties the costs and expenses incurred by such Administrative Agent, Lender or other Secured Party in connection with enforcing the rights of such Administrative Agent, Lenders and the other Secured Parties against the Borrower and any or all of the Guarantors (whether in a bankruptcy proceeding or otherwise) following any default in payment of any of the Guaranteed Obligations or the obligations of the Guarantors hereunder, including, without limitation, the fees and expenses of counsel to the Administrative Agent, such Lenders and the other Secured Parties.

SECTION 10.02. Obligations Absolute. The obligations of the Guarantors hereunder are and shall be absolute and unconditional, irrespective of the validity, regularity or enforceability of this Agreement, any of the Guaranteed Obligations or any of the Loan Documents, shall not be subject to any counterclaim, set-off, deduction or defense based upon any claim any of the Guarantors may have against the Borrower, any other Guarantor or the Administrative Agent, any Lender or any other Secured Party, hereunder or otherwise, and shall remain in full force and effect without regard to, and shall not be released, discharged or in any way affected by, to the fullest extent permitted by law, any circumstance or condition whatsoever (whether or not any of the Guarantors shall have any knowledge or notice thereof), including, without limitation:

(a) any amendment or modification of or supplement to any of the Loan Documents or any other instrument referred to herein or therein, or any assignment or transfer of any thereof or of any interest therein, or any furnishing or acceptance of additional security for any of the Guaranteed Obligations;

(b) any waiver, consent or extension under any Loan Document or any such other instrument, or any indulgence or other action or inaction under or in respect of, or any extensions or renewals of, any Loan Document, any such other instrument or any Guaranteed Obligation;

(c) any failure, omission or delay on the part of the Administrative Agent to enforce, assert or exercise any right, power or remedy conferred on or available to the Administrative Agent or any Lender against the Borrower or any Guarantor, any Subsidiary of the Borrower or any Subsidiary of any Guarantor;

(d) any bankruptcy, insolvency, readjustment, composition, liquidation or similar proceeding with respect to the Borrower, any Guarantor, any Subsidiary of the Borrower or any Subsidiary of any Guarantor or any property of the Borrower, any Guarantor or any such Subsidiary or any unavailability of assets against which the Guaranteed Obligations, or any of them, may be enforced;

(e) any merger or consolidation of the Borrower, any Subsidiary of the Borrower or any Guarantor or any of the Guarantors into or with any other Person or any sale, lease or transfer of any or all of the assets of any of the Guarantors, the Borrower or any Subsidiary of the Borrower or any Guarantor to any Person;

(f) any failure on the part of the Borrower, any Guarantor or any Subsidiary of the Borrower or any Guarantor for any reason to comply with or perform any of the terms of any agreement with any of the Guarantors;

(g) any exercise or non-exercise by the Administrative Agent, any Lender or any other Secured Party, of any right, remedy, power or privilege under or in respect of any of the Loan Documents or the Guaranteed Obligations, including, without limitation, under this Section;

(h) any default, failure or delay, willful or otherwise, in the performance or payment of any of the Guaranteed Obligations;

(i) any furnishing or acceptance of security, or any release, substitution or exchange thereof, for any of the Guaranteed Obligations;

(j) any failure to give notice to any of the Guarantors of the occurrence of any breach or violation of, or any event of default or any default under or with respect to, any of the Loan Documents or the Guaranteed Obligations;

(k) any partial prepayment, or any assignment or transfer, of any of the Guaranteed Obligations; or

(l) any other circumstance (other than payment in full) which might otherwise constitute a legal or equitable discharge or defense of a guarantor or which might in any manner or to any extent vary the risk of such Guarantor.

The Guarantors covenant that their respective obligations hereunder will not be discharged except by complete performance of the obligations contained in the Loan Documents and this Agreement and the final payment in full of the Guaranteed Obligations. The Guarantors unconditionally waive, to the fullest extent permitted by law (A) notice of any of the matters referred to in this Section, (B) any and all rights which any of the Guarantors may now or hereafter have arising under, and any right to claim a discharge of the Guarantor's obligations hereunder by reason of the failure or refusal by the Administrative Agent, any Lender or any other Secured Party to take any action pursuant to any statute permitting a Guarantor to request that the Administrative Agent or any Lender attempt to collect the Guaranteed Obligations from the Borrower, any of the Guarantors or any other guarantor (including without limitation any rights under Sections 26-7, 26-8 or 26-9 of the Texas General Statutes, O.C.G.A. § 10-7-24, or any similar or successor provisions), (C) all notices which may be required by statute, rule of law or otherwise to preserve any of the rights of the Administrative Agent, any Lender or any other Secured Party against the Guarantors, including, without limitation, presentment to or demand of payment from the Borrower, any of the Subsidiaries of the Borrower or any Guarantor, or any of the other Guarantors with respect to any Loan Document or this agreement, notice of acceptance of the Guarantors' guarantee hereunder and/or notice to the Borrower, any of the Subsidiaries of the Borrower or any Guarantor, or any Guarantor of default or protest for nonpayment or dishonor, (D) any diligence in collection from or protection of or realization upon all or any portion of the Guaranteed Obligations or any security therefor, any liability hereunder, or any party primarily or secondarily liable for all or any portion of the Guaranteed Obligations, and (E) any duty or obligation of the Administrative Agent, any Lender or any other Secured Party to proceed to collect all or any portion of the Guaranteed Obligations from, or to commence an action against, the Borrower, any Guarantor or any other Person, or to resort to any security or to any balance of any deposit account or credit on the books of the Administrative Agent, any Lender or any other Secured Party in favor of the Borrower, any Guarantor or any other Person, despite any notice or request of any of the Guarantors to do so.

SECTION 10.03. Continuing Obligations; Reinstatement. The obligations of the Guarantors under this **Article X** are continuing obligations and shall continue in full force and effect until such time as all of the Guaranteed Obligations (and any renewals and extensions thereof) shall have been finally paid and satisfied in full. The obligations of the Guarantors under this **Article X** shall continue to be effective or be automatically reinstated, as the case may be, if any payment made by the Borrower, any Guarantor or any Subsidiary of the Borrower or any Guarantor on, under or in respect of any of the Guaranteed Obligations is rescinded or must otherwise be restored or returned by the recipient upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower, any Guarantor or any such Subsidiary, or upon or as a result of the appointment of a custodian, receiver, trustee or other officer

with similar powers with respect to the Borrower, any Guarantor or any such Subsidiary or any substantial part of the property of the Borrower, any Guarantor or any such Subsidiary, or otherwise, all as though such payment had not been made. If an event permitting the acceleration of all or any portion of the Guaranteed Obligations shall at any time have occurred and be continuing, and such acceleration shall at such time be stayed, enjoined or otherwise prevented for any reason, including without limitation because of the pendency of a case or proceeding relating to the Borrower, any Guarantor or any Subsidiary of the Borrower or any Guarantor under any bankruptcy or insolvency law, for purposes of this **Article X** and the obligations of the Guarantors hereunder, such Guaranteed Obligations shall be deemed to have been accelerated with the same effect as if such Guaranteed Obligations had been accelerated in accordance with the terms of the applicable Loan Documents or of this Agreement.

SECTION 10.04. Additional Security, Etc. The Guarantors authorize the Administrative Agent on behalf of the Lenders without notice to or demand on the Guarantors and without affecting their liability hereunder, from time to time (a) to obtain additional or substitute endorsers or guarantors; (b) to exercise or refrain from exercising any rights against, and grant indulgences to, the Borrower, any Subsidiary of the Borrower or any Guarantor, any other Guarantor or others; and (c) to apply any sums, by whomsoever paid or however realized, to the payment of the principal of, premium, if any, and interest on, and other obligations consisting of, the Guaranteed Obligations. The Guarantors waive any right to require the Administrative Agent, any Lender or any other Secured Party to proceed against any additional or substitute endorsers or guarantors or the Borrower or any of their Subsidiaries or any other Person or to pursue any other remedy available to the Administrative Agent, any such Lender or any such other Secured Party.

SECTION 10.05. Information Concerning the Borrower. The Guarantors assume all responsibility for being and keeping themselves informed of the financial condition and assets of the Borrower, the other Guarantors and their respective Subsidiaries, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks which the Guarantors assume and insure hereunder, and agree that neither the Administrative Agent, any Lender nor any other Secured Party shall have any duty to advise the Guarantors of information known to the Administrative Agent, any such Lender or any such other Secured Party regarding or in any manner relevant to any of such circumstances or risks.

SECTION 10.06. Guarantors' Subordination. The Guarantors hereby absolutely subordinate, both in right of payment and in time of payment, any present and future indebtedness of the Borrower or any Subsidiary of the Borrower or any Guarantor to any or all of the Guarantors to the indebtedness of the Borrower or any such Subsidiary or to the Administrative Agent, Lenders and the other Secured Parties (or any of them), *provided* that the Guarantors may receive scheduled payments of principal, premium (if any) and interest in respect of such present or future indebtedness so long as there is no Event of Default then in existence.

SECTION 10.07. Waivers. Notwithstanding anything herein to the contrary, the Guarantors hereby waive any right of subrogation (under contract, Section 509 of the Bankruptcy Code or otherwise) or any other right of indemnity, reimbursement or contribution and hereby waive any right to enforce any remedy that the Administrative Agent, any Lender or any other Secured Party now has or may hereafter have against the Borrower, any Guarantor or any endorser or any other guarantor of all or any part of the Guaranteed Obligations, and the Guarantors hereby waive any benefit of, and any right to participate in, any security or collateral given to the Administrative Agent, any Lender or any other Secured Party to secure payment or performance of the Guaranteed Obligations or any other liability of the Borrower to the Administrative Agent, any Lender or any other Secured Party. Guarantors hereby waive any rights Guarantors have under, or any requirements imposed by, (i) Chapter 43 of the Texas Civil Practice and Remedies Code, as amended (except rights under Section 43.004), (ii) Section 17.001 of the Texas Civil Practice and Remedies Code, as amended, (iii) Rule 31 of the Texas Rules of Civil

Procedure, as amended, and (iv) any and all rights under Section 51.005 of the Texas Property Code, as amended. The waivers contained in this Section shall continue and survive the termination of this Agreement and the final payment in full of the Guaranteed Obligations.

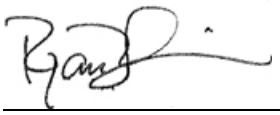
SECTION 10.08. Enforcement. In the event that the Guarantors shall fail forthwith to pay upon demand of the Administrative Agent, any Lender or any other Secured Party any amounts due pursuant to this **Article X** or to perform or comply with or to cause performance or compliance with any other obligation of the Guarantors under this Agreement the Administrative Agent, any Lender and any other Secured Party shall be entitled and empowered to institute any action or proceeding at law or in equity for the collection of the sums so due and unpaid or for the performance of or compliance with such terms, and may prosecute any such action or proceeding to judgment or final decree and may enforce such judgment or final decree against the Guarantors and collect in the manner provided by law out of the property of the Guarantors, wherever situated, any monies adjudged or decreed to be payable. The obligations of the Guarantors under this Agreement are continuing obligations and a fresh cause of action shall arise in respect of each default hereunder.

SECTION 10.09. Miscellaneous. Except as may otherwise be expressly agreed upon in writing, the liability of the Guarantors under this**Article X** shall neither affect nor be affected by any prior or subsequent guaranty by the Guarantors of any other indebtedness to the Administrative Agent, the Lenders or any other Secured Party. Notwithstanding anything in this **Article X** to the contrary, the maximum liability of each Guarantor hereunder shall in no event exceed the maximum amount which could be paid out by such Guarantor without rendering such Guarantor's obligations under this **Article X**, in whole or in part, void or voidable under applicable law, including, without limitation, (i) the Bankruptcy Code of 1978, as amended, and (ii) any applicable state or federal law relative to fraudulent conveyances.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK - SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, under seal, by their respective authorized officers as of the day and year first above written.

HMS INCOME LLC,
a Maryland limited liability company

By: 
Ryan T. Sims, Manager

COMMITMENTS

CAPITAL ONE, NATIONAL ASSOCIATION,
as Administrative Agent and as a Lender

By: 

Bobby Hamilton, Vice President

Revolver
Commitment:
$15,000,000

Lending Office
Capital One, National Association
5718 Westheimer, 6th Floor
Houston, Texas 77057
Attention: Bobby Hamilton, Vice President
Telecopy number: (713) 824-1731
Telephone number: (713) 706-5499

And a copy to:

Carol Martin Burke
Pillsbury Winthrop Shaw Pittman, LLP
909 Fannin Street
Suite 2000
Houston, Texas 77010
Telecopy number: (281) 582-4255
Telephone number: (713) 276-7626

SCHEDULE A

DESIGNATION NOTICE

May 24, 2012

Capital One, National Association,
as Administrative Agent
for the Lenders referred to below
5718 Westheimer, 6th Floor
Houston, Texas 77057
Attention: Bobby Hamilton

Dear Sirs:

Reference is made to the Amended and Restated Credit Agreement dated as of May 24, 2012 (as amended and in effect on the date hereof, the "**Credit Agreement**"), among HMS Income LLC, Capital One, National Association, as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof. Terms defined in the Credit Agreement are used herein with the same meanings.

The undersigned is a Lender and is party to a Hedging Agreement, dated as of [ ] and enclosed as **Exhibit A** to this letter agreement, pursuant to the Credit Agreement. By executing this letter agreement, the undersigned: (i) appoints the Administrative Agent as its agent under the applicable Loan Documents and (ii) agrees to be bound by the provisions of Articles VI and VII of the Credit Agreement.

Very truly yours,

[NAME OF LENDER]

By: _____
Name: _____
Title: _____

Acknowledged by:

CAPITAL ONE, NATIONAL ASSOCIATION, as Administrative Agent

By: _____
Name: _____
Title: _____

SCHEDULE 1.01

MORTGAGED PROPERTIES

None.

SCHEDULE 4.8

SUBSIDIARIES

None.

SCHEDULE 4.24

SUBSIDIARIES AND AFFILIATES

Subsidiary	Holder of Equity Interests	Nature of Equity Interests	Percentage of Equity Interests Held	Jurisdiction of Organization
None.				

SCHEDULE 4.30

INVESTMENTS

HMS Income LLC – Depository at Amegy Bank
HMS Income LLC – Disbursing Account at Amegy Bank

CONTRACTS

HMS Income LLC

- Operating Agreement
- Assignment and Assumption Agreement, dated as of December 12, 2011, among Main Street Capital Corporation, Main Street Capital II, LP and Main Street Mezzanine Fund, LP, as assignors, and HMS Income LLC as assignee
- Servicing Agreement, dated as of December 12, 2011 between Main Street Capital Partners, LLC and HMS Income LLC

SCHEDULE 5.11

LOANS AND ADVANCES

None.

SCHEDULE 5.14

PRINCIPAL AMOUNTS

None.

SCHEDULE 5.31

DEBT

None.

SCHEDULE 5.37

OPERATING LEASES

None.

EXHIBIT A

NOTICE OF BORROWING

, 20

To: Capital One, National Association, as Administrative Agent

Re: Credit Agreement (as amended and modified from time to time, the "**Credit Agreement**") dated as of May 24, 2012 among HMS Income LLC and Capital One, National Association, as Administrative Agent and the Lenders listed on the signature pages thereof

Ladies and Gentlemen:

Unless otherwise defined herein, capitalized terms used herein shall have the meanings attributable thereto in the Credit Agreement.

This Notice of Borrowing is delivered to you pursuant to **Section 2.02** of the Credit Agreement.

The Borrower hereby requests a Borrowing in the aggregate principal amount of $ to be made on , 20 [1]

[The Advances included in such Borrowing are to be: **[Base Rate Advances in the aggregate principal amount of $; Tranche Euro-Dollar Advances in the aggregate principal amount of $ with an Interest Period of one] month; Index Euro-Dollar Advances in the aggregate principal amount of $]].**

Attached to this Notice of Borrowing are true, correct and complete copies of (a) a Borrowing Base Certification Report dated as of the date hereof, and (b) a calculation of the Borrowing Base and all components thereof.

The Borrower has caused this Notice of Borrowing to be executed and delivered by its duly authorized officer this day of , 20 .

All of the conditions applicable to the Borrowing requested herein as set forth in the Credit Agreement have been satisfied as of the date hereof and will remain satisfied on the date of such Borrowing, including, without limitation, those set forth in **Section 3.02** of the Credit Agreement.

1 Amount of Borrowing must be $1,000,000 or a larger multiple of $100,000.

HMS INCOME LLC, a Maryland limited liability company

By: _____
Name: _____
Title: _____

REVOLVER NOTE

[To be Distributed Separately]

REVOLVER NOTE

$15,000,000 Houston, Texas
May 24, 2012

For value received, HMS INCOME LLC, a Maryland limited liability coompany (the "**Borrower**") promises to pay to the order of CAPITAL ONE, NATIONAL ASSOCIATION (the "**Lender**"), for the account of its Lending Office, the principal sum of FIFTEEN MILLION and No/100 Dollars ($15,000,000), or such lesser amount as shall equal the unpaid principal amount of each Revolver Advance made by the Lender to the Borrower pursuant to the Credit Agreement referred to below, on the dates and in the amounts provided in the Credit Agreement. The Borrower promises to pay interest on the unpaid principal amount of this Revolver Note on the dates and at the rate or rates provided for in the Credit Agreement. Interest on any overdue principal of and, to the extent permitted by law, overdue interest on the principal amount hereof shall bear interest at the Default Rate, as provided for in the Credit Agreement. All such payments of principal and interest shall be made in lawful money of the United States in federal or other immediately available funds at the office of Capital One, National Association, 5718 Westheimer, 6th Floor, Houston, Texas 77057, or at such other address as may be specified from time to time pursuant to the Credit Agreement.

All Revolver Advances made by the Lender, the interest rates from time to time applicable thereto and all repayments of the principal thereof shall be recorded by the Lender and, prior to any transfer hereof, endorsed by the Lender on the schedule attached hereto, or on a continuation of such schedule attached to and made a part hereof; provided that the failure of the Lender to make, or any error of the Lender in making, any such recordation or endorsement shall not affect the obligations of the Borrower hereunder or under the Credit Agreement. This Note is secured by, among other security, the Collateral Documents, as the same may be modified or amended from time to time.

This Note is one of the Revolver Notes referred to in the Credit Agreement dated as of the date hereof among the Borrower, the lenders listed on the signature pages thereof and their successors and assigns, and Capital One, National Association, as a Lender and as Administrative Agent (as the same may be amended or modified from time to time, the "**Credit Agreement**"). Terms defined in the Credit Agreement are used herein with the same meanings. Reference is made to the Credit Agreement for provisions for the prepayment and the repayment hereof and the acceleration of the maturity hereof, including without limitation, the provisions thereof relating to usury.

The Borrower hereby waives presentment, demand, protest, notice of demand, protest and nonpayment and any other notice required by law relative hereto, except to the extent as otherwise may be expressly provided for in the Credit Agreement.

The Borrower agrees, in the event that this Note or any portion hereof is collected by law or through an attorney at law, to pay all reasonable costs of collection, including, without limitation, reasonable attorneys' fees.

Initials: RS

703622833
056048.17

IN WITNESS WHEREOF, the Borrower has caused this Revolver Note to be duly executed under seal, by its duly authorized officers as of the day and year first above written.

HMS INCOME LLC, a Maryland limited liability company

By: _____
Ryan T. Sims, Manager

Revolver Note (cont'd)

ADVANCES AND PAYMENTS OF PRINCIPAL

Date	Interest Rate	Interest Period (if applicable)	Amount of Advance	Amount of Principal Repaid	Notation Made By

EXHIBIT B-2

SWING ADVANCE NOTE

[To be Distributed Separately]

SWING ADVANCE NOTE

$5,000,000 Houston, Texas
May 24, 2012

For value received, HMS INCOME LLC, a Maryland limited liability company (the "**Borrower**") promises to pay to the order of CAPITAL ONE, NATIONAL ASSOCIATION (the "**Lender**"), for the account of its Lending Office, the principal sum of Five Million and No/100 Dollars ($5,000,000), or such lesser amount as shall equal the unpaid principal amount of each Swing Advance made by the Lender to the Borrower pursuant to the Credit Agreement referred to below, on the dates and in the amounts provided in the Credit Agreement. The Borrower promises to pay interest on the unpaid principal amount of this Swing Note on the dates and at the rate or rates provided for in the Credit Agreement. Interest on any overdue principal of and, to the extent permitted by law, overdue interest on the principal amount hereof shall bear interest at the Default Rate, as provided for in the Credit Agreement. All such payments of principal and interest shall be made in lawful money of the United States in federal or other immediately available funds at the office of Capital One, National Association 5718 Westheimer, 6th Floor, Houston, Texas 77057, or at such other address as may be specified from time to time pursuant to the Credit Agreement.

All Swing Advances made by the Lender, the interest rates from time to time applicable thereto and all repayments of the principal thereof shall be recorded by the Lender and, prior to any transfer hereof, endorsed by the Lender on the schedule attached hereto, or on a continuation of such schedule attached to and made a part hereof; provided that the failure of the Lender to make, or any error of the Lender in making, any such recordation or endorsement shall not affect the obligations of the Borrower hereunder or under the Credit Agreement. This Note is secured by, among other security, the Collateral Documents, as the same may be modified or amended from time to time.

This Note is the Swing Advance Note referred to in the Credit Agreement dated as of the date hereof among the Borrower, the lenders listed on the signature pages thereof and their successors and assigns, and Capital One, National Association, as a Lender and as Administrative Agent (as the same may be amended or modified from time to time, the "**Credit Agreement**"). Terms defined in the Credit Agreement are used herein with the same meanings. Reference is made to the Credit Agreement for provisions for the prepayment and the repayment hereof and the acceleration of the maturity hereof, including without limitation, the provisions thereof relating to usury.

The Borrower hereby waives presentment, demand, protest, notice of demand, protest and nonpayment and any other notice required by law relative hereto, except to the extent as otherwise may be expressly provided for in the Credit Agreement.

The Borrower agrees, in the event that this Note or any portion hereof is collected by law or through an attorney at law, to pay all reasonable costs of collection, including, without limitation, reasonable attorneys' fees.

Initials:

70363822v1
056048.17

IN WITNESS WHEREOF, the Borrower has caused this Swing Advance Note to be duly executed under seal, by its duly authorized officers as of the day and year first above written.

HMS INCOME LLC, a Maryland limited liability company

By: _____
Ryan T. Sims, Manager

Swing Advance Note (cont'd)

ADVANCES AND PAYMENTS OF PRINCIPAL

Date	Interest Rate	Interest Period (if applicable)	Amount of Advance	Amount of Principal Repaid	Notation Made By

EXHIBIT C

NOTICE OF CONTINUATION OR CONVERSION

, 20

To: Capital One, National Association, as Administrative Agent

Re: Credit Agreement (as amended and modified from time to time, the "**Credit Agreement**") dated as of May 24, 2012 among HMS Income LLC, Capital One, National Association, as Administrative Agent, and the Lenders listed on the signature pages thereof.

Gentlemen:

Unless otherwise defined herein, capitalized terms used herein shall have the meanings attributable thereto in the Credit Agreement.

This Notice of Continuation or Conversion is delivered to you pursuant to Section 2.03 of the Credit Agreement.

With respect to the [Base Rate Advances] [Index Euro-Dollar Advances], [Tranche Euro-Dollar Advances] in the aggregate amount of $ [which have an Interest Period ending on], the Borrower hereby requests that such Advances be [converted to] [Base Rate Advances] [Index Euro-Dollar Advances], [Tranche Euro-Dollar Advances] [continued as] [Index Euro-Dollar Advances], [Tranche Euro-Dollar Advances] in the aggregate principal amount of $ to be made on such date, and for interest to accrue thereon at the rate established by the Credit Agreement for [Base Rate Advances] [Index Euro-Dollar Advances], [Tranche Euro-Dollar Advances]. The duration of the Interest Period with respect to such Tranche Euro-Dollar Advances shall be one month.

The Borrower has caused this Notice of Continuation or Conversion to be executed and delivered by its duly authorized officer this day of 20 .

HMS INCOME LLC a Maryland limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT D

BORROWING BASE CERTIFICATION REPORT

Reference is made to the Credit Agreement (the "**Credit Agreement**") dated as of May 24, 2012 among HMS Income LLC, a Maryland limited liability company (the "**Borrower**"), Capital One, National Association, as Administrative Agent, and the Lenders listed on the signature pages thereto. Capitalized terms used herein have the meanings ascribed thereto in the Credit Agreement.

Pursuant to **Section 5.01(i)** of the Credit Agreement, , the duly authorized chief financial officer or other authorized officer of Borrower, acting in his capacity as such officer for Borrower and not in his individual capacity, hereby certifies to the Administrative Agent and the Lenders that: (i) attached hereto is a list of the Portfolio Investments that the Borrower proposes to include in the calculations of the Borrowing Base on the date hereof, together with the most recent Value and source of the determination of Value for each, (ii) such Portfolio Investments satisfy all of the requirements contained in the definitions of "**Eligible Quoted Senior Bank Loan Investments**", "**Eligible Investment Grade Debt Securities**", "**Eligible Core Portfolio Investments**", "**Eligible Unquoted Senior Bank Loan Investments**", and "**Eligible Non-Investment Grade Debt Securities**", as applicable; (iii) the information contained herein and in the schedule(s) attached hereto is true, accurate and complete as of the date hereof; (iv) no Default has occurred and is continuing on the date hereof; and (v) the representations and warranties of the Loan Parties contained in Article IV of the Credit Agreement and the other Loan Documents are true on and as of the date hereof.

Certified as of the day of 20 .

HMS INCOME LLC, a Maryland limited liability company

By: _____
Name: _____
Title: _____

[Attach supporting Schedule(s)]

EXHIBIT E

OPINION LETTER COVERAGE OF
COUNSEL FOR THE BORROWER AND GUARANTORS

[To be Distributed Separately]

SUTHERLAND ASBILL & BRENNAN LLP
First City Tower
1001 Fannin, Suite 3700
Houston, TX 77002-6760
713.470.6100 Fax 713.654.1301
www.sutherland.com

May 24, 2012

Capital One, National Association, as Administrative Agent
and each other lender listed as a party
to the Credit Agreement (as defined below)

Re: HMS Income, LLC

Ladies and Gentlemen:

We have acted as counsel for HMS Income, LLC (the "Borrower") in connection with the execution and delivery of that certain Credit Agreement dated as of May 24, 2012 (the "Credit Agreement") among the Borrower, each lender party thereto from time to time (individually a "Lender" and collectively the "Lenders"), and Capital One, National Association, as administrative agent for the Lenders (in such capacity, the "Administrative Agent").

This opinion letter is delivered to you pursuant to Section 3.01(c) of the Credit Agreement.

Except as specifically otherwise defined in this opinion letter, each capitalized term used in this opinion letter has the same meaning as it has as a capitalized term in the Credit Agreement or, if not defined in the Credit Agreement, in the Uniform Commercial Code as in effect in the State of Texas (the "Texas UCC").

For purposes of this opinion letter, we have reviewed copies of the following executed documents, each of which is dated the date of the Credit Agreement:

1. the Credit Agreement;
2. the Revolver Note issued by the Borrower to Capital One, National Association, in the original principal amount of $15,000,000;
3. the Swing Advance Note issued by the Borrower to Capital One, National Association, in the original principal amount of $5,000,000;
4. the Equity Pledge Agreement dated as of the date hereof, by the Borrower in favor of the Administrative Agent (the "Pledge Agreement");

5. the General Security Agreement dated as of the date hereof by the Borrower in favor of the Administrative Agent (the "Security Agreement");

6. that certain Deposit Account Control Agreement, dated as of the date hereof, among the Borrower, Amegy Bank, National Association (the "Custodian") and the Administrative Agent (the "Deposit Account Control Agreement");

7. that certain Control Agreement, dated as of the date hereof, among the Borrower, the Custodian and the Administrative Agent (the "Control Agreement"); and

8. the UCC Financing Statement, the completed form of which is attached as Attachment 1 (the "Financing Statement"), which we understand will be filed in the Uniform Commercial Code filing records of the State Department of Assessments and Taxation of the State of Maryland (the "Maryland Filing Office").

Each of the documents listed in clauses 1 through 7, inclusive, above are individually a "Credit Document" and collectively the "Credit Documents"; and the Pledge Agreement and the Security Agreement are collectively the "Security Documents."

As to certain matters of fact relevant to the opinions in this opinion letter, we have relied on a certificate of an officer of the Borrower and on factual representations made by the Borrower in the Credit Agreement and the other Credit Documents. We have also relied on certificates of public officials. We have not independently established the facts, or in the case of certificates of public officials, the other statements, so relied upon.

Based on and subject to the foregoing and also subject to all of the assumptions, qualifications and other matters set forth in this opinion letter, we are of the opinion that:

1. Based solely on the certificate issued by the State of Maryland Department of Assessments and Taxation ("SDAT") dated May 17, 2012 (which we have assumed remains accurate on the date of this opinion letter), the Borrower is a limited liability company duly existing under and by virtue of the limited liability company act laws of Maryland General Corporation Law (the "MGCL") and is in good standing with the SDAT. Based solely on the certificate issued by the Secretary of State of the State of Texas dated May 21, 2012 and the certificate delivered by the Comptroller of Public Accounts of the State of Texas dated May 21, 2012, the Borrower is duly qualified and in good standing as a foreign limited liability company in the State of Texas.

2. The Borrower (a) has the limited liability company power to execute and deliver, and to perform its obligations under, each Credit Document, (b) has taken all necessary limited liability company action to authorize the execution and delivery of, and the performance of its obligations under, each Credit Document, and (c) has duly executed and delivered each Credit Document.

3. The execution and delivery by the Borrower of each Credit Document does not, and the performance by the Borrower of its obligations under each Credit Document will not:

(a) result in a violation of the Borrower's articles of organization or operating agreement; or

(b) except for approvals that have been obtained and for filings required to perfect a security interest contemplated by any Security Document, require approval from, or any filings with, any governmental authority under any federal law of the United States or any law of the State of Texas or the MGCL; or

(c) violate either (i) assuming the Borrower's compliance with the covenants in the Credit Agreement as to application of proceeds, Regulations T, U or X of the Board of Governors of the Federal Reserve Board or (ii) any federal law of the United States or of the State of Texas or the MGCL.

4. Each Credit Document is a valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms.

5. The execution and delivery by the Borrower of each of the Credit Documents, the performance by the Borrower of the respective terms and provisions thereof and the consummation of the transactions contemplated thereby, do not violate the Investment Company Act of 1940, as amended (the "Investment Company Act").

6. The Security Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Secured Parties, as security for the Obligations (as defined in the Security Agreement), a security interest under Article 9 of the Texas UCC (such security interest, the "Security Agreement Article 9 Security Interest") in the collateral described in the Security Agreement in which a security interest may be created under Texas UCC Article 9 (the "Security Agreement Article 9 Collateral").

7. The Pledge Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Secured Parties, as security for the Obligations, a security interest under Article 9 of the Texas UCC (such security interest, together with the Security Agreement Article 9 Security Interest, the "Article 9 Security Interest") in the collateral described in the Pledge Agreement in which a security interest may be created under Texas UCC Article 9 (such collateral, together with the Security Agreement Article 9 Collateral, the "Article 9 Collateral").

8. The Financing Statement is in form sufficient to comply with the filing requirements of the Maryland Filing Office.

9. Upon the filing of the Financing Statement in the Maryland Filing Office, the Article 9 Security Interest in that portion of the Article 9 Collateral in which a security interest may be perfected by the filing of a financing statement under the Maryland UCC will be perfected.

10. Assuming that (a) Amegy Bank, National Association is a "bank," (b) Deposit Account Nos. 0053749320 and 0053749339 at that "bank" (the "Deposit Accounts") are "deposit accounts" (as these terms are defined in Texas UCC Article 9), and (c) Amegy Bank, National Association's jurisdiction for purposes of Section 9.304 of the Texas UCC is the State of Texas, the Article 9 Security Interest in the Deposit Accounts is perfected by execution and delivery of the Deposit Account Control Agreement by the parties thereto.

11. Assuming that (a) Amegy Bank, National Association (the "Securities Intermediary") is a "securities intermediary" (as defined in Section 8.102(a) of the Texas UCC) and that the Securities Account is a "securities account" (as defined in Section 8.501 of the Texas UCC), (b) the Securities Intermediary maintains accurate and complete records of the financial assets in the Securities Account (as defined below), such that the financial assets in the Securities Account are objectively determinable, (c) all of the property in each Securities Account consists of "financial assets" (as defined in Section 8.102(a) of the Texas UCC), and (d) the Securities Intermediary's jurisdiction for purposes of Sections 8.110(e) and 9.305 of the Texas UCC, is the State of Texas, the Article 9 Security Interest in Securities Account No. 3654545 (the "Securities Account") is perfected by execution and delivery of the Control Agreement by the parties thereto.

12. Upon the Custodian's taking possession, in accordance with the terms of the Control Agreement, of any Securities and Investment Files (as defined in the Control Agreement) in which a security interest may be perfected by possession under the Texas UCC, the Article 9 Security Interest in such Securities and Investment Files will be perfected.

This opinion letter shall be interpreted in accordance with the Legal Opinion Principles issued by the Committee on Legal Opinions of the American Bar Association's Section of Business Law as published in 53 The Business Lawyer 831 (May 1998) (the "ABA Legal Opinion Principles"), a copy of which is attached as Attachment 2.

For purposes of our opinions in this opinion letter (and without excluding other assumptions that the ABA Legal Opinion Principles provides are customarily understood to be included in legal opinions of this type without expressly stating them in the opinion letter), we have assumed that: (a) each document that we have reviewed is accurate and complete, is either an authentic original or a copy that conforms to an authentic original, and the signatures on it are genuine; (b) each governmental or officer's certificate is accurate, complete and authentic, and that each governmental certificate remains accurate on the date of this letter; (c) all natural persons have sufficient legal capacity; (d) the Credit Documents are enforceable against the parties to them other than the Borrower; (e) there has not been any mutual mistake of fact or misunderstanding, fraud, duress or undue influence or any failure to comply with requirements of good faith, fair dealing and conscionability, with respect to the execution or delivery of any Credit Document; (f) there are neither any written or oral agreements or understandings among

the parties nor any usage of trade or course of prior dealing among the parties that would, in either case, define, supplement or qualify the terms of any Credit Document; (g) the Borrower's managers have complied with applicable fiduciary duties and appropriately disclosed any interest in connection with the approval of the Borrower's execution, delivery and performance of the Credit Documents; (h) at the time each Advance is made, after giving effect to such Advance, the Borrower will be in compliance with Section 18(a)(i)(A) of the Investment Company Act, giving effect to Section 61(a)(1) of the Investment Company Act; and (i) Capital One, National Association is not deemed to be a "principal underwriter" (as defined in Section 2(a)(29) of the Investment Company Act) of the Borrower as of October 24, 2008, any subsequent date on which any asset became or becomes subject to the lien of the Security Agreement or the Pledge Agreement (or the respective agreements amended and restated thereby) or the date of this opinion letter.

We have further assumed that (i) each and every usury savings clause contained in the Credit Documents will be complied with by the Administrative Agent and the Lenders; (ii) no fees, sums, or other benefits, direct or indirect, including any compensating balance requirements or fees in lieu thereof, have been paid to or received by or are, or may be, payable to or receivable by the Administrative Agent or any Lender in connection with the Credit Documents, except as set forth in the Credit Documents, (iii) that, other than as expressly set forth in the Credit Documents, there are no other contracts or agreements, written or oral, for the charging, payment or receipt of any amount or the giving of any benefit in any event by the Borrower or any other person to or for the account or benefit of any Lender; (iv) that the Borrower has not been requested by the Administrative Agent or any Lender, as a condition to the extension of credit described in the Credit Documents, to guarantee, assume or otherwise become liable in any way in respect of, or to secure in any respect, any indebtedness of any other person to the Administrative Agent of any Lender, or to agree to do so; (v) that any loan commitment fee, facility fee, closing fee or structuring fee, however calculated, including any loan availability fee on the unused portion of the credit described in the Credit Documents, is a reasonable and customary charge for such service; (vi) any expenses reimbursable to the Administrative Agent or any Lender in connection with the Credit Documents, including without limitation, inspection fees, recording fees, appraisal fees, custodian's fees, commitment fees and attorneys' fees, have been and will be limited to the actual costs incurred and paid to third parties or have been and will be for services rendered separate and apart from the lending of money and that such fees, costs and expenses will not exceed just and reasonable compensation for such services; (vii) the parties to the Credit Documents will act in accordance with, and will refrain from taking any action that is forbidden by, the terms and conditions of the Credit Documents; (viii) any amount taken, reserved, received, contracted for, charged or collected pursuant to the indemnity provisions of the Credit Documents will not constitute interest and will be disregarded in determining whether the Credit Documents constitute a contract for an amount of interest in excess of the amount of interest at the highest lawful rate or yield a rate of interest in excess of the highest lawful rate and in determining whether the total amount of interest taken, reserved, received, contracted for, charged or collected exceeds the amount of interest computed at the highest lawful rate or yields a rate of interest in excess of the highest lawful rate; (ix) in determining whether or not the interest paid or payable, under any specific circumstance, exceeds the maximum amount or rate of interest permitted under applicable law, (a) any non- principal payment shall be characterized as expense, fee or premium rather than interest, and (b)

voluntary prepayments and the effects thereof shall be excluded; (x) the provisions of the Credit Documents to the effect that the Borrower will never be required to pay interest in an amount or at a rate in excess of the highest lawful rate will control over all other provisions of the Credit Documents which may be in apparent conflict with those provisions or are silent with respect thereto; and (xi) all sums taken, reserved, received, charged or paid, or agreed to be taken, reserved, received, charged or paid to the Lenders for the use, forbearance or detention of the indebtedness incurred under the Credit Documents shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full original term of the Advances contemplated by the Credit Documents, so that the total amount of interest taken, reserved, received, charged, contracted for or collected with respect to such Advances does not exceed the amount of interest computed at the highest lawful rate or yield a rate of interest in excess of the highest lawful rate. No opinion is expressed herein as to whether the payment of late fees, prepayment premiums or compensation, default interest, interest on interest, or other charges payable upon or after the occurrence of a default or the payment of any yield maintenance premium or any charges or payments pursuant to Section 8.03 or Section 2.12(e) of the Credit Agreement would constitute interest. No opinion is expressed herein as to whether a judicial interpretation of Applicable Law is required for a determination of usury or whether payments of interest received in excess of the Maximum Lawful Rate and credited to any Related Indebtedness would constitute interest. We note that certain of the Credit Documents provide for payment of auditing, attorneys and other similar fees attributable to services rendered by employees of the Administrative Agent or any Lender. We express no opinion as to whether any such payments would constitute interest under Texas law.

The opinions in this opinion letter are limited to (i) the federal law of the United States; (ii) the law of the State of Texas; (iii) as to our opinions in numbered paragraphs 2 and 3(a) above, the Maryland Limited Liability Company Act, as amended (and for purposes of this opinion letter, such corporation law shall be deemed to consist solely of the provisions of the corporation law of the State of Maryland, without annotations, appearing in Corporation—Covering Corporation Practice-Procedure-Law published by Aspen Publishers as the Maryland Limited Liability Company Act (the "Maryland LLC Act")), and with such provisions interpreted in accordance with their plain meaning; (iv) as to our opinions in numbered paragraphs 8 and 9 above, Article 9 of the Uniform Commercial Code of the State of Maryland as set forth in the CCH Secured Transactions Guide (the "Maryland UCC"). We have not reviewed any judicial decisions construing the laws of the State of Maryland or any other sections of the Maryland UCC, or, except for the Maryland LLC Act, any other laws of the State of Maryland.

We express no opinion with respect to the laws of any other jurisdiction or as to any matters arising under, or the effect of any of, the following: (a) any securities laws (other than the Investment Company Act); tax laws; pension or employee benefit laws; labor laws; zoning, land use, subdivision or similar laws; environmental laws; health and safety laws; antitrust, unfair competition and other trade regulation laws; racketeering laws; patent, copyright, trademark, trade name or other intellectual property laws; (b) the Foreign Corrupt Practices Act; the Trading with the Enemy Act; any foreign assets control regulations of the United States Treasury Department; the USA PATRIOT Act; Executive Order No. 13,224 ("Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support

Terrorism") and similar laws and executive orders; or (c) as provided in the ABA Legal Opinion Principles, other laws customarily understood to be excluded from legal opinions of this type without expressly stating that they are excluded.

Our opinion in numbered paragraph 4 above is subject to bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent conveyance, and other similar federal laws of the United States and of the State of Texas affecting the rights and remedies of creditors generally and to general principles of equity (including without limitation the availability of specific performance or injunctive relief and the application of concepts of materiality, reasonableness, good faith and fair dealing), regardless of whether considered in a proceeding at law or in equity.

In addition, certain of the remedial provisions in the Security Documents may be further limited or rendered unenforceable by applicable law, but in our opinion such law does not make the remedies afforded by the Security Documents inadequate for the practical realization of the principal benefits intended to be provided by the Security Documents.

Our opinions with respect to security interests in the Collateral are limited to the Texas UCC and the Maryland UCC and therefore do not address collateral of a type not subject to the Texas UCC Articles 8 and 9 or the Maryland UCC Article 9. In addition, we express no opinion as to any of the following:

(a) Whether the Article 9 Collateral exists or the nature or extent of the Borrower's rights in, or title to, any portion of the Article 9 Collateral.

(b) The effect of Section 552 of the U.S. Bankruptcy Code, which limits the extent to which property acquired after the commencement of a bankruptcy proceeding is subject to a security interest arising from a security agreement entered into by the Borrower prior to the commencement of such bankruptcy proceeding.

(c) The creation, attachment, perfection or enforceability of any security interest in any commercial tort claim.

(d) Security interests in goods which are in accession to, or commingled or processed with, other goods to the extent that a security interest is limited by Section 9-336 of the Texas UCC.

(e) The effect of non-compliance with the Assignment of Claims Act, 31 U.S.C. Section 3727 and 41 U.S.C. Section 15, with respect to such of the Article 9 Collateral as may be subject thereto.

(f) The perfection of any security interest in any Article 9 Collateral consisting of goods that are or are to become fixtures, standing timber to be cut, farm products, consumer goods or as-extracted collateral.

(g) The priority of any security interest granted in the Article 9 Collateral.

(h) The provisions contained in Section 10.07 of the Credit Agreement to the extent that such provisions limit the obligation of the Guarantors under the guaranty provided for in Article X of the Credit Agreement or any right of contribution of any other party with respect to such guaranty.

(i) The enforceability of any acceleration of the maturity of any Obligation unless the holder of such Obligation has given the Borrower notice of such holder's intent to accelerate the maturity thereof, and notice of the acceleration of the maturity thereof.

(j) The enforceability, validity or effect of any provision of the Credit Documents purporting to (1) establish any evidentiary standard, (2) waive illegality as a defense to the performance of contract obligations or any other defense to such performance which cannot, as a matter of law, be effectively waived, (3) irrevocably appoint the Administrative Agent or any Lender as attorney-in-fact for the Borrower, (4) impose upon a court the obligation or duty to compute or re-compute the Obligations in a specified manner, (5) permit the Administrative Agent or any Lender to retain full proceeds from the sale of Collateral or any property, with no obligation to any applicable taxing authority, or (6) require any Person, other than the Custodian, to hold property in trust for the Administrative Agent, or any Lender.

Further, we call to your attention that certain subsequent events may result in the loss of perfection in the Article 9 Collateral and that certain Persons may obtain an interest in the Article 9 Collateral free and clear of the Administrative Agent's perfected security interest therein, and we do not undertake to advise the Administrative Agent or any other Lender, or any other Person regarding any such matters.

We also express no opinion as to any of the following or as provided in the ABA Legal Opinion Principles, any other matters customarily understood to be excluded from legal opinions of this type without expressly stating that they are excluded:

(a) provisions providing for choice of governing law;

(b) provisions that purport to (i) determine, or waive objections to, the forum, venue or jurisdiction of any particular court or other governmental authority, (ii) waive or consent to service of process requirements or (iii) waive trial by jury;

(c) waivers or advance consents that have the effect of waiving (i) legal or equitable defenses (including the obligations of good faith, fair dealing, diligence and reasonableness), (ii) rights to certain damages, (iii) rights to counter claim or set off, (iv) statutes of limitations, (v) rights to the marshalling of assets or similar requirements, (vi) rights to notice or the opportunity to cure failures to perform, (vii) the benefits of statutory, regulatory or constitutional rights, unless and to the extent the applicable statute, regulation, or constitution explicitly permits their waiver, and (viii) other benefits to the extent they cannot be waived under applicable law;

(d) the effect of rules of law that permit a party to cure a breach unless (i) permitting a cure would unreasonably hinder the aggrieved party from making substitute arrangements for performance or (ii) it was important in the circumstances to the aggrieved party that performance occur by the date stated in the contract;

(e) either (i) the effect of rules of law that limit the availability of a remedy under certain circumstances where another remedy has been elected or (ii) provisions (A) that enumerated remedies are exclusive, (B) that a party has the right to pursue multiple remedies without regard to other remedies elected, (C) that all remedies are cumulative, (D) providing a time limitation after which a remedy may not be enforced or providing that there are no time limitations on the period in which a remedy may be enforced, or (E) eliminating, waiving or reducing punitive or consequential damages;

(f) the effect of rules of law that limit the right of a creditor to use force or cause a breach of the peace in enforcing rights;

(g) the effect of rules of law or provisions that relate to the sale or disposition of collateral or the requirements of a commercially reasonable sale;

(h) the effect of provisions purporting to entitle a party, as a matter of right and without court approval after required showings, to the appointment of a receiver;

(i) provisions imposing (i) increased interest rates (including interest on interest and compounding of interest) or late payment charges upon delinquency in payment or default or (ii) liquidated damages or (iii) premiums on prepayment, acceleration, redemption, cancellation, or termination or (iv) other payments in excess of actual damages, to the extent any such payments are deemed to be penalties or forfeitures;

(j) the effect of rules of law that govern and afford judicial or arbitral discretion regarding the determination of damages and entitlement to attorneys' fees and other costs;

(k) the effect of laws requiring mitigation of damages;

(l) provisions mandating contribution towards judgments or settlements among various parties;

(m) provisions changing or waiving rules of evidence or fixing the method or quantum of proof to be applied in litigation or similar proceedings;

(n) provisions releasing, exculpating or exempting a party from, or requiring indemnification of a party for, (i) liability for its own acts or omissions, (ii) any matter arising under, or involving a waiver of, any securities laws, or (iii) unless covered by a specific indemnification, any breach of a representation and/or warranty with respect to matters known to the person or entity claiming indemnification; or (iv) any indemnification provision;

(o) both (i) the effect of rules of law that may, where less than all of a contract may be unenforceable, limit the enforceability of the balance of the contract to circumstances in which the unenforceable portion is not an essential part of the agreed exchange or (ii) severability or reformation provisions;

(p) provisions granting (i) the Administrative Agent or any Lender the right to set-off against funds held in any account maintained with the Administrative Agent or any Lender and which account is designated, or contains funds that the Administrative Agent or any Lender is aware have been set aside, for special purposes, such as payroll, trust and escrow accounts, or which funds are subject to special agreements between the Administrative Agent or any Lender and any Loan Party precluding or limiting rights to set-off funds; and (ii) the right of set-off to a purchaser of a participation in the Advances;

(q) provisions prohibiting the use or disclosure of information;

(r) provisions granting a power of attorney, or providing for the appointment of an agent or proxy;

(s) provisions relating to fiduciary duties, including without limitation, the extent to which the operating agreement can limit such duties, and whether the members or managers have complied with any applicable fiduciary duty, duty to act in good faith or similar duty in making any decision in connection with any Credit Document;

(t) both (i) the effect of course of dealing, course of performance, or the like, that would modify the terms of an agreement or the respective rights or obligations of the parties under an agreement or (ii) provisions that purport to deny the effectiveness of such;

(u) provisions that determinations by a party or a party's designee are conclusive;

(v) provisions purporting to grant to or limit rights of third parties;

(w) provisions purporting to create a trust or constructive trust without compliance with applicable trust law;

(x) covenants regarding assignment;

(y) provisions permitting the Administrative Agent or any Lender to exercise voting or corporate, company, or partnership rights with respect to investment property, pledged stock, membership interests, partnership interests, or other instruments prior to foreclosing on such investment property, pledged stock, membership interests, partnership interests, or other instruments;

(z) voting agreements and covenants to vote in a particular manner;

(aa) provisions relating to delay or omission of enforcement of rights or remedies, or waivers of defenses or waivers of benefits of appraisement, valuation, stay, extension, moratorium, redemption, statutes of limitation or other nonwaivable benefits bestowed by operation of law; or

(bb) the effect of rules of law that may, in the absence of an express waiver or consent, discharge a guarantor to the extent that: (i) action by a creditor discharges the guaranteed obligation or increases the risk to which such guarantor is exposed, including impairing the value of collateral securing a guaranteed obligation to the detriment of the guarantor, (ii) a guaranteed obligation is materially modified or (iii) there are any releases of any co-guarantor.

The opinions expressed in this opinion letter (a) are strictly limited to the matters stated in this opinion letter, and without limiting the foregoing, no other opinions are to be implied and (b) are only as of the date of this opinion letter, and we are under no obligation, and do not undertake, to advise the Administrative Agent or any other Lender or any other Person either of any change of law or fact that occurs, or of any fact that comes to our attention, after the date of this opinion letter, even though such change or such fact may affect the legal analysis or a legal conclusion in this opinion letter.

This opinion letter (a) is delivered in connection with the closing of, and the initial funding under, the Credit Agreement, may be relied upon only by the Administrative Agent and each other Lender at the date of this opinion letter in connection with such closing and initial funding, and may not be relied upon by the Administrative Agent or any other Lender for any other purpose; (b) may not be relied on by, or furnished to, any other Person without our prior written consent; and (c) may not be quoted, published or otherwise disseminated, without in each instance our prior written consent. Notwithstanding the preceding sentence, we hereby consent to reliance on this opinion letter by Lenders who may become party to the Credit Agreement after the date of this opinion letter in accordance with the terms of the Credit Agreement (each, an "Assignee Lender") and a permitted successor or assign of the Administrative Agent (the "Successor Administrative Agent"), but only on the condition and understanding that (i) such Assignee Lender and Successor Administrative Agent, as applicable, accepts the limitations in the preceding sentence, (ii) we have no responsibility or obligation to consider the applicability or correctness of this opinion letter to any Person other than its addressees, (iii) reliance by any Assignee Lender and Successor Administrative Agent, as applicable, must be actual and reasonable under the circumstances existing at the time such Assignee Lender and Successor Administrative Agent, as applicable, becomes party to the Credit Agreement or successor to the Administrative Agent, as applicable, including any changes in law, facts or any other developments known to or reasonably knowable at such time by such Assignee Lender and Successor Administrative Agent, as applicable, (iv) the knowledge of the addressees with respect to matters addressed in this opinion letter shall be imputed to all assignees, and (v) in no event shall any such Assignee Lender or Successor Administrative Agent have any greater rights with respect to this opinion letter than did its addressees. Any reliance on the opinions expressed herein by any such Assignee Lender or Successor Administrative Agent after the date of this opinion letter shall be as to such opinions as of the date of this opinion letter and shall not constitute a reissuance of such opinions as of the date of any such subsequent assignment or as of

any other subsequent date. Notwithstanding the foregoing, we also consent to the furnishing of this opinion letter for informational purposes as may be required by law or regulation applicable to the Administrative Agent, any Successor Administrative Agent, any Lender or any Assignee Lender, but no Person to whom this opinion is furnished pursuant to this sentence may rely on this opinion.

Very truly yours,

Sutherland Asbill & Brennan LLP

By: _____
Annette L. Tripp, a partner

****

Attachment 1

Financing Statement

[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Susan Ormand Berry
Pillsbury Winthrop Shaw Pittman LLP
909 Fannin Street, Suite 2000
Houston, Texas 77010-1018

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME
HMS Income LLC

OR

1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

1c. MAILING ADDRESS: **1300 Post Oak Blvd., Suite 800** | CITY: **Houston** | STATE: **TX** | POSTAL CODE: **77056** | COUNTRY: **USA**

1d. **SEE INSTRUCTIONS** | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION: **limited liability company** | 1f. JURISDICTION OF ORGANIZATION: **Maryland** | 1g. ORGANIZATIONAL ID #, if any: **MD W14392104** ☐NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

2d. **SEE INSTRUCTIONS** | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any ☐NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME
Capital One, National Association

OR

3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

3c. MAILING ADDRESS: **5718 Westheimer, 6th Floor** | CITY: **Houston** | STATE: **TX** | POSTAL CODE: **77057** | COUNTRY: **USA**

4. This FINANCING STATEMENT covers the following collateral:

ALL ASSETS.

5. ALTERNATIVE DESIGNATION [if applicable]: ☐LESSEE/LESSOR ☐CONSIGNEE/CONSIGNOR ☐BAILEE/BAILOR ☐SELLER/BUYER ☐AG. LIEN ☐NON-UCC FILING

6. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐All Debtors ☐Debtor 1 ☐Debtor 2

8. OPTIONAL FILER REFERENCE DATA
TO BE FILED WITH THE MARYLAND SECRETARY OF STATE

Attachment 2

ABA Legal Opinion Principles

Legal Opinion Principles

*By the Committee on Legal Opinions**

In the Committee's 1991 *Third Party Legal Opinion Report*[1] the Committee undertook to monitor developments respecting the *Report* and the *Legal Opinion Accord* contained in the *Report*. It also undertook in due course to take such further action as might seem appropriate. These *Legal Opinion Principles* are a product of those undertakings.

The *Report* and the *Accord* have made an important contribution to the learning on legal opinions. While the *Accord* has not gained the national acceptance the Committee had hoped, the *Guidelines* in the *Report* are frequently looked to for guidance regarding customary legal opinion practice. In Section 152 of the recently adopted *Restatement (Third) of the Law Governing Lawyers*, the American Law Institute affirmed the importance of customary practice in the preparation and interpretation of legal opinions. The Committee has prepared these *Principles* to provide further guidance regarding the application of customary practice to third-party "closing" opinions that do not adopt the *Accord*. The Committee hopes that these *Principles* will prove useful both to lawyers and their clients and to courts that from time to time are called upon to address legal opinion issues.

The Committee intends to consider the possible extension of these *Principles* to issues they do not now address. The Committee would welcome the assistance of all who are interested in participating in that effort.

* Thomas L. Ambro, Chair. Donald W. Glazer and Steven O. Weise, Co-Reporters.

1. Committee on Legal Opinions, *Third-Party Legal Opinion Report, Including the Legal Opinion Accord, of the Section of Business Law, American Bar Association*, 47 BUS. LAW. 167 (1991).

LEGAL OPINION PRINCIPLES

I. GENERAL

A. At the closing of many business transactions legal counsel for one party delivers legal opinion letter(s) to one or more other parties. Those opinion letters, often referred to as third party opinion letters, are the subject of these *Legal Opinion Principles*.

B. The matters usually addressed in opinion letters, the meaning of the language normally used, and the scope and nature of the work counsel is expected to perform are based (whether or not so stated) on the customary practice of lawyers who regularly give, and lawyers who regularly advise opinion recipients regarding, opinions of the kind involved. These *Legal Opinion Principles* are intended to provide a ready reference to selected aspects of customary practice.

C. An opinion giver may vary the customary meaning of an opinion or the scope and nature of the work customarily required to support it by including an express statement in the opinion letter or by reaching an express understanding with the opinion recipient or its counsel.

D. The opinions contained in an opinion letter are expressions of professional judgment regarding the legal matters addressed and not guarantees that a court will reach any particular result.

E. In accepting an opinion letter, an opinion recipient ordinarily need not take any action to verify the opinions it contains.

F. The lawyer or lawyers preparing an opinion letter and the opinion recipient and its legal counsel are each entitled to assume that the others are acting in good faith with respect to the opinion letter.

II. LAW

A. Opinion letters customarily specify the jurisdiction(s) whose law they are intended to cover and sometimes limit their coverage to specified statutes or regulations of the named jurisdiction(s). When that is done, an opinion letter should not be read to cover the substance or effect of the law of other jurisdiction(s) or other statutes or regulations.

B. An opinion letter covers only law that a lawyer in the jurisdiction(s) whose law is being covered by the opinion letter (*see* **II.A.**) exercising customary professional diligence would reasonably be expected to recognize as being applicable to the entity, transaction, or agreement to which the opinion letter relates.

C. An opinion letter should not be read to cover municipal or other local laws unless it does so expressly.

D. Even when they are generally recognized as being directly applicable, some laws (such as securities, tax, and insolvency laws) are understood as a matter of customary practice to be covered only when an opinion refers to them expressly.

III. FACTS

A. The lawyers who are responsible for preparing an opinion letter do not ordinarily have personal knowledge of all of the factual information needed to support the opinions it contains. Thus, those lawyers necessarily rely in large measure on factual information obtained from others, particularly company officials. Customary practice permits such reliance unless the factual information on which the lawyers preparing the opinion letter are relying appears irregular on its face or has been provided by an inappropriate source.

B. As a matter of customary practice the lawyers preparing an opinion letter are not expected to conduct a factual inquiry of the other lawyers in their firm or a review of the firm's files, except to the extent the lawyers preparing the opinion letter have identified a particular lawyer or file as being reasonably likely to have or contain information not otherwise known to them that they need to support an opinion.

C. An opinion should not be based on a factual representation that is tantamount to the legal conclusion being expressed. An opinion ordinarily may be based, however, on legal conclusions contained in a certificate of a government official.

D. Opinions customarily are based in part on factual assumptions. Some factual assumptions need to be stated expressly. Others ordinarily do not. Examples of factual assumptions that ordinarily do not need to be stated expressly are assumptions of general application that apply regardless of the type of transaction or the nature of the parties. These include assumptions that copies of documents are identical to the originals, signatures are genuine and the parties other than the opinion giver's client have the power to enter into the transaction.

IV. DATE

An opinion letter speaks as of its date. An opinion giver has no obligation to update an opinion letter for subsequent events or legal developments.

EXHIBIT F

CLOSING CERTIFICATE

Reference is made to the Credit Agreement (the "**Credit Agreement**") dated as of May 24, 2012 among HMS Income LLC, a Maryland limited liability company ("**Borrower**"), Capital One, National Association, as Administrative Agent, and the Lenders listed on the signature pages thereof. Capitalized terms used herein have the meanings ascribed thereto in the Credit Agreement.

Pursuant to Section 3.01 of the Credit Agreement, Ryan Sims, acting in his capacity as the duly authorized Manager of the Borrower, and not in his individual capacity, hereby certifies to the Administrative Agent and the Lenders that: (a) to the knowledge of such Person (i) no Default has occurred and is continuing on the date of the first Borrowing under the Credit Agreement; and (ii) the representations and warranties of the Borrower contained in Article IV of the Credit Agreement are true on and as of the date of the first Borrowing under the Credit Agreement, and (b) prior to the Permitted Merger, Borrower will comply with the Investment Policies set forth on **Exhibit "A"** attached hereto as if it were HMS Income Fund, Inc. (the entity to which "we", "us", "our" and "Company" refer within such **Exhibit "A"**).

Certified as of the day of 2012.

BORROWER

HMS INCOME LLC, a Maryland limited liability company

By: _____
Name: _____
Title: _____

[Attach Exhibit "A"]

EXHIBIT G

MANAGER'S CERTIFICATE

The undersigned, Ryan Sims, Manager of HMS Income LLC, a Maryland limited liability company (the "**Company**"), hereby certifies that he has been duly appointed, qualified and is acting in such capacity and that, as such, he is familiar with the facts herein certified and is duly authorized to execute and deliver this Manager's Certificate on behalf of the Company, and in such capacity hereby further certifies, in connection with the Credit Agreement dated as of May 24, 2012 among HMS Income LLC, Capital One, National Association, as Administrative Agent, and the Lenders listed on the signature pages thereof (as amended, restated, modified or supplemented from time to time, the "**Credit Agreement**"; capitalized terms used and not otherwise defined herein having the meaning set forth therein) that:

1. Attached hereto as Exhibit A is a complete and correct copy of the Organizational Documents of the Company as in full force and effect on the date hereof as certified by the Secretary of State of the State of Maryland, the Company's state of organization.

2. Attached hereto as Exhibit B is a complete and correct copy of the Operating Documents of the Company as in full force and effect on the date hereof.

3. Attached hereto as Exhibit C is a complete and correct copy of the Organizational Actions duly adopted by the Managers of the Company, approving and authorizing the execution and delivery of the Credit Agreement, the Notes and the other Loan Documents to which the Company is a party. Such Organizational Actions have not been repealed or amended and are in full force and effect, and no other Organizational Actions have been adopted by the Managers of the Company in connection therewith.

4. Each of the persons named on Exhibit D attached hereto is, and was at the time of executing any Loan Document on behalf of the Company, a duly appointed, qualified and acting manager of the Company with such person holding the title set forth opposite such person's name and the signature set forth opposite the name of such person, and the signatures of such person appearing on the Credit Agreement, the Notes and the other Loan Documents, is his or her genuine signature. Each such person is authorized to execute and deliver, and was authorized at the time of executing and delivering, on behalf of the Company, the Credit Agreement, the Notes and the other Loan Documents to which the Company is a party and any certificate or other documents to be executed and delivered by the Company pursuant to the Loan Documents.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Manager's Certificate as of the date first stated above.

HMS INCOME LLC, a Maryland limited liability company

By: _____
Name: Ryan Sims
Title: Manager

EXHIBIT H

COMPLIANCE CERTIFICATE

Reference is made to the Credit Agreement dated as of May 24, 2012 (as modified and supplemented and in effect from time to time, the "**Credit Agreement**") among HMS Income LLC, a Maryland limited liability company (the "**Borrower**"), Capital One, National Association, as Administrative Agent, and the Lenders listed on the signature pages thereof. Capitalized terms used herein shall have the meanings ascribed thereto in the Credit Agreement.

Pursuant to Section 5.01(c) of the Credit Agreement, , acting in his capacity as the duly authorized [ ] of the Borrower and not in his individual capacity, hereby certifies to the Administrative Agent and the Lenders that the information contained in the Compliance Check List attached hereto is true, accurate and complete as of , 20 (the "**Compliance Date**"), and that [no Default is in existence on and as of the date hereof.] [the following covenants and conditions have not been performed or observed and the following is a list of each such Default and/or Event of Default and its nature and status and the actions proposed by the Borrower to remedy such Default and/or Event of Default:]

Dated as of .

HMS INCOME LLC, a Maryland limited liability company

By: _____
Name: _____
Title: _____

[To Be Provided By the Borrower In Form and Content Satisfactory to Administrative Agent]

EXHIBIT I

JOINDER AND REAFFIRMATION AGREEMENT

THIS JOINDER AND REAFFIRMATION AGREEMENT (the "**Agreement**"), dated as of , 20 , is by and among**[ ]** (the "**New Guarantor**"), HMS INCOME LLC, a Maryland limited liability company (the "**Borrower**"), [[ ] and [ ] (collectively, the "**Existing Guarantors**"),] and CAPITAL ONE, NATIONAL ASSOCIATION (the "**Administrative Agent**").

The Borrower, [the Existing Guarantors,] the Lenders and the Administrative Agent have entered into that certain Credit Agreement dated as of May 24, 2012 (as amended, modified, supplemented, renewed and extended, the "**Credit Agreement**"). All of the defined terms in the Credit Agreement are incorporated herein by reference.

The Borrower[, the Existing Guarantors] and the New Guarantor have requested that the New Guarantor become a Guarantor under the Credit Agreement, a Grantor under the Security Agreement and a Pledgor under the Pledge Agreement in accordance with **Section 5.28** of the Credit Agreement.

Accordingly, the Borrower, [Existing Guarantors,] New Guarantor and Administrative Agent hereby agree as follows:

1. The Borrower[, the Existing Guarantors] and the New Guarantor hereby acknowledge, agree and confirm that, by their execution of this Joinder Agreement, the New Guarantor will be deemed to be a party to the Credit Agreement, and a "**Guarantor**" for all purposes of the Credit Agreement, the Notes and the other Loan Documents, and shall have all of the obligations of a Guarantor thereunder, as if it had executed the Credit Agreement and the other Loan Documents. The Borrower[, the Existing Guarantors] and the New Guarantor hereby further acknowledge, agree and confirm that, by their execution of this Joinder Agreement, the New Guarantor will be deemed to be, effective as of the date hereof, (a) a party to the Security Agreement and a "**Grantor**" for all purposes of the Security Agreement and shall have all of the obligations of a Grantor thereunder as if it had executed the Security Agreement, and (b) a party to the Pledge Agreement and a "**Pledgor**" for all purposes of the Pledge Agreement and shall have all of the obligations of a Pledgor thereunder as if it had executed the Pledge Agreement. The New Guarantor assumes and agrees to be bound by and comply with, all of the terms, provisions and conditions contained in the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents applicable to the Guarantors and all duties and obligations of a Guarantor thereunder, as fully and completely as all other Guarantors thereunder, jointly and severally, individually and collectively, with all other Guarantors, including without limitation (i) all of the representations, warranties, covenants, undertakings and obligations set forth in the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents (each of which, as to the New Guarantor, shall be deemed made on the date hereof), and (ii) all waivers set forth in the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents.

2. The New Guarantor has received a copy of the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents (as well as all schedules and exhibits to each). The information on the exhibits and schedules to the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents, as applicable, are amended to provide the information shown on the attached Schedule A. In furtherance and not in limitation of the terms of the Security Agreement and the Pledge Agreement, the New Guarantor acknowledges its present grant of a first priority security interest in all of its Collateral (as defined in the Security Agreement) and Collateral

(as defined in the Pledge Agreement) to the Administrative Agent, for the benefit of the Secured Parties (as described in the Security Agreement). In furtherance and not in limitation thereof, the New Guarantor hereby, as security for the payment of the Notes, the Guaranty and all Obligations whatsoever of the Borrower and each Guarantor, hereby grants to the Administrative Agent, for the benefit of the Secured Parties (as defined in the Security Agreement) a continuing, general lien upon and security interest in and to the following described property, wherever located, whether now existing or hereafter acquired or arising, namely: (a) (i) all Accounts (as defined in the Security Agreement), General Intangibles (as defined in the Security Agreement), Documents (as defined in the Security Agreement), Chattel Paper (as defined in the Security Agreement) and Instruments (as defined in the Security Agreement) now existing or hereafter arising of the New Guarantor; (ii) all guarantees of the New Guarantor's existing and future Accounts (as defined in the Security Agreement), General Intangibles (as defined in the Security Agreement), Chattel Paper (as defined in the Security Agreement) and Instruments (as defined in the Security Agreement) and all other security held by the New Guarantor for the payment and satisfaction thereof; (iii) all Inventory (as defined in the Security Agreement) now owned or hereafter acquired by the New Guarantor; (iv) all Equipment (as defined in the Security Agreement) now owned or hereafter acquired of the New Guarantor; (v) all Intercompany Claims (as defined in the Security Agreement) now existing or hereafter arising; (vi) any and all now owned or hereafter acquired or arising Deposit Accounts (as defined in the Security Agreement), Investment Property (as defined in the Security Agreement), Letter of Credit Rights (as defined in the Security Agreement), Goods (as that term is defined in the UCC) and Supporting Obligations (as defined in the Security Agreement); (vii) all books and records of the New Guarantor (including, without limitation, computer records, tapes, discs and programs and all other media, written, electric, magnetic or otherwise, containing such records) which relate to the New Guarantor's Inventory (as defined in the Security Agreement), Equipment (as defined in the Security Agreement), Accounts (as defined in the Security Agreement), Deposit Accounts (as defined in the Security Agreement), Investment Property (as defined in the Security Agreement), Letter of Credit Rights (as defined in the Security Agreement), Goods (as defined in the Security Agreement), Supporting Obligations (as defined in the Security Agreement), General Intangibles (as defined in the Security Agreement), Chattel Paper (as defined in the Security Agreement) and Instruments (as defined in the Security Agreement) or guarantees thereof; (viii) all insurance on all of the foregoing and the proceeds of that insurance; and (ix) all cash and noncash proceeds and products of all of the foregoing and the proceeds and products of other proceeds and products; and (b) all of such New Guarantor's membership interests, limited partnership interests, common stock and other equity interests in the "**Pledged Entities**" (the entities described on the attached update to Schedule I of the Pledge Agreement) and all securities instruments or other rights convertible into or exercisable for the foregoing (the "**Equity Interests**"), together with all proceeds, profits, interests, capital accounts, accounts, contract rights, general intangibles, deposits, funds, dividends, distributions, rights to dividends, rights to distributions, including both distributions of money and of property, and other rights, claims and interests relating to or arising out of such New Guarantor's Equity Interests in the Pledged Entities, together with any and all replacements or substitutions for or proceeds of all of the foregoing (collectively, the "**Pledge Collateral**"); provided that, notwithstanding anything herein to the contrary, the Pledge Collateral shall not include, and the security interest herein shall not attach to, (i) any outstanding Equity Interests of a Foreign Subsidiary in excess of 65% of the voting power of all classes of Equity Interests of such Foreign Subsidiary entitled to vote or (ii) any property rights in Equity Interests (other than Equity Interests issued by any Subsidiary), or any Operating Documents of any issuer of such Equity Interests to which New Guarantor is a party, or any of its rights or interests thereunder, if the grant of such security interest shall constitute or result in (A) the abandonment, invalidation or unenforceability of any right, title or interest of the New Guarantor therein or (B) a breach or termination pursuant to the terms of, or a default under, any such property rights or Operating Documents (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provisions) of any relevant jurisdiction or any other Applicable Law (including the Bankruptcy Code) or principles of equity). Further, New Guarantor hereby delivers to the Administrative Agent (or to the Collateral Custodian as its agent and bailee), on behalf of the Secured Parties, including itself, herewith

all certificates, instruments and documents, if any, representing the Equity Interests in the Pledged Entities to be held by the Administrative Agent as Collateral, together with a transfer power in blank duly executed by Pledgor, as well as any other deliverables required by Section 5.28 of the Credit Agreement.

3. The New Guarantor hereby waives presentment, demand, protest, acceptance, notice of demand, protest and nonpayment and any other notice required by law relative to the Credit Agreement, the Obligations, the Notes and the other Loan Documents.

4. This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute one contract.

5. Except as set forth expressly herein, all terms of the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents, shall be and remain in full force and effect and shall constitute the legal, valid, binding and enforceable obligations of the Borrower and Guarantors to the Administrative Agent and Lenders. To the extent any terms and conditions in any of the Loan Documents shall contradict or be in conflict with any terms or conditions of the Credit Agreement, after giving effect to this Joinder Agreement, such terms and conditions are hereby deemed modified and amended accordingly to reflect the terms and conditions of the Credit Agreement as modified and amended hereby. In any event, this Joinder Agreement and the documents executed in connection therewith shall not, individually or collectively, constitute a novation.

6. To induce the Administrative Agent and Lenders to enter into this Joinder Agreement, the Borrower[, the Existing Guarantors] and the New Guarantor hereby (a) restate and renew each and every representation and warranty heretofore made by them under, or in connection with the execution and delivery of, the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents; (b) restate, ratify and reaffirm each and every term and condition set forth in the Credit Agreement, the Security Agreement and in the Loan Documents, effective as of the date hereof; (c) acknowledge and agree that, as of the date hereof, there exists no right of offset, defense, counterclaim or objection in favor of Borrower [or any Existing Guarantor] as against the Administrative Agent or any Lender with respect to the payment or performance of its Obligations; and (d) certifies that no Default or Event of Default exists.

7. This Joinder Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas.

8. The Borrower[, the Existing Guarantors] and the New Guarantor agree to pay upon request the actual costs and expenses of the Administrative Agent and Lenders reasonably incurred in connection with the preparation, execution, delivery and enforcement of this Joinder Agreement and all other Loan Documents executed in connection herewith, the closing hereof, and any other transactions contemplated hereby, including the reasonable fees and out-of-pocket expenses of Administrative Agent's legal counsel.

[Remainder of the page intentionally left blank]

IN WITNESS WHEREOF, The Borrower[, the Existing Guarantors] and the New Guarantor have caused this Joinder Agreement to be duly executed by its authorized officers for the benefit of the Administrative Agent and the Lenders as of the day and year first above written.

[NAME OF NEW GUARANTOR]

[_____]

By: _____
Name: _____
Title: _____

HMS INCOME LLC,
a Maryland limited liability company

By: _____
Name: _____
Title: _____

[EXISTING GUARANTORS]

[_____]

By: _____
Name: _____
Title: _____

CAPITAL ONE, NATIONAL ASSOCIATION,
as Administrative Agent and as a Lender

By: _____
Name: _____
Title: _____

[Provide Information here to update Schedules and Exhibits to Credit Agreement, Security Agreement, Pledge Agreement and other Loan Documents]

EXHIBIT J

FORM OF SECURITY AGREEMENT

[To be Distributed Separately]

GENERAL SECURITY AGREEMENT

THIS GENERAL SECURITY AGREEMENT, dated as of the 24th day of May 2012 (the "**Agreement**"), is made among HMS INCOME LLC, a Maryland limited liability company (the "**Borrower**"), any Guarantors who become a party hereto (collectively, the '**Guarantor Grantors**", and the Borrower and the Guarantor Grantors being collectively called the "**Grantors**"), and CAPITAL ONE, NATIONAL ASSOCIATION, acting as administrative agent (in such capacity, the "**Administrative Agent**") for itself and for the other Secured Parties as defined herein.

W I T N E S S E T H :

RECITALS:

WHEREAS, the Administrative Agent and the Lenders (as defined in the Credit Agreement referred to below) have agreed to extend credit to the Borrower pursuant to the terms of that certain Credit Agreement of even date herewith among the Borrower, Capital One, National Association, as a Lender and as the Administrative Agent, and the Lenders signatory thereto from time to time (as amended, restated, or otherwise modified from time to time, the "**Credit Agreement**"). All capitalized terms not otherwise defined herein have the meanings given such terms in the Credit Agreement;

WHEREAS, the Borrower may from time to time enter into or guarantee one or more Hedge Transactions with the Hedge Counterparties;

WHEREAS, each of the Guarantors has agreed to guarantee, among other things, all the obligations of the Borrower under the Credit Agreement and the other Loan Documents; and

WHEREAS, the obligations of the Administrative Agent and the Lenders to extend credit under the Credit Agreement and the other Loan Documents are conditioned upon, among other things, the execution and delivery by the Grantors of a security agreement in the form hereof to secure (a) the due and punctual payment by the Borrower of: (i) the principal of and interest on the Notes (including, without limitation, any and all Revolver Advances), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and any renewals, modifications or extensions thereof, in whole or in part; (ii) each payment required to be made by the Borrower under the Credit Agreement, when and as due, including payments in respect of reimbursement of disbursements, interest thereon, and obligations, if any, to provide cash collateral and any renewals, modifications or extensions thereof, in whole or in part; and (iii) all other monetary obligations of the Borrower to the Secured Parties under the Credit Agreement and the other Loan Documents to which the Borrower is or is to be a party and any renewals, modifications or extensions thereof, in whole or in part; (b) the due and punctual performance of all other obligations of the Borrower under the Credit Agreement and the other Loan Documents to which the Borrower is or is to be a party, and any renewals, modifications or extensions thereof, in whole or in part; (c) the due and punctual payment (whether at the stated maturity, by acceleration or otherwise) of all obligations (including any and all Hedging Obligations arising under Hedging Agreements and obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due), indebtedness and liabilities of the Borrower, now existing or hereafter incurred under, arising out of or in connection with any and all Hedging Agreements and any renewals, modifications or extensions thereof (including, all obligations, if any, of the Borrower as guarantor under the Credit Agreement in respect of Hedging Agreements), and the due and punctual performance and compliance by the Borrower with all of the terms, conditions and agreements contained in any Hedging Agreement and any renewals, modifications or extensions thereof; (d) the due and

punctual payment and performance of all indebtedness, liabilities and obligations of any one or more of the Borrower and Guarantors arising out of or relating to any Bank Products; (e) the due and punctual payment and performance of all indebtedness, liabilities and obligations of any one or more of the Borrower and Guarantors arising out of or relating to any Cash Management Services; and (f) the due and punctual payment and performance of all obligations of each of the Guarantors under the Credit Agreement and the other Loan Documents to which they are or are to be a party and any and all renewals, modifications or extensions thereof, in whole or in part (all the foregoing indebtedness, liabilities and obligations being collectively called the "**Obligations**").

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Grantors and the Administrative Agent, the parties agree as follows:

1. **Definitions**. As herein used, the following terms shall have the following meanings:

(a) "**Account**" means any and all accounts (as that term is defined in the UCC) of any Grantor and includes, without limitation, all obligations of every kind at any time owing to any Grantor, all contract rights, health care insurance receivables and any and all rights of any Grantor to payment for goods sold or leased or for services rendered whether due or to become due, whether or not earned by performance and whether now existing or arising in the future, including, without limitation, Accounts from Affiliates of the Grantors.

(b) "**Account Debtor**" means any Person who is or may become obligated to a Grantor under, with respect to or on account of an Account or any Supporting Obligation related thereto.

(c) "**Accounts Receivable Collateral**" shall mean all obligations of every kind at any time owing to Borrower or any Guarantor howsoever evidenced or incurred, whether or not earned by performance, including, without limitation, all accounts, instruments, notes, drafts, acceptances, leases, open accounts, contract rights, chattel paper (whether tangible or electronic) and general intangibles, all returned or repossessed goods and all books, records, computer tapes, programs and ledger books arising therefrom or relating thereto, whether now owned or hereafter acquired or arising and all proceeds of the foregoing.

(d) "**Chattel Paper**" means any and all chattel paper (as that term is defined in the UCC), whether tangible chattel paper or electronic chattel paper (as each term is defined in the UCC), of any Grantor.

(e) "**Collateral**" means (i) all Accounts, Accounts Receivable Collateral, General Intangibles, Documents, Chattel Paper and Instruments now existing or hereafter arising of each Grantor; (ii) all guarantees of each Grantor's existing and future Accounts, General Intangibles, Chattel Paper and Instruments and all other security held by any Grantor for the payment and satisfaction thereof; (iii) all Inventory now owned or hereafter acquired by any Grantor; (iv) all Equipment now owned or hereafter acquired of each Grantor; (v) all Intercompany Claims now existing or hereafter arising; (vi) any and all now owned or hereafter acquired or arising Deposit Accounts, Investment Related Property, Letter of Credit Rights, Goods (as that term is defined in the UCC), Commercial Tort Claims and Supporting Obligations; (vii) all books and records of the Grantors (including, without limitation, computer records, tapes, discs and programs and all other media, written, electric, magnetic or otherwise, containing such records) which relate to any Grantor's Inventory, Equipment, Accounts, Deposit Accounts, Investment Related Property, Letter of Credit Rights, Goods, Supporting Obligations, General Intangibles, Chattel Paper and Instruments or guarantees thereof; (viii) all insurance on all of the foregoing and the proceeds of that insurance; and (ix) all cash and noncash proceeds and products of all of the foregoing and the proceeds and products of other proceeds and products.

(f) "**Collateral Locations**" shall have the meaning assigned in **Section 6** hereof.

(g) "**Commercial Tort Claims**" shall mean all commercial tort claims as defined in the UCC, including, without limitation, all commercial tort claims listed on **Schedule III** (as such schedule may be amended or supplemented from time to time).

(h) "**Commodities Accounts**" (i) shall mean all commodity accounts as defined in Article 9 of the UCC and (ii) shall include, without limitation, all of the accounts listed on **Schedule II** under the heading "Commodities Accounts" (as such schedule may be amended or supplemented from time to time).

(i) "**Credit Documents**" means the Credit Agreement, the Notes, the Collateral Documents and all other Loan Documents.

(j) "**Deposit Account**" means all deposit accounts (as that term is defined in the UCC) of any Grantor, including without limitation, (i) any and all moneys, sums and amounts now or hereafter on deposit with any Secured Party or otherwise to the credit of or belonging to any Grantor and (ii) all of the accounts listed on **Schedule II** under the heading "**Deposit Accounts**" (as such schedule may be amended or supplemented from time to time).

(k) "**Documents**" means any and all documents (as that term is defined in the UCC) of any Grantor.

(l) "**Equipment**" means any and all equipment (as that term is defined in the UCC) of any Grantor and shall include, without limitation, all equipment, machinery, appliances, tools, motor vehicles, furniture, furnishings, floor samples, office equipment and supplies, and tangible personal property, whether or not the same are or may become fixtures, used or bought for use primarily in the business of any Grantor or leased by any Grantor to or from others, of every nature, presently existing or hereafter acquired or created, wherever located, additions, accessories and improvements thereto and substitutions therefor and all parts which may be attached to or which are necessary for the operation and use of such personal property or fixtures, whether or not the same shall be deemed to be affixed to real property, all manufacturer's warranties therefor, all parts and tools therefor, and all rights under or arising out of present or future contracts relating to the foregoing. All equipment is and shall remain personal property irrespective of its use or manner of attachment to real property.

(m) "**Excluded Capital Securities**" means, collectively, any outstanding Capital Securities of a Foreign Subsidiary in excess of 65% of the voting power of all classes of Capital Securities of such Foreign Subsidiary entitled to vote.

(n) "**Executive Office**" shall have the meaning assigned to it in **Section 6(d)**.

(o) "**General Intangibles**" means all general intangibles (as that term is defined in the UCC) of any Grantor (including, without limitation, all payment intangibles (as that term is defined in the UCC) and software, company records (paper and electronic), correspondence, credit files, records and other documents, computer programs, computer software, computer tapes and cards and other paper and documents in the possession or control of any Grantor or in the possession or control of any affiliate or computer service bureau, and all contract rights (including, without limitation, rights under any Hedging Transaction), claims, choses in action, bank balances, judgments, rights as lessee under any and all leases

of personal property, rights and/or claims to tax refunds and other claims and rights to monies or property, warranties, patents, patent applications, trademarks, trade names, trade secrets, formulas, licensing agreements, royalty payments, copyrights, service names, customer lists, service marks, logos, goodwill, intellectual property and deposit accounts, and all other general intangibles of every kind, type or description).

(p) "**Instruments**" means all instruments (as that term is defined in the UCC) of any Grantor, including without limitation, checks, notes, certificated certificates of deposit, investment securities, negotiable instruments and writings evidencing a right to the payment of money of a type transferred in the ordinary course of business by delivery with any necessary instrument or assignment.

(q) "**Intercompany Claims**" shall mean any and all rights of any Grantor in respect of loans, advances or other claims owed to such Grantor by the Borrower, Guarantors or any Subsidiary of Borrower or any Guarantor.

(r) "**Inventory**" means any and all inventory (as that term is defined in the UCC) of any Grantor and shall include, without limitation, tangible personal property held for sale or lease or to be furnished under contracts of service, tangible personal property which any such Grantor has so leased or furnished, and raw materials, work in process and materials used, produced or consumed in such Grantor's business, and shall include tangible personal property returned to any such Grantor by a purchaser or lessor thereof following the sale or lease thereof by any such Grantor.

(s) "**Inventory Collateral**" shall mean all inventory of the Borrower and Guarantors, or in which the Borrower or Guarantors have rights, whether now owned or hereafter acquired, wherever located, including, without limitation, all goods of the Borrower and Guarantors held for sale or lease or furnished or to be furnished under contracts of service, all goods held for display or demonstration, goods on lease or consignment, returned and repossessed goods, all raw materials, work-in-process, finished goods and supplies used or consumed in the business of Borrower or any Guarantor, together with all documents, documents of title, dock warrants, dock receipts, warehouse receipts, bills of lading or orders for the delivery of all, or any portion, of the foregoing.

(t) "**Investment Accounts**" shall mean the Securities Accounts, Commodities Accounts and Deposit Accounts.

(u) "**Investment Related Property**" means (i) any and all investment property (as that term is defined in the UCC) of any Grantor, including without limitation, any and all securities, whether certificated or uncertificated, Security Entitlements, Securities Accounts, Commodity Contracts and Commodity Accounts and (ii) all of the following (regardless of whether classified as investment property under the UCC): all (w) Pledged Equity Interests, (x) Pledged Debt, (y) the Investment Accounts and (z) Certificates of Deposit.

(v) "**Letter of Credit Rights**" means any and all letter of credit right (as that term is defined in the UCC).

(w) "**Obligations**" has the meaning set forth in the Recitals.

(x) "**Permitted Liens**" shall have the meaning given such term in **Section 6(b)** hereof.

(y) "**Person**" means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency or instrumentality, a business trust, an estate, a trust, a partnership, a cooperative, an association, two or more Persons having a joint or common interest or any other legal or commercial entity.

(z) "**Pledged Debt**" shall mean all indebtedness for borrowed money owed to a Grantor, whether or not evidenced by any instrument or promissory note, including, without limitation, all indebtedness described on **Schedule II** under the heading "**Pledged Debt**" (as such schedule may be amended or supplemented from time to time), all monetary obligations owing to any Grantor from any other Grantor (including Intercompany Claims), the instruments evidencing any of the foregoing, and all interest, cash, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the foregoing.

(aa) "**Pledged Equity Interests**" shall mean all shares of and interests in Capital Securities owned by a Grantor, including, without limitation, all shares of and interests in Capital Securities described on **Schedule II** under the heading "**Pledged Equity Interests**" (as such schedule may be amended or supplemented from time to time), and the certificates, if any, representing such shares and any interest of such Grantor in the entries on the books of the issuer of such shares or interests or on the books of any securities intermediary pertaining to such shares or interests, and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares or interests and any other warrant, right or option to acquire any of the foregoing, but excluding the Excluded Equity Interests (as defined in the Pledge Agreement).

(bb) "**Proceeds**" means any and all proceeds (as that term is defined in the UCC), including without limitation, whatever is received when Collateral is sold, exchanged, collected or otherwise disposed of.

(cc) "**Representation Date**" means each of (i) the Closing Date and (ii) each Reporting Date. As used in this definition, "Reporting Date" shall mean the date of delivery of any amendment or supplement to the Schedules hereto in accordance with the terms of this Agreement, which delivery shall occur not less frequently than each Fiscal Quarter and shall occur promptly following the end of each Fiscal Quarter, and in any event within 40 days following the end of each Fiscal Quarter and 75 days following the end of each Fiscal Year.

(dd) "**Secured Parties**" shall have the meaning set forth in the Credit Agreement.

(ee) "**Securities Accounts**" shall mean all securities accounts as defined in Article 8 of the UCC, and shall include, without limitation, all of the accounts listed on **Schedule II** under the heading "**Securities Accounts**" (as such schedule may be amended or supplemented from time to time).

(ff) "**Supporting Obligations**" means any and all supporting obligations (as that term is defined in the UCC).

(gg) "**UCC**" means the Uniform Commercial Code as in effect in the State of Texas or, when the context relates to perfection or priority of a security interest, the Uniform Commercial Code as in effect from time to time in any other applicable jurisdiction.

Terms used herein and not otherwise defined herein shall have the meanings set forth in the Credit Agreement or, if not defined therein, the UCC. The rules of interpretation specified in Section 9.16 of the Credit Agreement shall be applicable to this Agreement and the provisions of Section 1.04 of the Credit Agreement shall apply to this Agreement as if such provisions were specifically set forth herein *mutatis mutandis*.

2. **Security Interest**. In consideration of and in order to secure the fulfillment, satisfaction, payment and performance of all of the Obligations, each Grantor hereby assigns, pledges, hypothecates and sets over to the Administrative Agent, its successors and its assigns, for the benefit of the Secured Parties, and grants to the Administrative Agent, its successors and its assigns, for the benefit of the Secured Parties, a security interest in all of the Collateral. Notwithstanding anything herein to the contrary, Collateral shall not include, and the security interest herein shall not attach to, (y) the Excluded Capital Securities or (z) any property rights in Capital Securities (other than Capital Securities issued by any Subsidiary), or any Operating Documents of any issuer of such Capital Securities to which a Grantor is a party, or any of its rights or interests thereunder, if the grant of such security interest shall constitute or result in (i) the abandonment, invalidation or unenforceability of any right, title or interest of the Grantor therein or (ii) in a breach or termination pursuant to the terms of, or a default under, any such property rights or Operating Documents (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provisions) of any relevant jurisdiction or any other Applicable Law (including the Bankruptcy Code) or principals of equity).

3. **Care of Collateral**. The Grantors have the risk of loss of the Collateral. The Administrative Agent shall have no duty of care with respect to the Collateral, except that the Administrative Agent shall exercise reasonable care with respect to Collateral in its custody, but shall be deemed to have exercised reasonable care if such property is accorded treatment substantially equal to that which the Administrative Agent accords its own property, or if the Administrative Agent takes such action with respect to the Collateral as a Grantor shall request in writing, but no failure to comply with any such request nor any omission to do any such act requested by a Grantor shall be deemed a failure to exercise reasonable care, nor shall the Administrative Agent's failure to take steps to collect any income accruing on the Collateral or to preserve rights against any parties or property be deemed a failure to have exercised reasonable care with respect to Collateral in its custody. The rights and security interest herein provided are granted as security only and shall not subject the Administrative Agent or any Secured Party to, or in any way alter or modify, any obligation or liability of any Grantor with respect to or arising out of any of the Collateral.

4. **Set-Off**. In addition to the rights and security interest elsewhere herein set forth, the Administrative Agent may, at its option at any time(s) after the occurrence of an Event of Default and during the continuation thereof, and with or without notice to any Grantor, appropriate and apply to the payment or reduction, either in whole or in part, of the amount owing on any one or more of the Obligations, whether or not then due, any and all moneys now or hereafter on deposit in a Deposit Account maintained with the Administrative Agent or otherwise to the credit of or belonging to a Grantor in such Deposit Account, it being understood and agreed that the Administrative Agent shall not be obligated to assert or enforce any rights or security interest hereunder or to take any action in reference thereto, and that the Administrative Agent may in its discretion at any time(s) relinquish its rights as to particular Collateral hereunder without thereby affecting or invalidating the Administrative Agent's rights hereunder as to all or any other Collateral hereinbefore referred to.

5. **Collection of Accounts and Pledged Debt; Interest and other Amounts Payable**

(a) Upon occurrence of an Event of Default and during the continuation thereof, the Administrative Agent shall have the right at any time:

(i) to collect the Accounts and Pledged Debt, to sell, assign, compromise, discharge or extend the time for payment of any Account or Pledged Debt, to accelerate any Pledged Debt that may be accelerated in accordance with its terms, to institute legal action for the collection of any Account or Pledged Debt, and to do all acts and things necessary or incidental thereto, in each case acting if it so chooses in the name of any or all of the Grantors, and the Grantors hereby ratify all such acts;

(ii) without notice to any Grantor, to notify the parties obligated on any of the Collateral of the security interest in favor of the Administrative Agent created hereby and to direct all such Persons to make payments of all amounts due thereon or thereunder directly to the Administrative Agent or to an account designated by the Administrative Agent;

(iii) request that the Grantors notify Account Debtors and/or obligors under Pledged Debt and indicate on all billings that payments thereon are to be made to the Administrative Agent, and the Grantors hereby agree to make such notification and such indication on billings if so requested. In the event Account Debtors and/or obligors under Pledged Debt are so notified, no Grantor shall compromise, discharge, extend the time for payment or otherwise grant any indulgence or allowance with respect to any Account or Pledged Debt without the prior written consent of the Administrative Agent.

(b) Each Grantor irrevocably designates and appoints the Administrative Agent its true and lawful attorney either in the name of the Administrative Agent or in the name of such Grantor, effective after the occurrence of an Event of Default and during the continuation thereof to ask for, demand, sue for, collect, compromise, compound, receive, receipt for and give acquittances for any and all sums owing or which may become due upon any items of the Collateral and, in connection therewith, to take any and all actions as the Administrative Agent may deem necessary or desirable in order to realize upon the Collateral, including, without limitation, power to endorse in the name of such Grantor, any checks, drafts, notes or other instruments received in payment of or on account of the Collateral, but the Administrative Agent shall not be under any duty to exercise any such authority or power or in any way be responsible for the collection of the any Collateral.

(c) All interest, income, principal, other amounts and Proceeds (including wire transfers, checks and other instruments) that are received by any Grantor in violation of the provisions of clause (a) shall be received in trust for the benefit of the Administrative Agent, shall be segregated from other property or funds of the Grantors and shall be forthwith deposited into such account or paid over or delivered to the Administrative Agent in the same form as so received (with any necessary endorsements or assignments) to be held as Collateral and applied to the Obligations as provided herein. The rights set forth in this **Section 5** are supplementary and in addition to (and not in limitation of) the rights granted to the Administrative Agent and/or the Secured Parties in the Credit Documents.

6. **Representations, Warranties and Covenants as to Collateral**.

Each Grantor represents, warrants and covenants to and for the benefit of the Administrative Agent and the Secured Parties, on the date of this Agreement and on each date a Borrowing is made or deemed made, that:

(a) **Sale of Collateral**. Upon the sale, exchange or other disposition of the Inventory Collateral, the security interest and lien created and provided for herein, without break in continuity and without further formality or act, shall continue in and attach to any proceeds thereof, including, without limitation, accounts, chattel paper, contract rights, shipping documents, documents of title, bills of lading, warehouse receipts, dock warrants, dock receipts and cash or non-cash proceeds, and in the event of any unauthorized sale, shall continue in the Inventory Collateral itself.

(b) **Good Title; No Existing Encumbrances**. The Grantors own their respective items of Collateral free and clear of any prior Lien other than Liens permitted by Section 5.14 of the

Credit Agreement (referred to herein as the "**Permitted Liens**"), and no financing statements or other evidences of the grant of a security interest respecting the Collateral exist on the public records other than with respect to Permitted Liens.

(c) **Right to Grant Security Interest; No Further Encumbrances**. The Grantors have the right to grant a security interest in the Collateral. Except as permitted by the Credit Agreement, the Grantors will pay all taxes and other charges against the Collateral (including, without limitation, property, use and sales taxes). No Grantor will acquire, use or permit any Collateral to be used illegally or in violation of Applicable Laws or allow the Collateral to be encumbered except for Permitted Liens.

(d) **Location of Collateral**. The Grantors hereby represent and warrant to the Administrative Agent and the Lenders that, as of the date hereof, the Collateral is situated only at the collateral locations listed in **Schedule I** hereto (the "**Collateral Locations**"), and the Grantors covenant with the Administrative Agent not to locate the Collateral at any location other than a Collateral Location without at least 20 days prior written notice to the Administrative Agent. The executive office of each Grantor set forth on **Schedule I** hereto (the "**Executive Office**") is, and for the one-year period preceding the Closing Date has been, such Grantor's chief executive office (if such Grantor has more than one place of business) or place of business (if such Grantor has one place of business). In addition, to the extent the Grantors should warehouse any of the Inventory Collateral, the Grantors acknowledge and agree that such warehousing may be conducted only by warehousemen who shall: (1) issue non-negotiable warehouse receipts in the Administrative Agent's name to evidence any such warehousing of goods constituting Inventory Collateral; or (2) issue electronic warehouse receipts in the Administrative Agent's name to evidence any such warehousing of goods constituting Inventory Collateral in compliance with applicable federal regulations and in all other respects satisfactory to the Administrative Agent in its sole discretion. If the Grantors consign any of the Inventory Collateral, it will comply with the UCC of any state where such Inventory Collateral is located with respect thereto, and shall file, cause the filing and hereby authorizes the Administrative Agent to file in the appropriate public office or offices UCC-1 financing statements showing such Grantor or Grantors, as the case may be, as consignor and the Administrative Agent as assignee of consignor, and will furnish copies thereof to the Administrative Agent. If any of the Inventory Collateral or Equipment Collateral or any records concerning the Collateral are at any time to be located on premises leased by a Grantor or on premises owned by a Grantor subject to a mortgage or other lien, such Grantor shall so notify the Administrative Agent and shall if reasonably requested by the Administrative Agent obtain and deliver or cause to be delivered to the Administrative Agent, an agreement, in form and substance satisfactory to the Administrative Agent, waiving the landlord's or mortgagee's or lienholder's right to enforce any claim against the Grantors for monies due under the landlord's lien, mortgage or other lien by levy or distraint or other similar proceedings against the Inventory Collateral or Equipment Collateral or records concerning the Collateral and assuring the Administrative Agent's ability to have access to the Inventory Collateral or Equipment Collateral and records concerning the Collateral in order to exercise its right hereunder to take possession thereof.

(e) **Collateral Status**. The Grantors will promptly notify the Administrative Agent if there is any adverse change in the status of the Collateral that would reasonably be expected to have a Material Adverse Effect or that would materially and adversely affect the ability of any Grantor or the Administrative Agent to dispose of the Collateral or any material portion thereof, or the rights and remedies of the Administrative Agent in relation thereto, including, without limitation, the levy of any legal process against the Collateral or any material portion thereof.

(f) **Delivery of Certain Collateral**. Upon the reasonable request of the Administrative Agent, the Grantors shall deliver to the Administrative Agent (or to the Collateral Custodian as its agent and bailee), all agreements, letters of credit, promissory notes, instruments, certificates of deposit, chattel paper or anything else, the physical possession of which is necessary in

order for the Administrative Agent, on behalf of the Secured Parties, to perfect or preserve the priority of its security interest therein. Without limiting the generality of the foregoing, with respect to any Investment Related Property that is represented by a certificate or that is an "instrument" (other than any Investment Related Property credited to a Securities Account), each Grantor shall cause such certificate or instrument to be delivered to the Administrative Agent (or to the Collateral Custodian as its agent and bailee), indorsed in blank by an "effective indorsement" (as defined in Section 8-107 of the UCC), regardless of whether such certificate constitutes a "certificated security" for purposes of the UCC.

(g) **Records Respecting Collateral**. The Grantors shall keep complete and accurate books and records and make all necessary entries thereon to reflect the transactions and facts giving rise to the Collateral and payments, credits and adjustments applicable thereto, all in accordance with GAAP. All books and records of the Grantors with respect to the Collateral will be accessible from the Executive Office (as it may be changed pursuant to **Section 6(e)**).

(h) **Further Assurances**. Each Grantor shall duly execute and/or deliver (or cause to be duly executed and/or delivered) to the Administrative Agent (or to the Collateral Custodian as its agent and bailee) any instrument, invoice, document, document of title, dock warrant, dock receipt, warehouse receipt, bill of lading, order, financing statement, assignment, waiver, consent or other writing reasonably requested by the Administrative Agent which may be reasonably necessary to the Administrative Agent to carry out the terms of this Agreement and any of the other Loan Documents and to perfect its security interest in and facilitate the collection of the Collateral, the proceeds thereof, and any other property at any time constituting security to the Secured Parties. Each Grantor shall perform or cause to be performed such acts as the Administrative Agent or any Secured Party may reasonably request to establish and maintain for the Administrative Agent and the Secured Parties a valid and perfected security interest in and security title to the Collateral, free and clear of any Liens other than Permitted Liens.

(i) **Maintenance of Insurance**. In addition to and cumulative with any other requirements herein imposed on the Grantors with respect to insurance, the Grantors shall maintain, or cause to be maintained, insurance as required under the Credit Agreement. The Grantors shall deliver to the Administrative Agent at such times as the Administrative Agent may request, a detailed list of such insurance then in effect stating the names of the insurance companies, the amounts and rates of insurance, the date of expiration thereof, the properties and risks covered thereby and the insured with respect thereto. The Grantors will pay all premiums on the insurance referred to herein as and when they become due and shall do all things necessary to maintain the insurance in effect. If any Grantor shall default in its obligation hereunder to insure the Collateral in a manner satisfactory to the Administrative Agent, then the Administrative Agent shall have the right (but not the obligation), after reasonable notice to such Grantor, to procure such insurance and to charge the costs of same to the Grantors, which costs shall be added to and become a part of the unpaid principal amount of the Obligations and shall be secured by the Collateral. Each Grantor hereby appoints (which appointment constitutes a power coupled with an interest and is irrevocable as long as any of the Obligations remain outstanding) Administrative Agent as its lawful attorney-in-fact, effective after the occurrence of an Event of Default and during the continuation thereof, with full authority to make, adjust, settle claims under and/or cancel such insurance and to endorse the applicable Grantor's name on any instruments or drafts issued by or upon any insurance companies.

(j) **Fundamental Changes**. The Grantors hereby agree that, other than with respect to the Permitted Merger, no Grantor shall move its Executive Office, or change its name, identity, state of incorporation or organization, type of organization or its structure to other than as existing on the date hereof, unless the Grantors shall have (i) notified the Administrative Agent in writing at least 20 days prior thereto and provided such other information as the Administrative Agent may reasonably request and (ii) taken all actions necessary or reasonably requested by the Administrative Agent to maintain the continuous validity, perfection and the same or better priority of the Administrative Agent's Liens.

(k) **Name, Jurisdiction and Identification Number of Organization**. The exact legal name of each Grantor, the state of incorporation or organization and organizational identification number for each Grantor is as set forth on **Schedule I**. Each Grantor was duly organized solely under the laws of such jurisdiction and, except as provided on **Schedule I**, such Grantor has not changed its legal name, jurisdiction of organization or its corporate structure in the five (5) years prior to the Closing Date.

(l) **Control Agreements**. Each Grantor will obtain and deliver or cause to be delivered to the Administrative Agent, a control agreement in form and substance satisfactory to Administrative Agent with respect to the Collateral with respect to: (i) Deposit Accounts; (ii) Investment Related Property (for Securities Accounts, mutual funds and other uncertificated securities); and (iii) Letter of Credit Rights; and/or electronic chattel paper (as defined in the UCC) having, individually, a value in excess of $500,000 or as otherwise requested by the Administrative Agent; provided that, in each case, no such Collateral shall be included in calculating the Borrowing Base unless the same is subject to a control agreement.

(m) **Marking of Chattel Paper**. If requested by the Administrative Agent, no Grantor will create any Chattel Paper without placing a legend on the Chattel Paper reasonably acceptable to the Administrative Agent indicating that the Administrative Agent has a security interest in the Chattel Paper.

(n) **Business Purpose**. None of the Obligations is a Consumer Transaction, as defined in the UCC, and none of the Collateral has been or will be purchased or held primarily for personal, family or household purposes.

(o) **Assumed Debt**. No Grantor has within the last five (5) years become bound (whether as a result of merger or otherwise) as debtor under a security agreement entered into by another Person, which has not been terminated prior to the date of this Agreement.

(p) **No Authorizations**. No authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required for either (i) the pledge or grant by any Grantor of the security interest purported to be created in favor of the Administrative Agent hereunder or (ii) the exercise by the Administrative Agent of any rights or remedies in respect of any Collateral (whether specifically granted or created hereunder or created or provided for by applicable law), except as may be required, in connection with the disposition of any Investment Related Property, by laws generally affecting the offering and sale of Securities.

(q) **Preservation**. No Grantor shall take or permit any action which could materially impair the Administrative Agent's rights in the Collateral, subject to Grantors' rights to dispose of rights in the Collateral to the extent permitted hereunder or under the Credit Agreement or the right to grant Permitted Liens. Each Grantor agrees that it will, at its own cost and expense, take any and all actions necessary to warrant and defend the right, title and interest of the Secured Parties in and to the Collateral against the claims and demands of all other Persons (other than the holders of Permitted Liens).

(r) **Pledged Debt**. On each Representation Date, **Schedule II** hereto (as such schedule may be amended or supplemented from time to time) sets forth under the heading "Pledged Debt" all of the Pledged Debt owned by any Grantor and all of such Pledged Debt with a principal amount in excess of $500,000 individually has been fully authorized, authenticated or issued, and delivered and is the legal, valid and binding obligation of the issuers thereof and is not in default and constitutes all of the issued and outstanding intercompany indebtedness evidenced by an instrument or certificated security of the respective issuers thereof owing to such Grantor.

(s) **Investment Accounts**. **Schedule II** hereto (as such schedule may be amended or supplemented from time to time) sets forth under the headings **Securities Accounts**" and "**Commodities Accounts**," respectively, all of the Securities Accounts and Commodities Accounts in which each Grantor has an interest. Each Grantor is the sole entitlement holder of each such Securities Account and Commodities Account, and such Grantor has not consented to, and is not otherwise aware of, any Person (other than the Administrative Agent pursuant hereto) having "control" (within the meaning of Sections 8-106 and 9-106 of the UCC) over, or any other interest in, any such Securities Account or Commodity Account or any securities or other property credited thereto.

(t) **Deposit Accounts**. **Schedule II** hereto (as such schedule may be amended or supplemented from time to time) sets forth under the heading **Deposit Accounts**" all of the Deposit Accounts in which each Grantor has an interest and each Grantor is the sole account holder of each such Deposit Account and such Grantor has not consented to, and is not otherwise aware of, any Person (other than the Administrative Agent pursuant hereto) having either sole dominion and control (within the meaning of Section 9-104 of the UCC) over, or any other interest in, any such Deposit Account or any money or other property deposited therein.

(u) **Commercial Tort Claims**. **Schedule III** (as such schedule may be amended or supplemented from time to time) sets forth all Commercial Tort Claims of each Grantor.

(v) **Letter of Credit Rights**. **Schedule III** (as such schedule may be amended or supplemented from time to time) lists all letters of credit to which such Grantor has rights.

(w) **After-Acquired Property**. In the event any Grantor acquires rights in any Investment Related Property (other than Pledged Entities (as defined in the Equity Pledge Agreement between the Borrower and the Administrative Agent dated as of the date hereof)), Commercial Tort Claims or Letter of Credit Rights after the date of this Agreement, it shall deliver to the Administrative Agent a completed Pledge Supplement, substantially in the form of **Annex A** attached hereto, together with all Supplements to Schedules thereto, reflecting such new Investment Related Property, Commercial Tort Claims, Letter of Credit Rights and all other Investment Related Property, Commercial Tort Claims, Letter of Credit Rights; provided, however, that the Grantors shall only be required to provide an updated Pledge Supplement with respect to Pledged Debt acquired during any Fiscal Quarter on or before the Reporting Date immediately following the end of such Fiscal Quarter. Notwithstanding the foregoing, it is understood and agreed that the security interest of the Administrative Agent shall attach to all Investment Related Property (other than Excluded Capital Securities), Commercial Tort Claims and Letter of Credit Rights immediately upon any Grantor's acquisition of rights therein and shall not be affected by the failure of any Grantor to deliver a supplement to **Schedule II** or **Schedule III** as required hereby.

7. **Events of Default**. The happening of any one or more of the following events shall constitute an Event of Default hereunder: (a) the nonpayment when due of any of the Obligations which nonpayment is not fully cured within the applicable grace period therefor, if any; (b) the failure to perform, observe or fulfill any covenant or obligation contained in this Agreement and the continuation of such failure for more than thirty (30) days after the earlier of: (i) the first day on which any Loan Party has knowledge of such failure; or (ii) written notice thereof has been given to any Grantor by the Administrative Agent or (c) the occurrence of an Event of Default.

8. **Remedies**. Upon the occurrence of an Event of Default and during the continuation thereof, the Administrative Agent shall have all of the rights and remedies available at law (including, without limitation, those provided to a secured party by the UCC), or in equity to collect, enforce or satisfy any Obligations then owing, whether by acceleration or otherwise. In addition thereto, each Grantor further agrees that (i) in the event that notice is necessary under applicable law, written notice mailed to a Grantor at such Grantor's address as provided herein, ten (10) business days prior to the date of public sale of any of the Collateral subject to the security interest created herein or prior to the date after which private sale or any other disposition of said Collateral will be made shall constitute reasonable notice, but notice given in any other reasonable manner or at any other time shall be sufficient; (ii) in the event of sale or other disposition of any such Collateral, the Administrative Agent may apply the proceeds of any such sale or disposition to the satisfaction of the Administrative Agent's reasonable attorneys' fees, legal expenses, and other costs and expenses incurred in connection with the Administrative Agent's taking, retaking, holding, preparing for sale, and selling of the Collateral; (iii) without precluding any other methods of sale, the sale of Collateral shall have been made in a commercially reasonable manner if conducted in conformity with reasonable commercial practices of banks disposing of similar property but in any event the Administrative Agent may sell on such terms as the Administrative Agent may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind; (iv) the Administrative Agent may require the Grantors to assemble the Collateral, taking all necessary or appropriate action to preserve and keep it in good condition, and make such available to the Administrative Agent at a place and time convenient to both parties, all at the expense of the Grantors; (v) the Administrative Agent has no obligation to repair, clean-up or otherwise prepare the Collateral for sale; and (vi) the Administrative Agent may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral. Furthermore, in any such event, to the extent permitted under applicable law, full power and authority are hereby given the Administrative Agent to sell, assign, and deliver the whole of the Collateral or any part(s) thereof, at any time(s) at any broker's board, or at public or private sale, at the Administrative Agent's option, and no delay on the Administrative Agent's part in exercising any power of sale or any other rights or options hereunder, and no notice or demand, which may be given to or made upon any or all of the Grantors by the Administrative Agent or any Secured Party with respect to any power of sale or other right or option hereunder, shall constitute a waiver thereof, or limit or impair the Administrative Agent's right to take any action or to exercise any power of sale or any other rights hereunder, without notice or demand, or prejudice the Administrative Agent's rights as against the Grantors in any respect. The Grantors hereby waive and release to the fullest extent permitted by law any right or equity of redemption with respect to the Collateral, whether before or after sale hereunder, and all rights, if any, of marshaling the Collateral and any other security for the Obligations or otherwise. At any such sale, unless prohibited by applicable law, the Administrative Agent may bid for and purchase all or any part of the Collateral so sold free from any such right or equity of redemption. If Administrative Agent sells any of the Collateral upon credit, the Grantors will be credited only with payments actually made by the purchaser, received by the Administrative Agent and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, the Administrative Agent may resell the Collateral and the Grantors shall be credited with the proceeds of the sale as and when received, less expenses. In the event the Administrative Agent purchases any of the Collateral being sold, the Administrative Agent may pay for the Collateral by crediting some or all of the Obligations of the Grantors. The Administrative Agent shall not be liable for failure to collect or realize upon any or all of the Collateral or for any delay in so doing nor shall the Administrative Agent be under any obligation to take any action whatsoever with regard thereto. The Administrative Agent has no obligation to attempt to satisfy the Obligations by collecting them from any other Person liable for them and the Administrative Agent may release, modify or waive any collateral provided by any other Person to secure any of the Obligations, all without affecting the Administrative Agent's rights against the Grantors. The Grantors waive any right they may have to require the Administrative Agent to pursue any third Person for any of the Obligations. The

Administrative Agent may sell the Collateral without giving any warranties as to the Collateral and may specifically disclaim any warranties of title or the like. This procedure will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

9. **Continuing Security Interest**. Any and all of the Administrative Agent's rights with respect to the security interests hereunder shall continue unimpaired, and the Grantors shall be and remain obligated in accordance with the terms hereof, notwithstanding the release or substitution of any Collateral at any time or of any rights or interests therein, or any delay, extension of time, renewal, compromise or other indulgence granted by the Administrative Agent or any Secured Party in reference to any of the Obligations, or any promissory note, draft, bill of exchange or other instrument or Credit Document given in connection therewith, the Grantors hereby waiving all notice of any such delay, extension, release, substitution, renewal, compromise or other indulgence, and hereby consenting to be bound thereby as fully and effectually as if the Grantors had expressly agreed thereto in advance.

10. **No Waiver**. No delay on the Administrative Agent's part in exercising any power of sale, option or other right hereunder, and no notice or demand which may be given to or made upon any Grantor by the Administrative Agent, shall constitute a waiver thereof, or limit or impair the Administrative Agent's right to take any action or to exercise any other power of sale, option or any other right hereunder, without notice or demand, or prejudice the Administrative Agent's rights as against any Grantor in any respect.

11. **Financing Statements**. Each Grantor hereby irrevocably authorizes the Administrative Agent at any time and from time to time to file in any relevant jurisdiction any initial financing statements with respect to the Collateral or any part thereof and amendments thereto that contain the information required by the UCC of each applicable jurisdiction for the filing of any financing statement or amendment, including (i) whether such Grantor is an organization, the type of organization and any organizational identification number issued to such Grantor, and (ii) a description of collateral that describes such property in any other manner as the Administrative Agent may reasonably determine is necessary or advisable to ensure the perfection of the security interest in the Collateral granted under this Agreement. Each Grantor agrees to provide such information to the Administrative Agent promptly upon request. Each Grantor agrees to reimburse the Administrative Agent for the expense of any such filings in any location deemed necessary and appropriate by the Administrative Agent. To the extent lawful, each Grantor hereby appoints the Administrative Agent as its attorney-in-fact (without requiring the Administrative Agent to act as such) to perform all other acts that the Administrative Agent deems appropriate to perfect and continue its security interest in, and to protect and preserve, the Collateral.

12. **Power of Attorney**. Each Grantor hereby appoints any officer or agent of the Administrative Agent as such Grantor's true and lawful attorney-in-fact with power (i) effective at any time an Event of Default has occurred and is continuing, to execute and file or record any Assignments of Mortgage with respect to any Portfolio Investment, (ii) effective after the occurrence and during the continuance of an Event of Default, to endorse the name of such Grantor upon any notes, checks, drafts, money orders or other instruments of payment or Collateral which may come into possession of the Administrative Agent; to sign and endorse the name of such Grantor upon any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against Account Debtors, assignments, verifications and notices in connection with Accounts; to give written notice to such office and officials of the United States Postal Service to affect such change or changes of address so that all mail addressed to any or all Grantors may be delivered directly to the Administrative Agent (the Administrative Agent will return all mail not related to the Obligations or the Collateral); granting unto such Grantor's said attorney full power to do any and all things necessary to be done with respect to the above transactions as fully and effectively as the Grantor might or could do, and hereby ratifying all its said attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the term of this Agreement and all transactions hereunder.

13. **Remedies, Etc., Cumulative**. Each right, power and remedy of the Administrative Agent provided for in this Agreement or the Credit Documents or in any of the other instruments or agreements securing the Obligations or now or hereafter existing at law or in equity or by statute shall be cumulative and concurrent and shall be in addition to every other such right, power or remedy. The exercise or beginning of the exercise by the Administrative Agent of any one or more of the rights, powers or remedies provided for in this Agreement, the Credit Documents or in any such other instrument or agreement now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the Administrative Agent of all such other rights, powers or remedies, and no failure or delay on the part of the Administrative Agent to exercise any such right, power or remedy shall operate as a waiver thereof.

14. **Continuing Agreement**. This is a continuing agreement and shall remain in full force and effect until terminated by written agreement of the parties and until all of the principal of, premium, if any, and interest on all of the Obligations have been fully paid. This Agreement and the liens and security interests created and granted hereunder shall remain in effect, notwithstanding the fact that at any time or from time to time there may be no Obligations outstanding, in order to secure all future Obligations. If this Security Agreement is revoked by operation of law as against any Grantor, such Grantor will indemnify and save the Administrative Agent and its successors or assigns, harmless from any loss which may be suffered or incurred by them in making, giving, granting or extending any loans or other credit, financing or financial accommodations, or otherwise acting, hereunder prior to receipt by the Administrative Agent of notice in writing of such revocation.

15. **Miscellaneous**. This Agreement shall be governed by the laws of the State of Texas in all respects, including matters of construction, validity and performance except to the extent that the remedies provided herein with respect to any of the collateral are governed by the laws of any jurisdiction other than Texas; section headings herein are for the convenience of reference only and shall not affect the construction or interpretation of or alter or modify the provisions of this Agreement; none of the terms or provisions of this Agreement may be waived, altered, modified, limited or amended except by an agreement expressly referring hereto and to which the Administrative Agent consents in writing duly signed for the Administrative Agent and on the Administrative Agent's behalf; the rights granted to the Administrative Agent herein shall be supplementary and in addition to those granted to the Administrative Agent and/or the Secured Parties in any Credit Documents; the addresses of the parties for delivery of notices, requests, demands and other communications hereunder are as set forth in the Credit Agreement. Each of the Grantors hereby agrees that all of their liabilities and obligations under this Agreement shall be joint and several. No reference to "proceeds" in this Agreement authorizes any sale, transfer, or other disposition of the Collateral by any Grantor.

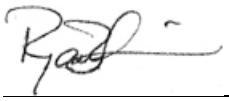
16. **Duties of Administrative Agent**. The Administrative Agent has been appointed by the Secured Parties pursuant to the Credit Agreement. Its duties to the Secured Parties, powers to act on behalf of the Secured Parties, and immunity are set forth solely therein, and shall not be altered by this Security Agreement. Any amounts realized by the Administrative Agent hereunder shall be allocated pursuant to Section 6.04 of the Credit Agreement.

17. **Notices of Exclusive Control**. The Administrative Agent agrees that it shall not deliver a notice of exclusive control under any control agreement executed in connection with this Agreement until a Default or an Event of Default has occurred and is continuing.

IN WITNESS WHEREOF, this Security Agreement has been executed as of the day and year first above written.

GRANTOR:

HMS INCOME LLC, a Maryland limited liability company

By: 

Ryan T. Sims, Manager

SCHEDULE I

Name, Jurisdiction and Identification Number of Organization

The exact legal name of each Grantor, the state of incorporation or organization and organizational identification number for each Grantor is as set forth below:

Grantor	state of incorporation/ organization	organizational identification number
HMS Income LLC	Maryland	MD W14392104
(and after the date of the Permitted Merger, HMS Income Fund, Inc.)		(and after the date of the Permitted Merger, MD D14394100)

Collateral Locations; Executive Offices; Corporate Changes

The Collateral Locations are as set forth below and on **Exhibit A** to this **Schedule 1**.

The Executive Office of each Grantor is as follows:

2800 Post Oak Boulevard, Suite 4800
Houston, Texas 77056
Attention: Todd A. Reppert

Changes to Legal Name, Jurisdiction of Organization or Corporate Structure:

None

EXHIBIT A
TO SCHEDULE I

STREET ADDRESS	CITY	STATE	ZIP
Amegy Bank National Association, 1221 McKinney Street, Level P-1 Location of each account listed on **Schedule II** to this Agreement	Houston	TX	77010

SCHEDULE II

Pledged Investment Property

Securities Accounts

Name and Address of Securities Intermediary	Account Number	Account Name
Amegy Bank National Association		

Deposit Accounts

Name and Address of Depository Institution	Account Number	Account Name
Amegy Bank National Association		
Amegy Bank National Association		

Commodities Accounts

Name and Address of Commodity Intermediary	Account Number	Account Name
None.		

Pledged Debt

Issuer	Original Principal Amount (1)	Outstanding Principal Balance	Issue Date (2)	Maturity Date	CUSIP #
Academy, Ltd.	$ 1,992,305	$ 1,987,305	12/12/2012	8/3/2018	00400YAF8
Ipreo Holdings, LLC	$ 735,798	$ 732,048	12/12/2012	8/5/2017	46263HAC1
Metropolitan Health Networks, Inc.	$ 735,264	$ 735,264	12/12/2012	10/4/2017	59214FAD6
Multiplan, Inc.	$ 750,000	$ 717,498	12/12/2012	8/26/2017	62546LAB0
NAPCO Precast, LLC	$ 750,000	$ 750,000	12/12/2012	2/1/2013	None.
National Healing Corporation	$ 712,500	$ 710,625	12/12/2012	11/30/2017	63632LAC1
NRI Clinical Research, LLC	$ 750,000	$ 717,977	12/12/2012	9/8/2016	None.
Olympus Building Services, Inc.	$ 750,000	$ 750,000	12/12/2012	3/27/2014	None.
Pacific Architects and Engineers Incorporated	$ 736,147	$ 691,147	12/12/2012	4/4/2017	69383GAC0
Phillips Plastic Corporation	$ 742,837	$ 739,087	12/12/2012	2/2/2017	71852RAF7
Principle Environmental, LLC	$ 750,000	$ 750,000	12/12/2012	2/1/2016	None.
Ulterra Drilling Technologies, L.P.	$ 736,155	$ 717,167	12/12/2012	6/9/2016	90384HAC3
Unitek Global Services, Inc.	$ 3,402,159	$ 3,384,571	12/12/2012	4/15/2018	91324VAB5
Van Gilder Insurance Corporation	$ 750,000	$ 750,000	12/12/2012	1/31/2016	None.
VFH Parent LLC	$ 736,014	$ 683,900	12/12/2012	7/8/2016	91820UAB6
Visant Corporation	$ 750,000	$ 711,748	12/12/2012	12/22/2016	92829EAG0
Zieglers NYPD, LLC	$ 750,000	$ 750,000	12/12/2012	10/1/2013	None.

(1) For Senior Bank Investments, the Original Principal Amount is our cost in investing in such investment
(2) Issue date reflects the date HMS Income LLC purchased the investments.

Pledged Equity Interests

See **Schedule I** to the Equity Pledge Agreement between the Borrower and the Administrative Agent, dated as of May 24, 2012, as such schedule may be amended from time to time.

General Security Agreement – Schedule II

SCHEDULE III

Commercial Tort Claims; Letter of Credit Rights

None.

FORM OF PLEDGE SUPPLEMENT

This **PLEDGE SUPPLEMENT,** dated , is delivered by **[NAME OF GRANTOR],** a **[ ]** organized under the laws of the State of **[ ]** (the "**Grantor**"), pursuant to the General Security Agreement, dated as of May 24, 2012 (as it may be from time to time amended, restated, modified or supplemented, the "**Security Agreement**"), between the Grantor and Capital One, National Association, as Administrative Agent, for itself and the other Secured Parties (the "**Administrative Agent**"), and the other grantors party thereto. Capitalized terms used herein not otherwise defined herein shall have the meanings ascribed thereto in the Security Agreement.

Grantor represents and warrants that the attached Supplement to Schedule (the '**Supplement**") accurately and completely sets forth all information required pursuant to the Security Agreement. Grantor hereby (a) agrees that such Supplement shall constitute part of Schedule to the Security Agreement, and (b) confirms the grant to the Administrative Agent set forth in the Security Agreement of, and does hereby grant to the Administrative Agent, a security interest in all of Grantor's right, title and interest in, to and under all Collateral to secure the Obligations.

IN WITNESS WHEREOF, Grantor has caused this Pledge Supplement to be duly executed and delivered by its duly authorized officer as of .

[NAME OF GRANTOR]

By: _____
Name: _____
Title: _____

EXHIBIT K

FORM OF PLEDGE AGREEMENT

[To be Distributed Separately]

EQUITY PLEDGE AGREEMENT

THIS EQUITY PLEDGE AGREEMENT (this "**Agreement**") dated as of this 24th day of May 2012, between HMS INCOME LLC, a Maryland limited liability company (the "**Borrower**"), any other pledgors signatory to this Agreement (together with the Borrower, "**Pledgors**", and each a "**Pledgor**"), and CAPITAL ONE, NATIONAL ASSOCIATION, acting as administrative agent (in such capacity, the "**Administrative Agent**") for itself and the other Secured Parties (as defined in the Credit Agreement referred to below).

W I T N E S S E T H

WHEREAS, the Administrative Agent and the Lenders (as defined in the Credit Agreement referred to below) have agreed to extend credit to Borrower pursuant to the terms of that certain Credit Agreement dated as of May 24, 2012 among the Borrower, the Administrative Agent, and the Lenders signatory thereto from time to time (as amended, restated, or otherwise modified from time to time, the "**Credit Agreement**"), and all capitalized terms not otherwise defined herein shall have the meaning set forth in the Credit Agreement;

WHEREAS, the Pledgors may from time to time enter into or guarantee one or more Hedge Transactions with the Hedge Counterparties;

WHEREAS, each Pledgor beneficially and legally owns the limited liability company membership interests, limited partnership interests, stock and other equity interests in the Guarantor and/or the other Loan Parties and the Subsidiaries described on **Schedule I** attached hereto (the "**Pledged Entities**"); and

WHEREAS, it is a condition of the Lenders' agreement to extend credit to Borrower pursuant to the Credit Agreement that the Administrative Agent, on behalf of the Secured Parties, receive a pledge of the Collateral (as defined below) hereunder by Pledgors' execution and delivery of this Agreement to secure: (a) the due and punctual payment by Borrower of: (i) the principal of and interest on the Notes (including, without limitation, any and all Revolver Advances), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and any renewals, modifications or extensions thereof, in whole or in part; (ii) each payment required to be made by any Pledgor under the Credit Agreement, when and as due, including payments in respect of reimbursement of disbursements, interest thereon, and obligations, if any, to provide cash collateral and any renewals, modifications or extensions thereof, in whole or in part; and (iii) all other monetary obligations of any Pledgor to the Secured Parties under the Credit Agreement and the other Loan Documents to which any Pledgor is or is to be a party and any renewals, modifications or extensions thereof, in whole or in part; (b) the due and punctual performance of all other obligations of any Pledgor under the Credit Agreement and the other Loan Documents to which such Pledgor is or is to be a party, and any renewals, modifications or extensions thereof, in whole or in part; (c) the due and punctual payment (whether at the stated maturity, by acceleration or otherwise) of all obligations (including any and all Hedging Obligations arising under Hedging Agreements and obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due), indebtedness and liabilities of any Pledgor, now existing or hereafter incurred under, arising out of or in connection with any and all Hedging Agreements and any renewals, modifications or extensions thereof (including, all obligations, if any, of any Pledgor as guarantor under the Credit Agreement in respect of Hedging Agreements), and the due and punctual performance and compliance by each Pledgor with all of the terms, conditions and agreements contained in any Hedging Agreements and any renewals, modifications or extensions thereof; (d) the due and punctual payment and performance of all indebtedness, liabilities and obligations of any one or more of

Pledgors and the Guarantors arising out of or relating to any Bank Products; (e) the due and punctual payment and performance of all indebtedness, liabilities and obligations of any one or more of Pledgors and the Guarantors arising out of or relating to any Cash Management Services; and (f) the due and punctual payment and performance of all obligations of each of the Guarantors under the Credit Agreement and the other Loan Documents to which they are or are to be a party and any and all renewals, modifications or extensions thereof, in whole or in part (all of the foregoing indebtedness, liabilities and obligations being collectively called the "**Obligations**").

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

SECTION 1. Definitions. Any capitalized terms used but not defined herein shall have the meanings assigned to them in the Credit Agreement.

SECTION 2. Pledge; Perfection.

(a) As collateral security for the due and punctual payment of the Obligations, each Pledgor hereby pledges, hypothecates, delivers and assigns and grants unto Administrative Agent, as agent for itself and the Secured Parties, a security interest (which security interest shall constitute a first priority security interest), in all of such Pledgor's membership interests, limited partnership interests, common stock and other equity interests in the Pledged Entities and all securities instruments or other rights convertible into or exercisable for the foregoing (the "**Equity Interests**"), together with all proceeds, profits, interests, capital accounts, accounts, contract rights, general intangibles, deposits, funds, dividends, distributions, rights to dividends, rights to distributions, including both distributions of money and of property, and other rights, claims and interests relating to or arising out of such Pledgor's Equity Interests, now owned or hereafter acquired, in the Pledged Entities, together with any and all replacements or substitutions for or proceeds of all of the foregoing (collectively, the "**Collateral**"); provided that, notwithstanding anything herein to the contrary, Collateral shall not include, and the security interest herein shall not attach to, (i) any outstanding Equity Interests of a Foreign Subsidiary in excess of 65% of the voting power of all classes of Equity Interests of such Foreign Subsidiary entitled to vote or (ii) any property rights in Equity Interests (other than Equity Interests issued by any Subsidiary), or any Operating Documents of any issuer of such Equity Interests to which Pledgor is a party, or any of its rights or interests thereunder, if the grant of such security interest shall constitute or result in (A) the abandonment, invalidation or unenforceability of any right, title or interest of the Pledgor therein or (B) a breach or termination pursuant to the terms of, or a default under, any such property rights or Operating Documents (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provisions) of any relevant jurisdiction or any other Applicable Law (including the Bankruptcy Code) or principles of equity) (the Equity Interests described in foregoing clauses (i) through (ii), the "**Excluded Equity Interests**"); provided further that, until such time as attachment occurs with respect to any Excluded Equity Interest of the type described in clause (ii), references in this Agreement to "Pledged Entities" shall be deemed not to include the issuers of such Excluded Equity Interest.

(b) This Agreement is not intended to place Administrative Agent or any Secured Party in a position of being a member, shareholder or partner of any Pledged Entity, but is intended to grant Administrative Agent, on behalf of the Secured Parties, a lien on and security interest in Pledgor's Equity Interests in the Pledged Entities including, without limitation, any and all of the Collateral but specifically excluding any general partnership interests.

(c) Each Pledgor hereby delivers to the Administrative Agent (or to the Collateral Custodian as its agent and bailee), on behalf of the Secured Parties, including itself, herewith all certificates, instruments and documents, if any, representing the Equity Interests in the Pledged Entities to be held by the Administrative Agent as Collateral, together with a transfer power in blank duly executed by Pledgor.

SECTION 3. Representations and Warranties. Each Pledgor hereby represents and warrants, as of the date hereof and each day on which a Borrowing is made, that:

(a) Pledgor has all requisite power and authority to enter into this Agreement, to grant a security interest in the Collateral for the purposes described in **Section 2** and to carry out the transactions contemplated by this Agreement;

(b) No approval of or consent from any person or entity (other than the acknowledgement and consent of any Pledged Entity which is a Subsidiary as evidenced by its signature hereto) is required in connection with the execution and delivery by Pledgor of this Agreement, the granting and perfection of the security interests in the Collateral, or the carrying out of the transactions contemplated by this Agreement (including the exercise by the Administrative Agent of the voting or other rights provided for in this Agreement or the exercise of remedies in respect thereof);

(c) Pledgor is the record and beneficial owner of the Collateral as of the date hereof;

(d) All of the Collateral is owned by Pledgor free and clear of any pledge, mortgage, hypothecation, lien, charge, encumbrance or any security interest in such Collateral or the proceeds thereof, except for the security interest granted to the Administrative Agent on behalf of the Secured Parties hereunder, and there are no outstanding warrants, options or other rights to purchase, or shareholder, voting trust or similar agreements outstanding with respect to, or property that is convertible into, or that requires the issuance of sale of, any Equity Interests;

(e) The execution, delivery and performance by Pledgor of this Agreement do not and will not contravene or constitute a default under or result in any violation of any agreement (including, without limitation, the operating or partnership agreement of any Pledged Entity), indenture or other instrument, license, judgment, decree, order, law, statute, ordinance or other governmental rule or regulation applicable to Pledgor;

(f) On each Representation Date (as defined in the Security Agreement), **Schedule I** hereto (as such schedule may be amended or supplemented from time to time pursuant to the terms of this Agreement) sets forth all of the issued and outstanding Equity Interests held by Pledgor and such Equity Interests constitute the percentage of issued and outstanding shares of stock, percentage of membership interests or percentage of partnership interests of the respective Pledged Entities indicated on **Schedule I**.

(g) Each Pledged Entity is a limited liability company, limited partnership or corporation duly formed, validly existing and in good standing as such under the laws of the jurisdiction of its organization as set forth on **Schedule I** hereto, and the execution and delivery of this Agreement require no action by or in respect of, or filing with, any governmental body, agency or official (except for the UCC filings set forth in paragraph (h) below) and do not contravene, or constitute a default under, the operating agreement, partnership agreement, charter or by-laws of any Pledged Entity;

(h) Upon filing of a UCC Financing Statement with the UCC records of the Secretary of State of the state of organization of each Pledgor, this Agreement creates and grants a valid lien on and perfected security interest in the Collateral and the proceeds thereof, subject to no prior security interest, lien, charge or encumbrance, or to any agreement purporting to grant to any third party a security interest in the property or assets of such Pledgor which would include the Collateral;

(i) A true, correct and complete copy of the operating agreement, limited partnership agreement, charter and by-laws, as the case may be, of each Pledged Entity (together with all amendments thereto) has been provided to the Administrative Agent;

(j) to the extent that any limited liability company interests or partnership interests pledged as Collateral are or represent issuers that have opted to be treated as securities under the applicable UCC, the certificates representing such securities have been delivered to the Administrative Agent (or to the Collateral Custodian as its agent and bailee), and no limited liability company interests or partnership interests pledged as Collateral are dealt in or traded on securities exchanges or markets; and

(k) None of the Equity Interests constitutes Margin Stock.

SECTION 4. Voting Rights; Distributions, Etc.

(a) So long as no Event of Default shall have occurred and be continuing:

(i) Each Pledgor shall be entitled to exercise any and all voting and/or other consensual rights and powers relating or pertaining to the Collateral or any part thereof, provided, however, that no vote shall be cast or right exercised or other action taken which would (A) impair the Collateral or any portion thereof or the rights and remedies of the Administrative Agent under the Loan Documents, or (B) have or would reasonably be expected to have a material adverse effect on the Collateral or any material part thereof or (C) result in any violation of the provisions of this Agreement, the Credit Agreement or any other Loan Document,

(ii) except to the extent limited by this Agreement, the Credit Agreement or any other Loan Document, each Pledgor shall be entitled to receive and retain any and all cash dividends or cash distributions payable on the Collateral, but any and all equity interests and/or liquidating dividends, distributions in property, returns of capital, or other distributions made on or in respect of the Collateral, whether resulting from a subdivision, combination, or reclassification of the outstanding ownership units or other interests of the Pledged Entities or received in exchange for the Collateral or any part thereof or as a result of any merger, consolidation, acquisition, or other exchange of assets to which any Pledged Entity may be a party or otherwise, and any and all cash and other property received in redemption of or in exchange for any Collateral (either upon call for redemption or otherwise), shall be and become part of the Collateral pledged hereunder and, if received by Pledgor, shall forthwith be delivered to Administrative Agent (accompanied by proper instruments of assignment and/or powers of attorneys executed by Pledgor) to be held subject to the terms of this Agreement;

(b) Upon the occurrence and during the continuance of an Event of Default, all rights of each Pledgor to exercise the voting and/or other consensual rights and powers that Pledgor is entitled to exercise pursuant to **Section 4(a)(i)** hereof and/or to receive the payments that Pledgor is authorized to receive and retain pursuant to **Section 4(a)(ii)** hereof shall cease, and all such rights shall thereupon become vested in Administrative Agent for the benefit of the Secured Parties, who shall have the sole and exclusive right and authority to exercise such voting and/or other consensual rights and powers and/or to receive and retain such payments; provided, that nothing herein shall obligate Administrative Agent to exercise such voting and/or other consensual rights, all such action in such regard being solely in Administrative Agent's or Secured Parties' discretion. Any and all money and other property paid over to or received by Administrative Agent pursuant to the provisions of this paragraph (b) shall be retained by Administrative Agent as additional Collateral hereunder and be applied in accordance with the provisions hereof.

SECTION 5. Covenants. Each Pledgor hereby covenants that until such time as the Obligations shall have been indefeasibly paid in full:

(a) Pledgor will not, without the prior written consent of the Administrative Agent, sell, convey, assign, or otherwise dispose of, or grant any option with respect to, all or any part of the Collateral or any interest therein, except that Pledgor shall be permitted to receive and dispose of distributions to the extent permitted by **Section 4(a)(ii)** above; nor will Pledgor create, incur or permit to exist any pledge, mortgage, lien, charge, encumbrance or security interest whatsoever with respect to all or any part of the Collateral or the proceeds thereof, other than that created hereby; nor will Pledgor amend or terminate, or waive any default under or breach of the terms of the operating agreement, limited partnership agreement or charter of any Pledged Entity or consent to or permit any amendment, termination or waiver thereof, except as not otherwise prohibited under the Loan Documents and to the extent such action does not and would not reasonably be likely to have a material adverse effect with respect to the Pledged Entity or the Collateral; nor will Pledgor enter into any contractual obligations that restrict or inhibit, or which would reasonably be expected to restrict or inhibit, the Administrative Agent's rights or ability to vote or sell or otherwise dispose of the Collateral or any part thereof after an Event of Default; nor will Pledgor consent to or permit the issuance of any additional Equity Interests in any Pledged Entity (unless pledged to Administrative Agent hereunder), or any securities or instruments exercisable or exchangeable for Equity Interests in any Pledged Entity or otherwise representing any right to acquire any Equity Interest in any Pledged Entity or any general partnership interests in any Pledged Entity that is a limited partnership.

(b) Pledgor will not permit any Pledged Entity to change its entity form or, except as permitted under the Credit Agreement, merge into or consolidate into any other entity and will, except with respect to the Permitted Merger, give to Administrative Agent not less than 20 days' prior written notice of (i) any change in the name of any Pledgor or the name of any Pledged Entity or (ii) any change in the location of the principal place of business (or, in the case of an individual Pledgor, the principal residence) of Pledgor or any Pledged Entity; provided that Pledgor shall not permit any change described in the preceding clauses (i) and (ii) unless Pledgor shall have taken all actions necessary or reasonably requested by the Administrative Agent to maintain the continuance, validity, perfection and the same or better priority of the Administrative Agent in the Collateral.

(c) Pledgor will, at Pledgor's own expense, defend Administrative Agent's and Secured Parties' right, title, special property and security interest in and to the Collateral and any distributions with respect thereto against the claims of any Person (other than the holders of Permitted Encumbrances).

(d) Pledgor will comply with all its obligations under any limited liability company or partnership agreement relating to the Equity Interests and will preserve and protect the Collateral.

(e) Pledgor will promptly pay and discharge before the same become delinquent, all taxes, assessments and governmental charges or levies imposed on Pledgor or the Collateral, except for taxes timely disputed in good faith, for which adequate reserves have been made.

(f) The Secured Parties shall have the right, upon request on the terms set forth in Section 5.02 of the Credit Agreement, to review, examine and audit the books and records of any Pledged Entity and of Pledgor with regard to the Collateral and any distributions with respect thereto.

(g) Pledgor consents to the transfer pursuant to the collateral assignment, pledge or grant of security interest in any limited liability company or partnership interest pledged as Collateral to the Administrative Agent or its nominee and, following the occurrence and during the continuance of an Event of Default, consents to the transfer of any such interests to and the admission of the Administrative Agent or its nominee as a member in any limited liability company or partner in any partnership, as the case may be, with all the rights and powers related thereto.

(h) In the event that Pledgor acquires rights in any Equity Interests after the date of this Agreement, Pledgor shall deliver to the Administrative Agent, on or before the Reporting Date (as defined in the Security Agreement) immediately following the end of the Fiscal Quarter during which it acquires any such rights, a completed Pledge Supplement, substantially in the form of **Exhibit A** attached hereto, reflecting such new Equity Interests and all other Equity Interests. Notwithstanding the foregoing it is understood and agreed that the security interest of the Administrative Agent shall attach to all such newly acquired Equity Interests immediately upon Pledgor's acquisition of rights therein and shall not be affected by the failure of Pledgor to deliver such supplement.

SECTION 6. Remedies upon Default. Upon the occurrence and during the continuance of an Event of Default, Administrative Agent may, in addition to the exercise by Administrative Agent of its rights and remedies under any other Section of this Agreement or under the Credit Agreement or any other agreement relating to the Obligations or otherwise available to it at law or in equity:

(a) declare the principal of and all accrued interest on and any other amounts owing with respect to the Obligations immediately due and payable, without demand, protest, notice of default, notice of acceleration or of intention to accelerate or other notices of any kind, and

(b) exercise all the rights and remedies of a secured party under the UCC in effect in the State of Texas at that time and sell (in compliance with applicable laws, including securities laws) the Collateral, or any part thereof, at public or private sale, at any broker's board, upon any securities exchange, or elsewhere, for cash, upon credit, or for future delivery, as Administrative Agent may deem appropriate in the circumstances and commercially reasonable. Administrative Agent shall have the right to impose limitations and restrictions on the sale of the Collateral as Administrative Agent may deem to be necessary or appropriate to comply with any law, rule, or regulation (Federal, state, or local) having applicability to the sale, including, but without

limitation, restrictions on the number and qualifications of the offerees and requirements for any necessary governmental approvals, and Administrative Agent shall be authorized at any such sale (if it deems it necessary or advisable to do so) to restrict the prospective offerees or purchasers to Persons who will represent and agree that they are purchasing securities included in the Collateral for their own account and not with a view to the distribution or sale thereof in violation of applicable securities laws and Pledgor hereby waives, to the maximum extent permitted by law, any claim arising because the price at which the Collateral may have been sold at such private sale was less than the price that might have been obtained at public sale, even if Administrative Agent accepts the first offer received and does not offer such Collateral to more than one offeree. Upon consummation of any such sale, Administrative Agent shall have the right to assign, transfer, and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of Pledgor, and Pledgor hereby waives (to the extent permitted by law) all rights of redemption, stay, and/or appraisal that Pledgor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. To the extent that notice of sale shall be required to be given by law, Administrative Agent shall give Pledgor at least ten (10) days' prior written notice of its intention to make any such public or private sale. Such notice shall state the time and place fixed for sale, and the Collateral, or portion thereof, to be offered for sale. Any such sale shall be held at such time or times within ordinary business hours and at such place or places as Administrative Agent may fix in the notice of such sale. At any such sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as Administrative Agent may determine, and Administrative Agent may itself bid (which bid may be in whole or in part in the form of cancellation of the Obligations) for and purchase the whole or any part of the Collateral. Administrative Agent shall not be obligated to make any sale of the Collateral if it shall determine not to do so, regardless of the fact that notice of sale of the Collateral may have been given. Administrative Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case sale of all or any part of the Collateral is made to any Person other than the Administrative Agent or any Lender on credit or for future delivery, the Collateral so sold may be retained by Administrative Agent until the sale price is paid by the purchaser or purchasers thereof. Administrative Agent shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may be sold again upon like notice. Pledgor hereby agrees that any sale or disposition of the Collateral conducted in conformity with reasonable commercial practices of banks, insurance companies or other financial institutions in the city and state where Administrative Agent is located in disposing of property similar to the Collateral shall be deemed to be commercially reasonable.

(c) Pledgor recognizes that the Administrative Agent and Secured Parties may be unable to effect a public sale of all or part of the Collateral by reason of certain prohibitions contained in the Securities Act of 1933, as amended, and applicable state securities laws but may be compelled to resort to one or more private sales to a restricted group of purchasers who will be obligated to agree, among other things, to acquire all or a part of the Collateral for their own account, for investment, and not with a view to the distribution or resale thereof. Pledgor acknowledges and agrees that any private sale so made may be at prices and on other terms less favorable to the seller than if such Collateral were sold at public sale and that the Administrative Agent has no obligation to delay the sale of such Collateral for the period of time necessary to permit the registration of such Collateral for public sale under any securities laws. Pledgor agrees that a private sale or sales made under the foregoing circumstances shall not be deemed to have not been made in a commercially reasonable manner solely as a result of being a private sale. If

any consent, approval, or authorization of any federal, state, municipal, or other governmental department, agency, or authority should be necessary to effectuate any sale or other disposition of the Collateral, or any partial sale or other disposition of the Collateral, Pledgor will execute all applications and other instruments as may be required in connection with securing any such consent, approval, or authorization and will otherwise use its best efforts to secure the same. In addition, if the Collateral is disposed of pursuant to Rule 144, Pledgor agrees to complete and execute a Form 144, or comparable successor form, at the Administrative Agent's request; and Pledgor agrees to provide any material adverse information in regard to the current and prospective operations of each Pledged Entity of which Pledgor has knowledge and which has not been publicly disclosed, and Pledgor hereby acknowledge that Pledgor's failure to provide such information may result in criminal and/or civil liability.

SECTION 7. Application of Proceeds of Sale. The proceeds of sale of the Collateral sold pursuant to **Section 6** hereof shall be applied by Administrative Agent as set forth in Section 6.04 of the Credit Agreement.

SECTION 8. Administrative Agent Appointed Attorney-in-Fact. Each Pledgor hereby appoints Administrative Agent as Pledgor's attorney-in-fact, effective during the continuance of an Event of Default, with full power of substitution, for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that Administrative Agent may deem necessary or advisable to accomplish the purposes hereof, which appointment is coupled with an interest and is irrevocable. Without limiting the generality of the foregoing, after the occurrence and during the continuance of an Event of Default, Administrative Agent shall have the right and power to receive, endorse, and collect all checks and other orders for the payment of money made payable to any Pledgor representing any dividend or other distribution payable or distributable in respect of the Collateral or any part thereof, and to give full discharge for same.

SECTION 9. Responsibility. Notwithstanding the provisions of **Section 4(b)** hereof, Administrative Agent shall have no duty to exercise any voting and/or other consensual rights and powers becoming vested in Administrative Agent with respect to the Collateral or any part thereof, to exercise any right to redeem, convert, or exchange any securities included in the Collateral, to enforce or see to the payment of any dividend or any other distribution payable or distributable on or with respect to the Collateral or any part thereof, or otherwise to preserve any rights in respect of the Collateral against any third parties.

SECTION 10. No Waiver; Cumulative Remedies. No failure on the part of Administrative Agent to exercise, and no delay in exercising, any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by Administrative Agent preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies of Administrative Agent hereunder are cumulative and are not exclusive of any other remedies available to Administrative Agent at law or in equity.

SECTION 11. Termination. This Agreement shall terminate upon the complete performance of each Loan Party's obligations under each Loan Document and the final and indefeasible payment in full of the Obligations. Upon termination of this Agreement, Administrative Agent shall reassign and redeliver (or cause to be reassigned or redelivered) to Pledgor such Collateral (if any) as shall not have been sold or otherwise applied by Administrative Agent pursuant to the terms hereof and as shall still be held by it hereunder together with appropriate instruments of assignment and release.

SECTION 12. Notices. Any notice or communication required or permitted hereunder shall be given in the manner prescribed in the Credit Agreement to such Person at its address set forth in the Credit Agreement or on **Schedule I** to this Agreement.

SECTION 13. Further Assurances. Each Pledgor agrees to do such further acts and things, and to execute and deliver such agreements and instruments, as Administrative Agent may at any time reasonably request in connection with the administration or enforcement of this Agreement or related to the Collateral or any part thereof or in order better to assure and confirm unto Administrative Agent and the Secured Parties their rights, powers and remedies hereunder. Each Pledgor hereby authorizes Administrative Agent to file one or more UCC financing or continuation statements, or amendments thereto, relative to all or any part of the Collateral. Each Pledgor will execute and deliver to the Administrative Agent (or to the Collateral Custodian as its agent and bailee) all assignments, endorsements, powers, hypothecations, and other documents required at any time and from time to time by the Administrative Agent with respect to the Collateral in order to effect the purposes of this Agreement. If any Pledgor shall become entitled to receive or shall receive with respect to the Collateral any: (a) certificate (including, but without limitation, any certificate representing a dividend or a distribution in connection with any increase or reduction of capital, reclassification, merger, consolidation, sale of assets, combination of shares, stock split, spin-off or split-off); (b) option, warrant or right, whether as an addition to, in substitution of, in exchange for the Collateral, or otherwise; (c) dividends or distributions payable in property, including, without limitation, securities issued by any person other than the issuer of the Collateral; or (d) dividends or distributions on dissolution, or in partial or total liquidation, or from capital, capital surplus, or paid-in surplus, then, Pledgor shall accept any such instruments or distributions as the Administrative Agent's agent, shall receive them in trust for the Administrative Agent, and shall deliver them forthwith to the Administrative Agent (or to the Collateral Custodian as its agent and bailee) in the exact form received with, as applicable, Pledgor's endorsement when necessary or appropriate undated stock or bond powers duly executed in blank, to be held by the Administrative Agent (or to the Collateral Custodian as its agent and bailee), subject to the terms hereof, as further collateral security for the Obligations.

SECTION 14. Binding Agreement. This Agreement and the terms, covenants, and conditions hereof, shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, executors, administrators, successors and assigns.

SECTION 15. Modification. Neither this Agreement nor any provisions hereof may be amended, modified, waived, discharged, or terminated, nor may any of the Collateral be released or the pledge or the security interest created hereby extended, except by an instrument in writing signed by the parties hereto.

SECTION 16. Severability. In case any lien, security interest, or other right of Administrative Agent hereunder shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, and/or unenforceability shall not affect any other lien, security interest, or other right of Administrative Agent hereunder.

SECTION 17. Governing Law. This Agreement (including matters of construction, validity, and performance), the rights, remedies, and obligations of the parties with respect to the Collateral to the extent not provided for herein, and all matters concerning the validity, perfection, and the effect of non-perfection of the pledge contemplated hereby, shall be governed by and construed in accordance with the laws of the State of Texas or other mandatory applicable laws. Notwithstanding anything herein, EACH PLEDGOR AGREES TO SUBMIT TO THE JURISDICTION OF THE COURTS OF THE STATE OF TEXAS AND THE UNITED STATES DISTRICT COURTS SITTING THEREIN IN ANY ACTION TAKEN BY ADMINISTRATIVE AGENT RELATING TO THIS AGREEMENT OR ANY

PROVISIONS, RIGHTS OR REMEDIES HEREOF. EACH PLEDGOR FURTHER AGREES THAT ANY ACTION TAKEN BY PLEDGOR RELATING TO THIS AGREEMENT OR ANY PROVISIONS, RIGHTS OR REMEDIES HEREOF SHALL BE TAKEN IN SAID COURTS AND SHALL NOT BE TAKEN IN ANY OTHER JURISDICTION. PLEDGOR RECOGNIZES THAT THIS COVENANT IS AN ESSENTIAL PROVISION OF THIS AGREEMENT, THE ABSENCE OF WHICH WOULD MATERIALLY ALTER THE CONSIDERATION GIVEN BY ADMINISTRATIVE AGENT AND SECURED PARTIES TO PLEDGOR.

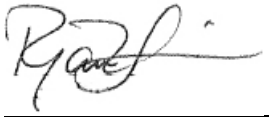
SECTION 18. Duties of Administrative Agent. The Administrative Agent has been appointed by the Secured Parties pursuant to the Credit Agreement. Its duties to the Secured Parties, powers to act on behalf of the Secured Parties, and immunity are set forth solely therein, and shall not be altered by this Security Agreement. Any amounts realized by the Administrative Agent hereunder shall be allocated pursuant to Section 6.04 of the Credit Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Equity Pledge Agreement to be duly executed and delivered as of the date first above written.

PLEDGORS:

HMS INCOME LLC, a Maryland limited liability company

By: 

Ryan T. Sims, Manager

Schedule I

NAMES, ADDRESSES, PLEDGED EQUITY INTERESTS AND STATES OF ORGANIZATION OF PLEDGED ENTITIES

Entity	Address	Owner(s)	Fully Diluted Ownership Interest	State of Organization
None.				

EXHIBIT A

PLEDGE SUPPLEMENT

THIS PLEDGE SUPPLEMENT, dated as of , 20 (this "**Supplement**"), is delivered by [ ], a [ ] (the "**Pledgor**") pursuant to Section 5 of the Pledge Agreement referred to herein below. The Pledgor hereby agrees that (a) this Supplement may be attached to the Equity Pledge Agreement, dated as of May 24, 2012, made by the Pledgors party thereto (as amended, modified or supplemented from time to time, the "**Pledge Agreement**," capitalized terms defined therein being used herein as therein defined) in favor of Capital One, National Association, as Administrative Agent, for itself and the other Secured Parties, and (b) the Equity Interests listed on **Annex I** to this Supplement shall be deemed to be part of the Pledged Entities within the meaning of the Pledge Agreement and shall become part of the Collateral and shall secure all of the Obligations as provided in the Pledge Agreement. This Supplement and its attachments are hereby incorporated into the Pledge Agreement and made a part thereof.

[ ]

By: _____
Name: _____
Title: _____

Annex I

NAMES, ADDRESSES, PLEDGED STOCK INTERESTS AND STATES OF ORGANIZATION OF PLEDGED ENTITIES

Pledged Entity	Address	Owner(s)	Ownership Interest	State of Organization
[Name]	_____ _____ Attn: _____	[Name]	[100% of common stock (Certificate No. ; shares), $ par value]	[ ]
[Name]	_____ _____ Attn: _____	[Name]	[100% of common stock (Certificate No. ; shares), $ par value]	[ ]

EXHIBIT L

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "**Assignment and Assumption**") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "**Assignor**") and [*Insert name of Assignee*] (the "**Assignee**"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "**Credit Agreement**"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any guarantees and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the "**Assigned Interest**"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____
[and is an Affiliate/Approved Fund of [*identify Lender*]]

3. Borrower: HMS INCOME LLC, a Maryland limited liability company

4. Administrative Agent: CAPITAL ONE, NATIONAL ASSOCIATION, as the administrative agent under the Credit Agreement

5. Credit Agreement: The Credit Agreement dated as of May 24, 2012 among HMS Income LLC, a Maryland limited liability company, Capital One, National Association, as Administrative Agent, and the Lenders listed on the signature pages thereof.

6. Assigned Interest:

	Aggregate Amount of Commitment/Loans for all Lenders[3]	Amount of Commitment/Loans Assigned[1]	Percentage Assigned of Commitment/Loans[2]
Revolver Commitment	$	$	%

[7. Trade Date:]3

[Remainder of the page intentionally left blank]

1 Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.
2 Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.
3 To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

Effective Date: , 20 [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By: _____
Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Title:

[Consented to and][1] Accepted:

CAPITAL ONE, NATIONAL ASSOCIATION, as Administrative Agent

By _____
Title:

[Consented to:][2]

HMS INCOME LLC, a Maryland limited liability company

By _____
Title:

1 To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.
2 To be added only if the consent of the Borrower is required by the terms of the Credit Agreement.

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement (subject to receipt of such consents as may be required under the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to **Section 5.01** thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations that by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption

by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of Texas.

FORM OF
INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT ("Agreement") is made and entered into as of the day of , 2012, by and between HMS Income Fund, Inc., a Maryland corporation (the "Company"), and ("Indemnitee").

WHEREAS, at the request of the Company, Indemnitee currently serves as a director or officer of the Company and may, therefore, be subjected to claims, suits or proceedings arising as a result of his or her service; and

WHEREAS, as an inducement to Indemnitee to continue to serve as such director or officer, the Company has agreed to indemnify and to advance expenses and costs incurred by Indemnitee in connection with any such claims, suits or proceedings; and

WHEREAS, the parties by this Agreement desire to set forth their agreement regarding indemnification and advance of expenses;

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Definitions. For purposes of this Agreement:

(a) "Applicable Legal Rate" means a fixed rate of interest equal to the applicable federal rate for mid-term debt instruments as of the day that it is determined that Indemnitee must repay any advanced expenses.

(b) "Change in Control" means a change in control of the Company occurring after the Effective Date of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), whether or not the Company is then subject to such reporting requirement; provided, however, that, without limitation, such a Change in Control shall be deemed to have occurred if, after the Effective Date (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 15% or more of the combined voting power of all of the Company's then-outstanding securities entitled to vote generally in the election of directors without the prior approval of at least two-thirds of the members of the Board of Directors in office immediately prior to such person's attaining such percentage interest; (ii) the Company is a party to a merger, consolidation, sale of assets, plan of liquidation or other reorganization not approved by at least two-thirds of the members of the Board of Directors then in office, as a consequence of which members of the Board of Directors in office immediately prior to such transaction or event constitute less than a majority of the Board of Directors thereafter; or (iii) at any time, a majority of the members of the Board of Directors are not individuals (A) who were directors as of the Effective Date or (B) whose election by the Board of Directors or nomination for election by the Company's stockholders was approved by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or whose election or nomination for election was previously so approved.

(c) “Corporate Status” means the status of a person as a present or former director, officer, employee or agent of the Company or as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company. As a clarification and without limiting the circumstances in which Indemnitee may be serving at the request of the Company, service by Indemnitee shall be deemed to be at the request of the Company: (i) if Indemnitee serves or served as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any corporation, partnership, limited liability company, joint venture, trust or other enterprise (1) of which a majority of the voting power or equity interest is owned directly or indirectly by the Company or (2) the management of which is controlled directly or indirectly by the Company, or (ii) if, as a result of Indemnitee’s service to the Company or any of its affiliated entities, Indemnitee is subject to duties by, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a deemed fiduciary thereof.

(d) “Disinterested Director” means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification and/or advance of Expenses is sought by Indemnitee.

(e) “Effective Date” means the date set forth in the first paragraph of this Agreement.

(f) “Expenses” means any and all reasonable and out-of-pocket attorneys’ fees and costs, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties and any other disbursements or expenses incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in or otherwise participating in a Proceeding. Expenses shall also include Expenses incurred in connection with any appeal resulting from any Proceeding including, without limitation, the premium for, security for and other costs relating to any cost bond supersedeas bond or other appeal bond or its equivalent.

(g) “Independent Counsel” means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement or of other indemnitees under similar indemnification agreements), or (ii) any other party to or participant or witness in the Proceeding giving rise to a claim for indemnification or advance of Expenses hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement.

(h) "Proceeding" means any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other proceeding, whether brought by or in the right of the Company or otherwise and whether of a civil (including intentional or unintentional tort claims), criminal, administrative or investigative (formal or informal) nature, including any appeal therefrom, except one pending or completed on or before the Effective Date, unless otherwise specifically agreed in writing by the Company and Indemnitee. If Indemnitee reasonably believes that a given situation may lead to or culminate in the institution of a Proceeding, such situation shall also be considered a Proceeding.

Section 2. Services by Indemnitee. Indemnitee will serve as a director or officer of the Company. However, this Agreement shall not impose any independent obligation on Indemnitee or the Company to continue Indemnitee's service to the Company. This Agreement shall not be deemed an employment contract between the Company (or any other entity) and Indemnitee.

Section 3. General. Subject to the limitations in Section 5, the Company shall indemnify, and advance Expenses to, Indemnitee (a) as provided in this Agreement and (b) as otherwise permitted by Maryland law in effect on the Effective Date and as amended from time to time; provided, however, that no change in Maryland law shall have the effect of reducing the benefits available to Indemnitee hereunder based on Maryland law as in effect on the Effective Date. Subject to the limitations in Section 5, the rights of Indemnitee provided in this Section 3 shall include, without limitation, the rights set forth in the other sections of this Agreement, including any additional indemnification permitted by Section 2-418(g) of the Maryland General Corporation Law (the "MGCL").

Section 4. Standard for Indemnification. Subject to the limitations in Section 5, if, by reason of Indemnitee's Corporate Status, Indemnitee is, or is threatened to be, made a party to any Proceeding, the Company shall indemnify Indemnitee against all judgments, penalties, fines and amounts paid in settlement and all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with any such Proceeding unless it is established by clear and convincing evidence that (a) the act or omission of Indemnitee was material to the matter giving rise to the Proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty, (b) Indemnitee actually received an improper personal benefit in money, property or services or (c) in the case of any criminal Proceeding, Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

Section 5. Certain Limits on Indemnification. Notwithstanding any other provision of this Agreement (other than Section 6), Indemnitee shall not be entitled to:

(a) indemnification for any loss or liability unless all of the following conditions are met: (i) Indemnitee has determined, in good faith, that the course of conduct that caused the loss or liability was in the best interests of the Company; (ii) Indemnitee was acting on behalf of or performing services for the Company; (iii) such loss or liability was not the result of negligence or misconduct; and (iv) such indemnification is recoverable only out of the Company's net assets and not from the Company's stockholders;

(b) indemnification for any loss or liability arising from an alleged violation of federal or state securities laws unless one or more of the following conditions are met: (i) there has been a successful adjudication on the merits of each count involving alleged material securities law violations as to Indemnitee; (ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to Indemnitee; or (iii) a court of competent jurisdiction approves a settlement of the claims against Indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the Securities and Exchange Commission and of the published position of any state securities regulatory authority in which securities of the Company were offered or sold as to indemnification for violations of securities laws;

(c) indemnification hereunder if the Proceeding was one by or in the right of the Company and Indemnitee is adjudged to be liable to the Company;

(d) indemnification hereunder if Indemnitee is adjudged to be liable on the basis that personal benefit was improperly received in any Proceeding charging improper personal benefit to Indemnitee, whether or not involving action in Indemnitee's Corporate Status; or

(e) indemnification or advance of Expenses hereunder if the Proceeding was brought by Indemnitee, unless: (i) the Proceeding was brought to enforce indemnification under this Agreement, and then only to the extent in accordance with and as authorized by Section 12 of this Agreement, or (ii) the Company's charter or Bylaws, a resolution of the stockholders entitled to vote generally in the election of directors or of the Board of Directors or an agreement approved by the Board of Directors to which the Company is a party expressly provide otherwise.

Section 6. Court-Ordered Indemnification. Subject to the limitations in Section 5(a) and (b), a court of appropriate jurisdiction, upon application of Indemnitee and such notice as the court shall require, may order indemnification of Indemnitee by the Company in the following circumstances:

(a) if such court determines that Indemnitee is entitled to reimbursement under Section 2-418(d)(1) of the MGCL, the court shall order indemnification, in which case Indemnitee shall be entitled to recover the Expenses of securing such reimbursement; or

(b) if such court determines that Indemnitee is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not Indemnitee (i) has met the standards of conduct set forth in Section 2-418(b) of the MGCL or (ii) has been adjudged liable for receipt of an improper personal benefit under Section 2-418(c) of the MGCL, the court may order such indemnification as the court shall deem proper. However, indemnification with respect to any Proceeding by or in the right of the Company or in which liability shall have been adjudged in the circumstances described in Section 2-418(c) of the MGCL shall be limited to Expenses.

Section 7. Indemnification for Expenses of an Indemnitee Who is Wholly or Partly Successful Subject to the limitations in Section 5, to the extent that Indemnitee was or is, by reason of his or her Corporate Status, made a party to (or otherwise becomes a participant in) any Proceeding and is successful, on the merits or otherwise, in the defense of such Proceeding, Indemnitee shall be indemnified for all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee under this Section 7 for all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with each such claim, issue or matter, allocated on a reasonable and proportionate basis. For purposes of this Section 7, and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 8. Advance of Expenses for an Indemnitee If, by reason of Indemnitee's Corporate Status, Indemnitee is, or is threatened to be, made a party to any Proceeding, the Company shall, without requiring a preliminary determination of Indemnitee's ultimate entitlement to indemnification hereunder, advance all reasonable Expenses incurred by or on behalf of Indemnitee in connection with (a) such Proceeding which is initiated by a third party who is not a stockholder of the Company, or (b) such Proceeding which is initiated by a stockholder of the Company acting in his or her capacity as such and for which a court of competent jurisdiction specifically approves such advancement, and which relates to acts or omissions with respect to the performance of duties or services on behalf of the Company. Such advance or advances shall be made within ten days after the receipt by the Company of a statement or statements requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding and may be in the form of, in the reasonable discretion of Indemnitee (but without duplication), (a) payment of such Expenses directly to third parties on behalf of Indemnitee, (b) advancement to Indemnitee of funds in an amount sufficient to pay such Expenses or (c) reimbursement to Indemnitee for Indemnitee's payment of such Expenses. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and shall include or be preceded or accompanied by a written affirmation by Indemnitee of Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Company as authorized by law and by this Agreement has been met and a written undertaking by or on behalf of Indemnitee, in substantially the form attached hereto as Exhibit A or in such form as may be required under applicable law as in effect at the time of the execution thereof, to reimburse the portion of any Expenses advanced to Indemnitee, together with the Applicable Legal Rate of interest thereon, relating to claims, issues or matters in the Proceeding as to which it shall ultimately be established, by clear and convincing evidence, that the standard of conduct has not been met by Indemnitee and which have not been successfully resolved as described in Section 7 of this Agreement. To the extent that Expenses advanced to Indemnitee do not relate to a specific claim, issue or matter in the Proceeding, such Expenses shall be allocated on a reasonable and proportionate basis. The undertaking required by this Section 8 shall be an unlimited general obligation by or on behalf of Indemnitee and shall be accepted without reference to Indemnitee's financial ability to repay such advanced Expenses and without any requirement to post security therefor.

Section 9. Indemnification and Advance of Expenses as a Witness or Other Participant. Subject to the limitations in Section 5, to the extent that Indemnitee is or may be, by reason of his or her Corporate Status, made a witness or otherwise asked to participate in any Proceeding, whether instituted by the Company or any other party, and to which Indemnitee is not a party, he or she shall be advanced all reasonable Expenses and indemnified against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith within ten days after the receipt by the Company of a statement or statements requesting any such advance or indemnification from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee.

Section 10. Procedure for Determination of Entitlement to Indemnification.

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. Indemnitee may submit one or more such requests from time to time and at such time(s) as Indemnitee deems appropriate in his or her sole discretion. The officer of the Company receiving any such request from Indemnitee shall, promptly upon receipt of such a request for indemnification, advise the Board of Directors in writing that Indemnitee has requested indemnification.

(b) Upon written request by Indemnitee for indemnification pursuant to Section 10(a) above, a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall promptly be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel, in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee, which Independent Counsel shall be selected by Indemnitee and approved by the Board of Directors in accordance with Section 2-418(e)(2)(ii) of the MGCL, which approval will not be unreasonably withheld; or (ii) if a Change in Control shall not have occurred, (A) by the Board of Directors by a majority vote of a quorum consisting of Disinterested Directors or, if such a quorum cannot be obtained, then by a majority vote of a duly authorized committee of the Board of Directors consisting solely of one or more Disinterested Directors, (B) if Independent Counsel has been selected by the Board of Directors in accordance with Section 2-418(e)(2)(ii) of the MGCL and approved by Indemnitee, which approval shall not be unreasonably withheld, by Independent Counsel, in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee or (C) if so directed by a majority of the members of the Board of Directors, by the stockholders of the Company. If it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination in the discretion of the Board of Directors or Independent Counsel if retained pursuant to clause (ii)(B) of this Section 10(b). Any Expenses incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company shall indemnify and hold Indemnitee harmless therefrom.

(c) The Company shall pay the reasonable fees and expenses of Independent Counsel, if one is appointed.

Section 11. Presumptions and Effect of Certain Proceedings.

(a) In making any determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 10(a) of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making of any determination contrary to that presumption.

(b) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, upon a plea of*nolo contendere* or its equivalent, or entry of an order of probation prior to judgment, does not create a presumption that Indemnitee did not meet the requisite standard of conduct described herein for indemnification.

(c) The knowledge and/or actions, or failure to act, of any other director, officer, employee or agent of the Company or any other director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise shall not be imputed to Indemnitee for purposes of determining any other right to indemnification under this Agreement.

Section 12. Remedies of Indemnitee.

(a) If (i) a determination is made pursuant to Section 10(b) of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advance of Expenses is not timely made pursuant to Section 8 or 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within 60 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or 9 of this Agreement within ten days after receipt by the Company of a written request therefor, or (v) payment of indemnification pursuant to any other section of this Agreement or the charter or Bylaws of the Company is not made within ten days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, of his or her entitlement to such indemnification or advance of Expenses. Alternatively, Indemnitee, at his or her option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence a proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 12(a); provided, however, that the foregoing clause shall not apply to a proceeding brought by Indemnitee to enforce his or her rights under Section 7 of this Agreement. Except as set forth herein, the provisions of Maryland law (without regard to its conflicts of laws rules) shall apply to any such arbitration. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 12, Indemnitee shall be presumed to be entitled to indemnification or advance of Expenses, as the case may be, under this Agreement and the Company shall have the burden of proving that Indemnitee is not entitled to indemnification or advance of Expenses, as the case may be. If Indemnitee commences a judicial proceeding or arbitration pursuant to this Section 12, Indemnitee shall not be required to reimburse the Company for any advances pursuant to Section 8 of this Agreement until a final determination is made with respect to Indemnitee's entitlement to indemnification (as to which all rights of appeal have been exhausted or lapsed). The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 12 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all of the provisions of this Agreement.

(c) If a determination shall have been made pursuant to Section 10(b) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 12, absent a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification.

(d) In the event that Indemnitee is successful in seeking, pursuant to this Section 12, a judicial adjudication of or an award in arbitration to enforce his or her rights under, or to recover damages for breach of, this Agreement, Indemnitee shall be entitled to recover from the Company, and shall be indemnified by the Company for, any and all Expenses actually and reasonably incurred by him or her in such judicial adjudication or arbitration. If it shall be determined in such judicial adjudication or arbitration that Indemnitee is entitled to receive part but not all of the indemnification or advance of Expenses sought, the Expenses incurred by Indemnitee in connection with such judicial adjudication or arbitration shall be appropriately prorated.

(e) Interest shall be paid by the Company to Indemnitee at the maximum rate allowed to be charged for judgments under the Courts and Judicial Proceedings Article of the Annotated Code of Maryland for amounts which the Company pays or is obligated to pay for the period (i) commencing with either the tenth day after the date on which the Company was requested to advance Expenses in accordance with Section 8 or 9 of this Agreement or the 60th day after the date on which the Company was requested to make the determination of entitlement to indemnification under Section 10(b) of this Agreement, as applicable, and (ii) ending on the date such payment is made to Indemnitee by the Company.

Section 13. Defense of the Underlying Proceeding.

(a) Indemnitee shall notify the Company promptly in writing upon being served with any summons, citation, subpoena, complaint, indictment, request or other document relating to any Proceeding which may result in the right to indemnification or the advance of Expenses hereunder and shall include with such notice a description of the nature of the Proceeding and a summary of the facts underlying the Proceeding. The failure to give any such notice shall not disqualify Indemnitee from the right, or otherwise affect in any manner any right of Indemnitee, to indemnification or the advance of Expenses under this Agreement unless the Company's ability to defend in such Proceeding or to obtain proceeds under any insurance policy is materially and adversely prejudiced thereby, and then only to the extent the Company is thereby actually so prejudiced.

(b) Subject to the provisions of the last sentence of this Section 13(b) and of Section 13(c) below, the Company shall have the right to defend Indemnitee in any Proceeding which may give rise to indemnification hereunder; provided, however, that the Company shall notify Indemnitee of any such decision to defend within 15 calendar days following receipt of notice of any such Proceeding under Section 13(a) above. The Company shall not, without the prior written consent of Indemnitee, which shall not be unreasonably withheld or delayed, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (i) includes an admission of fault of Indemnitee, (ii) does not include, as an unconditional term thereof, the full release of Indemnitee from all liability in respect of such Proceeding, which release shall be in form and substance reasonably satisfactory to Indemnitee, or (iii) would impose any Expense, judgment, fine, penalty or limitation on Indemnitee. This Section 13(b) shall not apply to a Proceeding brought by Indemnitee under Section 12 of this Agreement.

(c) Notwithstanding the provisions of Section 13(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld, that he or she may have separate defenses or counterclaims to assert with respect to any issue which may not be consistent with other defendants in such Proceeding, (ii) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld, that an actual or apparent conflict of interest or potential conflict of interest exists between Indemnitee and the Company, or (iii) if the Company fails to assume the defense of such Proceeding in a timely manner, Indemnitee shall be entitled to be represented by separate legal counsel of Indemnitee's choice, subject to the prior approval of the Company, which approval shall not be unreasonably withheld, at the expense of the Company. In addition, if the Company fails to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any Proceeding to deny or to recover from Indemnitee the benefits intended to be provided to Indemnitee hereunder, Indemnitee shall have the right to retain counsel of Indemnitee's choice, subject to the prior approval of the Company, which approval shall not be unreasonably withheld, at the expense of the Company (subject to Section 12(d) of this Agreement), to represent Indemnitee in connection with any such matter.

Section 14. Non-Exclusivity; Survival of Rights; Subrogation.

(a) The rights of indemnification and advance of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the charter or Bylaws of the Company, any agreement or a resolution of the stockholders entitled to vote generally in the election of directors or of the Board of Directors, or otherwise. Unless consented to in writing by Indemnitee, no amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal, regardless of whether a claim with respect to such action or inaction is raised prior or subsequent to such amendment, alteration or repeal. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right or remedy shall be cumulative and in addition to every other right or remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion of any right or remedy hereunder, or otherwise, shall not prohibit the concurrent assertion or employment of any other right or remedy.

(b) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

Section 15. Insurance.

(a) The Company will use its reasonable best efforts to acquire directors and officers liability insurance, on terms and conditions deemed appropriate by the Board of Directors, with the advice of counsel, covering Indemnitee or any claim made against Indemnitee by reason of his or her Corporate Status and covering the Company for any indemnification or advance of Expenses made by the Company to Indemnitee for any claims made against Indemnitee by reason of his or her Corporate Status. In the event of a Change in Control, the Company shall maintain in force any and all directors and officers liability insurance policies that were maintained by the Company immediately prior to the Change in Control for a period of six years with the insurance carrier or carriers and through the insurance broker in place at the time of the Change in Control; provided, however, (i) if the carriers will not offer the same policy and an expiring policy needs to be replaced, a policy substantially comparable in scope and amount shall be obtained and (ii) if any replacement insurance carrier is necessary to obtain a policy substantially comparable in scope and amount, such insurance carrier shall have an AM Best rating that is the same or better than the AM Best rating of existing insurance carrier; provided, further, however, in no event shall the Company be required to expend in the aggregate in excess of 300% of the annual premium or premiums paid by the Company for directors and officers liability insurance in effect on the date of the Change in Control. In the event that 300% of the annual premium paid by the Company for such existing directors and officers liability insurance is insufficient for such coverage, the Company shall spend up to that amount to purchase such lesser coverage as may be obtained with such amount.

(b) Without in any way limiting any other obligation under this Agreement, the Company shall indemnify Indemnitee for any payment by Indemnitee arising out of the amount of any deductible or retention and the amount of any excess of the aggregate of all judgments, penalties, fines, settlements and Expenses incurred by Indemnitee in connection with a Proceeding over the coverage of any insurance referred to in the previous sentence. The purchase, establishment and maintenance of any such insurance shall not in any way limit or affect the rights or obligations of the Company or Indemnitee under this Agreement except as expressly provided herein, and the execution and delivery of this Agreement by the Company and Indemnitee shall not in any way limit or affect the rights or obligations of the Company under any such insurance policies. If, at the time the Company receives notice from any source of a Proceeding to which Indemnitee is a party or a participant (as a witness or otherwise), the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies.

Section 16. Coordination of Payments. The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable or payable or reimbursable as Expenses hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

Section 17. Contribution. If the indemnification provided in this Agreement is unavailable in whole or in part and may not be paid to Indemnitee for any reason, other than for failure to satisfy the standard of conduct set forth in Section 4 or due to the provisions of Section 5, then, with respect to any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), to the fullest extent permissible under applicable law, the Company, in lieu of indemnifying and holding harmless Indemnitee, shall pay, in the first instance, the entire amount incurred by Indemnitee, whether for Expenses, judgments, penalties, and/or amounts paid or to be paid in settlement, in connection with any Proceeding without requiring Indemnitee to contribute to such payment, and the Company hereby waives and relinquishes any right of contribution it may have at any time against Indemnitee.

Section 18. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders the payment of any amounts for indemnification of, or advance of Expenses to, Indemnitee under this Agreement arising out of a Proceeding by or in the right of the Company with the notice of the meeting of stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 19. Duration of Agreement; Binding Effect.

(a) This Agreement shall continue until and terminate on the later of (i) the date that Indemnitee shall have ceased to serve as a director, officer, employee or agent of the Company or as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company and (ii) the date that Indemnitee is no longer subject to any actual or possible Proceeding (including any rights of appeal thereto and any Proceeding commenced by Indemnitee pursuant to Section 12 of this Agreement).

(b) The indemnification and advance of Expenses provided by, or granted pursuant to, this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company, and shall inure to the benefit of Indemnitee and his or her spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(c) The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(d) The Company and Indemnitee agree herein that a monetary remedy for breach of this Agreement, at some later date, may be inadequate, impracticable and difficult of proof, and further agree that such breach may cause Indemnitee irreparable harm. Accordingly, the parties hereto agree that Indemnitee may enforce this Agreement by seeking injunctive relief and/or specific performance hereof, without any necessity of showing actual damage or irreparable harm and that by seeking injunctive relief and/or specific performance, Indemnitee shall not be precluded from seeking or obtaining any other relief to which he or she may be entitled. Indemnitee shall further be entitled to such specific performance and injunctive relief, including temporary restraining orders, preliminary injunctions and permanent injunctions, without the necessity of posting bonds or other undertakings in connection therewith. The Company acknowledges that, in the absence of a waiver, a bond or undertaking may be required of Indemnitee by a court, and the Company hereby waives any such requirement of such a bond or undertaking.

Section 20. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, illegal or unenforceable that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 21. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. One such counterpart signed by the party against whom enforceability is sought shall be sufficient to evidence the existence of this Agreement.

Section 22. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

Section 23. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

Section 24. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, on the day of such delivery, or (ii) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(a) If to Indemnitee, to the address set forth on the signature page hereto.

(b) If to the Company, to:

HMS Income Fund, Inc.
Suite 5000
2800 Post Oak Boulevard
Houston, Texas 77056-6118
Attn: Corporate Counsel

or to such other address as may have been furnished in writing to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

Section 25. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maryland, without regard to its conflicts of laws rules.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

HMS INCOME FUND, INC.

By: _____
Name:
Title:

INDEMNITEE

_____
Name:
Address:

EXHIBIT A

AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED

To: The Board of Directors of HMS Income Fund, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This Affirmation and Undertaking is being provided pursuant to that certain Indemnification Agreement, dated the day of , 2012, by and between HMS Income Fund, Inc., a Maryland corporation (the "Company"), and the undersigned Indemnitee (the "Indemnification Agreement"), pursuant to which I am entitled to advance of Expenses in connection with **[Description of Proceeding]** (the "Proceeding").

Terms used herein and not otherwise defined shall have the meanings specified in the Indemnification Agreement.

I am subject to the Proceeding by reason of my Corporate Status or by reason of alleged actions or omissions by me in such capacity. I hereby affirm my good faith belief that at all times, insofar as I was involved as a director or officer of the Company, in any of the facts or events giving rise to the Proceeding, I (1) did not act with bad faith or active or deliberate dishonesty, (2) did not receive any improper personal benefit in money, property or services and (3) in the case of any criminal proceeding, had no reasonable cause to believe that any act or omission by me was unlawful.

In consideration of the advance of Expenses by the Company for reasonable attorneys' fees and related Expenses incurred by me in connection with the Proceeding (the "Advanced Expenses"), I hereby agree that if, in connection with the Proceeding, it is established that (1) an act or omission by me was material to the matter giving rise to the Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (2) I actually received an improper personal benefit in money, property or services or (3) in the case of any criminal proceeding, I had reasonable cause to believe that the act or omission was unlawful, then I shall promptly reimburse the portion of the Advanced Expenses, together with the Applicable Legal Rate of interest thereon, relating to the claims, issues or matters in the Proceeding as to which the foregoing findings have been established.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this day of , 20 .

Name:

FORM OF
INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT ("Agreement") is made and entered into as of the day of , 2012, by and between HMS Income Fund, Inc., a Maryland corporation (the "Company"), and ("Indemnitee").

WHEREAS, at the request of the Company, Indemnitee currently serves as an independent director of the Company and may, therefore, be subjected to claims, suits or proceedings arising as a result of his or her service; and

WHEREAS, as an inducement to Indemnitee to continue to serve as such independent director, the Company has agreed to indemnify and to advance expenses and costs incurred by Indemnitee in connection with any such claims, suits or proceedings; and

WHEREAS, the parties by this Agreement desire to set forth their agreement regarding indemnification and advance of expenses;

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Definitions. For purposes of this Agreement:

(a) "Applicable Legal Rate" means a fixed rate of interest equal to the applicable federal rate for mid-term debt instruments as of the day that it is determined that Indemnitee must repay any advanced expenses.

(b) "Change in Control" means a change in control of the Company occurring after the Effective Date of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), whether or not the Company is then subject to such reporting requirement; provided, however, that, without limitation, such a Change in Control shall be deemed to have occurred if, after the Effective Date (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 15% or more of the combined voting power of all of the Company's then-outstanding securities entitled to vote generally in the election of directors without the prior approval of at least two-thirds of the members of the Board of Directors in office immediately prior to such person's attaining such percentage interest; (ii) the Company is a party to a merger, consolidation, sale of assets, plan of liquidation or other reorganization not approved by at least two-thirds of the members of the Board of Directors then in office, as a consequence of which members of the Board of Directors in office immediately prior to such transaction or event constitute less than a majority of the Board of Directors thereafter; or (iii) at any time, a majority of the members of the Board of Directors are not individuals (A) who were directors as of the Effective Date or (B) whose election by the Board of Directors or nomination for election by the Company's stockholders was approved by the affirmative vote of at least two-thirds of the directors then in office who were directors as of the Effective Date or whose election or nomination for election was previously so approved.

(c) “Corporate Status” means the status of a person as a present or former director, officer, employee or agent of the Company or as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company. As a clarification and without limiting the circumstances in which Indemnitee may be serving at the request of the Company, service by Indemnitee shall be deemed to be at the request of the Company: (i) if Indemnitee serves or served as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any corporation, partnership, limited liability company, joint venture, trust or other enterprise (1) of which a majority of the voting power or equity interest is owned directly or indirectly by the Company or (2) the management of which is controlled directly or indirectly by the Company, or (ii) if, as a result of Indemnitee’s service to the Company or any of its affiliated entities, Indemnitee is subject to duties by, or required to perform services for, an employee benefit plan or its participants or beneficiaries, including as a deemed fiduciary thereof.

(d) “Disinterested Director” means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification and/or advance of Expenses is sought by Indemnitee.

(e) “Effective Date” means the date set forth in the first paragraph of this Agreement.

(f) “Expenses” means any and all reasonable and out-of-pocket attorneys’ fees and costs, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, ERISA excise taxes and penalties and any other disbursements or expenses incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in or otherwise participating in a Proceeding. Expenses shall also include Expenses incurred in connection with any appeal resulting from any Proceeding including, without limitation, the premium for, security for and other costs relating to any cost bond supersedeas bond or other appeal bond or its equivalent.

(g) “Independent Counsel” means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement or of other indemnitees under similar indemnification agreements), or (ii) any other party to or participant or witness in the Proceeding giving rise to a claim for indemnification or advance of Expenses hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee’s rights under this Agreement.

(h) "Proceeding" means any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other proceeding, whether brought by or in the right of the Company or otherwise and whether of a civil (including intentional or unintentional tort claims), criminal, administrative or investigative (formal or informal) nature, including any appeal therefrom, except one pending or completed on or before the Effective Date, unless otherwise specifically agreed in writing by the Company and Indemnitee. If Indemnitee reasonably believes that a given situation may lead to or culminate in the institution of a Proceeding, such situation shall also be considered a Proceeding.

Section 2. Services by Indemnitee. Indemnitee will serve as an independent director of the Company. However, this Agreement shall not impose any independent obligation on Indemnitee or the Company to continue Indemnitee's service to the Company. This Agreement shall not be deemed an employment contract between the Company (or any other entity) and Indemnitee.

Section 3. General. Subject to the limitations in Section 5, the Company shall indemnify, and advance Expenses to, Indemnitee (a) as provided in this Agreement and (b) as otherwise permitted by Maryland law in effect on the Effective Date and as amended from time to time; provided, however, that no change in Maryland law shall have the effect of reducing the benefits available to Indemnitee hereunder based on Maryland law as in effect on the Effective Date. Subject to the limitations in Section 5, the rights of Indemnitee provided in this Section 3 shall include, without limitation, the rights set forth in the other sections of this Agreement, including any additional indemnification permitted by Section 2-418(g) of the Maryland General Corporation Law (the "MGCL").

Section 4. Standard for Indemnification. Subject to the limitations in Section 5, if, by reason of Indemnitee's Corporate Status, Indemnitee is, or is threatened to be, made a party to any Proceeding, the Company shall indemnify Indemnitee against all judgments, penalties, fines and amounts paid in settlement and all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with any such Proceeding unless it is established by clear and convincing evidence that (a) the act or omission of Indemnitee was material to the matter giving rise to the Proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty, (b) Indemnitee actually received an improper personal benefit in money, property or services or (c) in the case of any criminal Proceeding, Indemnitee had reasonable cause to believe that his or her conduct was unlawful.

Section 5. Certain Limits on Indemnification. Notwithstanding any other provision of this Agreement (other than Section 6), Indemnitee shall not be entitled to:

(a) indemnification for any loss or liability unless all of the following conditions are met: (i) Indemnitee has determined, in good faith, that the course of conduct that caused the loss or liability was in the best interests of the Company; (ii) Indemnitee was acting on behalf of or performing services for the Company; (iii) such loss or liability was not the result of gross negligence or willful misconduct; and (iv) such indemnification is recoverable only out of the Company's net assets and not from the Company's stockholders;

(b) indemnification for any loss or liability arising from an alleged violation of federal or state securities laws unless one or more of the following conditions are met: (i) there has been a successful adjudication on the merits of each count involving alleged material securities law violations as to Indemnitee; (ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to Indemnitee; or (iii) a court of competent jurisdiction approves a settlement of the claims against Indemnitee and finds that indemnification of the settlement and the related costs should be made, and the court considering the request for indemnification has been advised of the position of the Securities and Exchange Commission and of the published position of any state securities regulatory authority in which securities of the Company were offered or sold as to indemnification for violations of securities laws;

(c) indemnification hereunder if the Proceeding was one by or in the right of the Company and Indemnitee is adjudged to be liable to the Company;

(d) indemnification hereunder if Indemnitee is adjudged to be liable on the basis that personal benefit was improperly received in any Proceeding charging improper personal benefit to Indemnitee, whether or not involving action in Indemnitee's Corporate Status; or

(e) indemnification or advance of Expenses hereunder if the Proceeding was brought by Indemnitee, unless: (i) the Proceeding was brought to enforce indemnification under this Agreement, and then only to the extent in accordance with and as authorized by Section 12 of this Agreement, or (ii) the Company's charter or Bylaws, a resolution of the stockholders entitled to vote generally in the election of directors or of the Board of Directors or an agreement approved by the Board of Directors to which the Company is a party expressly provide otherwise.

Section 6. Court-Ordered Indemnification. Subject to the limitations in Section 5(a) and (b), a court of appropriate jurisdiction, upon application of Indemnitee and such notice as the court shall require, may order indemnification of Indemnitee by the Company in the following circumstances:

(a) if such court determines that Indemnitee is entitled to reimbursement under Section 2-418(d)(1) of the MGCL, the court shall order indemnification, in which case Indemnitee shall be entitled to recover the Expenses of securing such reimbursement; or

(b) if such court determines that Indemnitee is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not Indemnitee (i) has met the standards of conduct set forth in Section 2-418(b) of the MGCL or (ii) has been adjudged liable for receipt of an improper personal benefit under Section 2-418(c) of the MGCL, the court may order such indemnification as the court shall deem proper. However, indemnification with respect to any Proceeding by or in the right of the Company or in which liability shall have been adjudged in the circumstances described in Section 2-418(c) of the MGCL shall be limited to Expenses.

Section 7. Indemnification for Expenses of an Indemnitee Who is Wholly or Partly Successful Subject to the limitations in Section 5, to the extent that Indemnitee was or is, by reason of his or her Corporate Status, made a party to (or otherwise becomes a participant in) any Proceeding and is successful, on the merits or otherwise, in the defense of such Proceeding, Indemnitee shall be indemnified for all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee under this Section 7 for all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection with each such claim, issue or matter, allocated on a reasonable and proportionate basis. For purposes of this Section 7, and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 8. Advance of Expenses for an Indemnitee If, by reason of Indemnitee's Corporate Status, Indemnitee is, or is threatened to be, made a party to any Proceeding, the Company shall, without requiring a preliminary determination of Indemnitee's ultimate entitlement to indemnification hereunder, advance all reasonable Expenses incurred by or on behalf of Indemnitee in connection with (a) such Proceeding which is initiated by a third party who is not a stockholder of the Company, or (b) such Proceeding which is initiated by a stockholder of the Company acting in his or her capacity as such and for which a court of competent jurisdiction specifically approves such advancement, and which relates to acts or omissions with respect to the performance of duties or services on behalf of the Company. Such advance or advances shall be made within ten days after the receipt by the Company of a statement or statements requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding and may be in the form of, in the reasonable discretion of Indemnitee (but without duplication), (a) payment of such Expenses directly to third parties on behalf of Indemnitee, (b) advancement to Indemnitee of funds in an amount sufficient to pay such Expenses or (c) reimbursement to Indemnitee for Indemnitee's payment of such Expenses. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and shall include or be preceded or accompanied by a written affirmation by Indemnitee of Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Company as authorized by law and by this Agreement has been met and a written undertaking by or on behalf of Indemnitee, in substantially the form attached hereto as Exhibit A or in such form as may be required under applicable law as in effect at the time of the execution thereof, to reimburse the portion of any Expenses advanced to Indemnitee, together with the Applicable Legal Rate of interest thereon, relating to claims, issues or matters in the Proceeding as to which it shall ultimately be established, by clear and convincing evidence, that the standard of conduct has not been met by Indemnitee and which have not been successfully resolved as described in Section 7 of this Agreement. To the extent that Expenses advanced to Indemnitee do not relate to a specific claim, issue or matter in the Proceeding, such Expenses shall be allocated on a reasonable and proportionate basis. The undertaking required by this Section 8 shall be an unlimited general obligation by or on behalf of Indemnitee and shall be accepted without reference to Indemnitee's financial ability to repay such advanced Expenses and without any requirement to post security therefor.

Section 9. Indemnification and Advance of Expenses as a Witness or Other Participant. Subject to the limitations in Section 5, to the extent that Indemnitee is or may be, by reason of his or her Corporate Status, made a witness or otherwise asked to participate in any Proceeding, whether instituted by the Company or any other party, and to which Indemnitee is not a party, he or she shall be advanced all reasonable Expenses and indemnified against all Expenses actually and reasonably incurred by him or her or on his or her behalf in connection therewith within ten days after the receipt by the Company of a statement or statements requesting any such advance or indemnification from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee.

Section 10. Procedure for Determination of Entitlement to Indemnification.

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. Indemnitee may submit one or more such requests from time to time and at such time(s) as Indemnitee deems appropriate in his or her sole discretion. The officer of the Company receiving any such request from Indemnitee shall, promptly upon receipt of such a request for indemnification, advise the Board of Directors in writing that Indemnitee has requested indemnification.

(b) Upon written request by Indemnitee for indemnification pursuant to Section 10(a) above, a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall promptly be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel, in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee, which Independent Counsel shall be selected by Indemnitee and approved by the Board of Directors in accordance with Section 2-418(e)(2)(ii) of the MGCL, which approval will not be unreasonably withheld; or (ii) if a Change in Control shall not have occurred, (A) by the Board of Directors by a majority vote of a quorum consisting of Disinterested Directors or, if such a quorum cannot be obtained, then by a majority vote of a duly authorized committee of the Board of Directors consisting solely of one or more Disinterested Directors, (B) if Independent Counsel has been selected by the Board of Directors in accordance with Section 2-418(e)(2)(ii) of the MGCL and approved by Indemnitee, which approval shall not be unreasonably withheld, by Independent Counsel, in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee or (C) if so directed by a majority of the members of the Board of Directors, by the stockholders of the Company. If it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination in the discretion of the Board of Directors or Independent Counsel if retained pursuant to clause (ii)(B) of this Section 10(b). Any Expenses incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company shall indemnify and hold Indemnitee harmless therefrom.

(c) The Company shall pay the reasonable fees and expenses of Independent Counsel, if one is appointed.

Section 11. Presumptions and Effect of Certain Proceedings.

(a) In making any determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 10(a) of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making of any determination contrary to that presumption.

(b) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, upon a plea of*nolo contendere* or its equivalent, or entry of an order of probation prior to judgment, does not create a presumption that Indemnitee did not meet the requisite standard of conduct described herein for indemnification.

(c) The knowledge and/or actions, or failure to act, of any other director, officer, employee or agent of the Company or any other director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise shall not be imputed to Indemnitee for purposes of determining any other right to indemnification under this Agreement.

Section 12. Remedies of Indemnitee.

(a) If (i) a determination is made pursuant to Section 10(b) of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advance of Expenses is not timely made pursuant to Section 8 or 9 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(b) of this Agreement within 60 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 or 9 of this Agreement within ten days after receipt by the Company of a written request therefor, or (v) payment of indemnification pursuant to any other section of this Agreement or the charter or Bylaws of the Company is not made within ten days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court located in the State of Maryland, or in any other court of competent jurisdiction, of his or her entitlement to such indemnification or advance of Expenses. Alternatively, Indemnitee, at his or her option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence a proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 12(a); provided, however, that the foregoing clause shall not apply to a proceeding brought by Indemnitee to enforce his or her rights under Section 7 of this Agreement. Except as set forth herein, the provisions of Maryland law (without regard to its conflicts of laws rules) shall apply to any such arbitration. The Company shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 12, Indemnitee shall be presumed to be entitled to indemnification or advance of Expenses, as the case may be, under this Agreement and the Company shall have the burden of proving that Indemnitee is not entitled to indemnification or advance of Expenses, as the case may be. If Indemnitee commences a judicial proceeding or arbitration pursuant to this Section 12, Indemnitee shall not be required to reimburse the Company for any advances pursuant to Section 8 of this Agreement until a final determination is made with respect to Indemnitee's entitlement to indemnification (as to which all rights of appeal have been exhausted or lapsed). The Company shall, to the fullest extent not prohibited by law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 12 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Company is bound by all of the provisions of this Agreement.

(c) If a determination shall have been made pursuant to Section 10(b) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 12, absent a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification.

(d) In the event that Indemnitee is successful in seeking, pursuant to this Section 12, a judicial adjudication of or an award in arbitration to enforce his or her rights under, or to recover damages for breach of, this Agreement, Indemnitee shall be entitled to recover from the Company, and shall be indemnified by the Company for, any and all Expenses actually and reasonably incurred by him or her in such judicial adjudication or arbitration. If it shall be determined in such judicial adjudication or arbitration that Indemnitee is entitled to receive part but not all of the indemnification or advance of Expenses sought, the Expenses incurred by Indemnitee in connection with such judicial adjudication or arbitration shall be appropriately prorated.

(e) Interest shall be paid by the Company to Indemnitee at the maximum rate allowed to be charged for judgments under the Courts and Judicial Proceedings Article of the Annotated Code of Maryland for amounts which the Company pays or is obligated to pay for the period (i) commencing with either the tenth day after the date on which the Company was requested to advance Expenses in accordance with Section 8 or 9 of this Agreement or the 60th day after the date on which the Company was requested to make the determination of entitlement to indemnification under Section 10(b) of this Agreement, as applicable, and (ii) ending on the date such payment is made to Indemnitee by the Company.

Section 13. Defense of the Underlying Proceeding.

(a) Indemnitee shall notify the Company promptly in writing upon being served with any summons, citation, subpoena, complaint, indictment, request or other document relating to any Proceeding which may result in the right to indemnification or the advance of Expenses hereunder and shall include with such notice a description of the nature of the Proceeding and a summary of the facts underlying the Proceeding. The failure to give any such notice shall not disqualify Indemnitee from the right, or otherwise affect in any manner any right of Indemnitee, to indemnification or the advance of Expenses under this Agreement unless the Company's ability to defend in such Proceeding or to obtain proceeds under any insurance policy is materially and adversely prejudiced thereby, and then only to the extent the Company is thereby actually so prejudiced.

(b) Subject to the provisions of the last sentence of this Section 13(b) and of Section 13(c) below, the Company shall have the right to defend Indemnitee in any Proceeding which may give rise to indemnification hereunder; provided, however, that the Company shall notify Indemnitee of any such decision to defend within 15 calendar days following receipt of notice of any such Proceeding under Section 13(a) above. The Company shall not, without the prior written consent of Indemnitee, which shall not be unreasonably withheld or delayed, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (i) includes an admission of fault of Indemnitee, (ii) does not include, as an unconditional term thereof, the full release of Indemnitee from all liability in respect of such Proceeding, which release shall be in form and substance reasonably satisfactory to Indemnitee, or (iii) would impose any Expense, judgment, fine, penalty or limitation on Indemnitee. This Section 13(b) shall not apply to a Proceeding brought by Indemnitee under Section 12 of this Agreement.

(c) Notwithstanding the provisions of Section 13(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld, that he or she may have separate defenses or counterclaims to assert with respect to any issue which may not be consistent with other defendants in such Proceeding, (ii) Indemnitee reasonably concludes, based upon an opinion of counsel approved by the Company, which approval shall not be unreasonably withheld, that an actual or apparent conflict of interest or potential conflict of interest exists between Indemnitee and the Company, or (iii) if the Company fails to assume the defense of such Proceeding in a timely manner, Indemnitee shall be entitled to be represented by separate legal counsel of Indemnitee's choice, subject to the prior approval of the Company, which approval shall not be unreasonably withheld, at the expense of the Company. In addition, if the Company fails to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any Proceeding to deny or to recover from Indemnitee the benefits intended to be provided to Indemnitee hereunder, Indemnitee shall have the right to retain counsel of Indemnitee's choice, subject to the prior approval of the Company, which approval shall not be unreasonably withheld, at the expense of the Company (subject to Section 12(d) of this Agreement), to represent Indemnitee in connection with any such matter.

Section 14. Non-Exclusivity; Survival of Rights; Subrogation.

(a) The rights of indemnification and advance of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the charter or Bylaws of the Company, any agreement or a resolution of the stockholders entitled to vote generally in the election of directors or of the Board of Directors, or otherwise. Unless consented to in writing by Indemnitee, no amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her Corporate Status prior to such amendment, alteration or repeal, regardless of whether a claim with respect to such action or inaction is raised prior or subsequent to such amendment, alteration or repeal. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right or remedy shall be cumulative and in addition to every other right or remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion of any right or remedy hereunder, or otherwise, shall not prohibit the concurrent assertion or employment of any other right or remedy.

(b) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

Section 15. Insurance.

(a) The Company will use its reasonable best efforts to acquire directors and officers liability insurance, on terms and conditions deemed appropriate by the Board of Directors, with the advice of counsel, covering Indemnitee or any claim made against Indemnitee by reason of his or her Corporate Status and covering the Company for any indemnification or advance of Expenses made by the Company to Indemnitee for any claims made against Indemnitee by reason of his or her Corporate Status. In the event of a Change in Control, the Company shall maintain in force any and all directors and officers liability insurance policies that were maintained by the Company immediately prior to the Change in Control for a period of six years with the insurance carrier or carriers and through the insurance broker in place at the time of the Change in Control; provided, however, (i) if the carriers will not offer the same policy and an expiring policy needs to be replaced, a policy substantially comparable in scope and amount shall be obtained and (ii) if any replacement insurance carrier is necessary to obtain a policy substantially comparable in scope and amount, such insurance carrier shall have an AM Best rating that is the same or better than the AM Best rating of existing insurance carrier; provided, further, however, in no event shall the Company be required to expend in the aggregate in excess of 300% of the annual premium or premiums paid by the Company for directors and officers liability insurance in effect on the date of the Change in Control. In the event that 300% of the annual premium paid by the Company for such existing directors and officers liability insurance is insufficient for such coverage, the Company shall spend up to that amount to purchase such lesser coverage as may be obtained with such amount.

(b) Without in any way limiting any other obligation under this Agreement, the Company shall indemnify Indemnitee for any payment by Indemnitee arising out of the amount of any deductible or retention and the amount of any excess of the aggregate of all judgments, penalties, fines, settlements and Expenses incurred by Indemnitee in connection with a Proceeding over the coverage of any insurance referred to in the previous sentence. The purchase, establishment and maintenance of any such insurance shall not in any way limit or affect the rights or obligations of the Company or Indemnitee under this Agreement except as expressly provided herein, and the execution and delivery of this Agreement by the Company and Indemnitee shall not in any way limit or affect the rights or obligations of the Company under any such insurance policies. If, at the time the Company receives notice from any source of a Proceeding to which Indemnitee is a party or a participant (as a witness or otherwise), the Company has director and officer liability insurance in effect, the Company shall give prompt notice of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies.

Section 16. Coordination of Payments. The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable or payable or reimbursable as Expenses hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

Section 17. Contribution. If the indemnification provided in this Agreement is unavailable in whole or in part and may not be paid to Indemnitee for any reason, other than for failure to satisfy the standard of conduct set forth in Section 4 or due to the provisions of Section 5, then, with respect to any Proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such Proceeding), to the fullest extent permissible under applicable law, the Company, in lieu of indemnifying and holding harmless Indemnitee, shall pay, in the first instance, the entire amount incurred by Indemnitee, whether for Expenses, judgments, penalties, and/or amounts paid or to be paid in settlement, in connection with any Proceeding without requiring Indemnitee to contribute to such payment, and the Company hereby waives and relinquishes any right of contribution it may have at any time against Indemnitee.

Section 18. Reports to Stockholders. To the extent required by the MGCL, the Company shall report in writing to its stockholders the payment of any amounts for indemnification of, or advance of Expenses to, Indemnitee under this Agreement arising out of a Proceeding by or in the right of the Company with the notice of the meeting of stockholders of the Company next following the date of the payment of any such indemnification or advance of Expenses or prior to such meeting.

Section 19. Duration of Agreement; Binding Effect.

(a) This Agreement shall continue until and terminate on the later of (i) the date that Indemnitee shall have ceased to serve as a director, officer, employee or agent of the Company or as a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company and (ii) the date that Indemnitee is no longer subject to any actual or possible Proceeding (including any rights of appeal thereto and any Proceeding commenced by Indemnitee pursuant to Section 12 of this Agreement).

(b) The indemnification and advance of Expenses provided by, or granted pursuant to, this Agreement shall be binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent of the Company or a director, trustee, officer, partner, manager, managing member, fiduciary, employee or agent of any other foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving in such capacity at the request of the Company, and shall inure to the benefit of Indemnitee and his or her spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(c) The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(d) The Company and Indemnitee agree herein that a monetary remedy for breach of this Agreement, at some later date, may be inadequate, impracticable and difficult of proof, and further agree that such breach may cause Indemnitee irreparable harm. Accordingly, the parties hereto agree that Indemnitee may enforce this Agreement by seeking injunctive relief and/or specific performance hereof, without any necessity of showing actual damage or irreparable harm and that by seeking injunctive relief and/or specific performance, Indemnitee shall not be precluded from seeking or obtaining any other relief to which he or she may be entitled. Indemnitee shall further be entitled to such specific performance and injunctive relief, including temporary restraining orders, preliminary injunctions and permanent injunctions, without the necessity of posting bonds or other undertakings in connection therewith. The Company acknowledges that, in the absence of a waiver, a bond or undertaking may be required of Indemnitee by a court, and the Company hereby waives any such requirement of such a bond or undertaking.

Section 20. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, illegal or unenforceable that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section, paragraph or sentence of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 21. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. One such counterpart signed by the party against whom enforceability is sought shall be sufficient to evidence the existence of this Agreement.

Section 22. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

Section 23. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

Section 24. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, on the day of such delivery, or (ii) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(a) If to Indemnitee, to the address set forth on the signature page hereto.

(b) If to the Company, to:

HMS Income Fund, Inc.
Suite 5000
2800 Post Oak Boulevard
Houston, Texas 77056-6118
Attn: Corporate Counsel

or to such other address as may have been furnished in writing to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

Section 25. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maryland, without regard to its conflicts of laws rules.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

HMS INCOME FUND, INC.

By: _____
Name:
Title:

INDEMNITEE

_____
Name:
Address:

EXHIBIT A

AFFIRMATION AND UNDERTAKING TO REPAY EXPENSES ADVANCED

To: The Board of Directors of HMS Income Fund, Inc.

Re: Affirmation and Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This Affirmation and Undertaking is being provided pursuant to that certain Indemnification Agreement, dated the day of , 2012, by and between HMS Income Fund, Inc., a Maryland corporation (the "Company"), and the undersigned Indemnitee (the "Indemnification Agreement"), pursuant to which I am entitled to advance of Expenses in connection with **[Description of Proceeding]** (the "Proceeding").

Terms used herein and not otherwise defined shall have the meanings specified in the Indemnification Agreement.

I am subject to the Proceeding by reason of my Corporate Status or by reason of alleged actions or omissions by me in such capacity. I hereby affirm my good faith belief that at all times, insofar as I was involved as a director or officer of the Company, in any of the facts or events giving rise to the Proceeding, I (1) did not act with bad faith or active or deliberate dishonesty, (2) did not receive any improper personal benefit in money, property or services and (3) in the case of any criminal proceeding, had no reasonable cause to believe that any act or omission by me was unlawful.

In consideration of the advance of Expenses by the Company for reasonable attorneys' fees and related Expenses incurred by me in connection with the Proceeding (the "Advanced Expenses"), I hereby agree that if, in connection with the Proceeding, it is established that (1) an act or omission by me was material to the matter giving rise to the Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (2) I actually received an improper personal benefit in money, property or services or (3) in the case of any criminal proceeding, I had reasonable cause to believe that the act or omission was unlawful, then I shall promptly reimburse the portion of the Advanced Expenses, together with the Applicable Legal Rate of interest thereon, relating to the claims, issues or matters in the Proceeding as to which the foregoing findings have been established.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this day of , 20 .

_____

Name:

Exhibit (n)(2)

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated April 27, 2012 with respect to the financial statements of HMS Income LLC for the period from inception (November 22, 2011) to December 31, 2011 which is contained in the Prospectus contained in this Registration Statement. We consent to the use of the aforementioned report in the Prospectus contained in this Registration Statement, and to the use of our name as it appears under the caption "Independent Registered Public Accounting Firm".

/s/ GRANT THORNTON LLP

Houston, Texas
May 31, 2012

HMS INCOME FUND, INC.
RULE 17j-1 CODE OF ETHICS

This Rule 17j-1 Code of Ethics (this "Code") has been adopted by the Board of Directors (the "Board") of HMS Income Fund, Inc. (the "Company") in accordance with Rule 17j-1 under the 1940 Act. Terms that are capitalized in this Code and not otherwise defined are defined in Section II below.

It is the intention of this Code to establish the fundamental standard to be followed with regard to personal securities transactions of the Company's Access Persons. This Code is designed to ensure that all personal securities transactions by individuals with access to information regarding real or potential portfolio securities of the Company are conducted in such a manner as to avoid any actual or potential conflict of interest between the Access Person's interest and the interests of the Company or abuse of the Access Person's position of trust and responsibility. It is not the intention of this Code to prohibit personal securities activities by Access Persons but to ensure the protection of the interests of the Company's stockholders while doing so.

Potential conflicts arising from personal investment activities could include buying or selling securities based on knowledge of the Company's trading position or plans (sometimes referred to as front-running) and acceptance of personal favors that could influence trading judgments on behalf of the Company. While this Code is designed to address identified conflicts and potential conflicts, it cannot possibly be written broadly enough to cover all potential situations and, in this regard, Access Persons are expected to adhere not only to the letter, but also the spirit, of the policies contained herein.

The Board recognizes that certain Access Persons may have reporting obligations under other codes of ethics in addition to this Code. Further, this Code contains certain exclusions from its requirements that may apply to certain Access Persons. If it is unclear to you if any of these exceptions or exclusions apply to you, please contact the Company's Chief Compliance Officer (the "CCO").

I. NOTIFICATION OF REPORTING OBLIGATIONS

All persons in a supervisory role shall: (i) promptly notify the CCO when any person becomes or is identified as becoming an Access Person, as defined below; (ii) provide notice to the Access Person of his or her being designated as an Access Person and of his or her obligations hereunder; (iii) provide the Access Person with a copy of this Code as currently in effect; and (iv) facilitate the execution of the Access Person certification in accordance with Section VI below.

II. DEFINITIONS

a. **1933 Act** is the Securities Act of 1933, as amended.

b. **1934 Act** is the Securities Exchange Act of 1934, as amended.

c. **1940 Act** is the Investment Company Act of 1940, as amended.

d. **Access Person** includes:

1. Any Advisory Person of the Company or of the Company's Investment Adviser, including its directors, officers, and general partners; and

2. Any director, officer or general partner of the Managing Dealer who, in the ordinary course of business, makes, participates in or obtains information regarding an actual or potential purchase or sale of Covered Securities by the Company or whose functions or duties in the ordinary course of business relate to the making of any recommendations to the Company with respect to such transactions.

e. **Advisers Act** is the Investment Advisers Act of 1940, as amended.

f. **Advisory Person** of the Company or its Investment Adviser means: (i) any director, officer, general partner or employee of the Company or its Investment Adviser, or any company in a Control relationship to the Company or its Investment Adviser, who in connection with his or her regular functions or duties makes, participates in, or obtains information regarding the purchase or sale of any Covered Security by the Company, or whose functions relate to the making of any recommendation with respect to such purchases or sales; and (ii) any natural person in a Control relationship to the Company or its Investment Adviser who obtains information concerning recommendations made to the Company with regard to the purchase or sale of any Covered Security by the Company.

g. **Automatic Investment Plan** means a program in which regular periodic purchases (or withdrawals) are made automatically to (or from) investment accounts in accordance with a predetermined schedule and allocation. An Automatic Investment Plan includes a dividend reinvestment plan.

h. **Beneficial Interest** includes any entity, person, trust, or account with respect to which an Access Person exercises investment discretion or provides investment advice. A beneficial interest shall be presumed to include all accounts in the name of or for the benefit of the Access Person, his or her spouse, dependent children, or any person living with him or her or to whom he or she contributes economic support.

i. **Beneficial Ownership** generally means any interest in a security for which an Access Person or any member of his or her immediate family sharing the same household can directly or indirectly receive a monetary ("pecuniary") benefit. It shall be interpreted in the same manner as it would be under Rule 16a-1(a)(2) of the 1934 Act, in determining whether a person is the beneficial owner of a security for purposes of Section 16 of the 1934 Act and the rules and regulations thereunder, that, generally speaking, encompass those situations where the beneficial owner has the right to enjoy a direct or indirect economic benefit from the ownership of the security. A person is normally regarded as the beneficial

owner of securities held in: (i) the name of his or her spouse, domestic partner, minor children, or other relatives living in his or her household; (ii) a trust, estate or other account in which he/she has a present or future interest in the income, principal or right to obtain title to the securities; or (iii) the name of another person or entity by reason of any contract, understanding, relationship, agreement or other arrangement whereby he or she obtains benefits substantially equivalent to those of ownership.

j. **Chief Compliance Officer (CCO)** means the person or persons designated by the Board to fulfill the responsibilities assigned to the CCO hereunder. The CCO may designate any responsibilities hereunder to any person qualified to perform such responsibilities.

k. **Control** has the same meaning as that set forth in Section 2(a)(9) of the 1940 Act.

l. **Covered Security** means any Security, but *excluding*:

1. Direct obligations of the Government of the United States;

2. Bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements; and

3. Shares of open-end investment companies registered under the 1940 Act.

m. **Initial Public Offering** or **IPO** means an offering of securities registered under the 1933 Act, the issuer of which, immediately before the registration, was not subject to the reporting requirements of Sections 13 or 15(d) of the 1934 Act.

n. **Investment Adviser** shall be defined in accordance with Section 2(20) of the 1940 Act and shall include all investment advisers of the Company, including all investment sub-advisers.

o. **Investment Personnel** or **Investment Person** means:

1. Any employee of the Company, its Investment Adviser (or of any company in a Control relationship to the Company or its Investment Adviser) who, in connection with his or her regular functions or duties, makes or participates in making recommendations regarding the purchase or sale of securities by the Company or the evaluation of, or investment in, a Covered Security by the Company; or

2. Any natural person who controls the Company or its Investment Adviser and who obtains information concerning recommendations regarding the purchase or sale of securities or the evaluation of or investment in a Covered Security by the Company.

p. **Limited Offering** means an offering or a private placement of securities that is exempt from registration under the 1933 Act pursuant to Section 4(2) or Section 4(5) or pursuant to Rule 504, Rule 505 or Rule 506 under the 1933 Act.

q. **Managing Dealer** initially means HMS Securities, Inc., a Texas Company.

r. **Security** means a security as defined in Section 2(a)(36) of the 1940 Act, which includes: any note, stock, treasury stock, security future, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, any put, call, straddle, option or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

s. **Security Held or to be Acquired** by the Company means:

1. any Covered Security that, within the most recent 15 days, is or has been held by the Company or is being or has been considered by the Company or its Investment Adviser for purchase by the Company; or

2. any option to purchase or sell, and any security convertible into or exchangeable for, a Covered Security described in subparagraph (1) of this definition.

t. **Service Provider(s)** means, as appropriate, the Company's Investment Adviser(s) and/or the Managing Dealer.

III. GENERAL PRINCIPLES

Rule 17j-1 makes it unlawful for any Access Person of the Company, any Access Person of the Company's Investment Adviser, or any director, officer or general partner of the Managing Dealer, in connection with the purchase and sale (directly or indirectly) by such person of a Security Held or to be Acquired by the Company, to:

a. Employ any device, scheme or artifice to defraud the Company;

b. Make any untrue statement of a material fact to the Company or omit to state a material fact necessary in order to make the statements made to the Company, in light of the circumstances under which they are made, not misleading;

c. Engage in any act, practice or course of business which operates or would operate as a fraud or deceit on the Company; or

d. Engage in any manipulative practice with respect to the Company.

No Access Person shall engage in any act, practice or course of conduct that would violate the provisions of Rule 17j-1 set forth above. The interests of the Company and its stockholders are paramount and come before the interests of any Access Person. Personal investing activities of all Access Persons must be conducted in a manner that avoids actual or potential conflicts of interest with the Company and its stockholders. Access Persons shall not use their positions, or any investment opportunities presented by virtue of such positions, to the detriment of the Company and its stockholders.

IV. STANDARDS OF CONDUCT

a. General Standards

1. No Access Person shall engage, directly or indirectly, in any business transaction or arrangement for personal profit that is inconsistent with the best interests of the Company or its stockholders; nor shall he or she make use of any confidential information gained by reason of his or her employment by or affiliation with the Company or affiliates thereof in order to derive a personal profit for himself or herself or for any Beneficial Interest, in violation of the fiduciary duty owed to the Company and its stockholders.

2. Any Access Person recommending or authorizing the purchase or sale of a Covered Security by the Company shall, at the time of such recommendation or authorization, disclose any Beneficial Interest in, or Beneficial Ownership of, such Covered Security or the issuer thereof.

3. No Access Person shall dispense any information concerning securities holdings or securities transactions of the Company to anyone outside the Company without obtaining prior written approval from the CCO, or such person or persons as these individuals may designate to act on their behalf. Notwithstanding the preceding sentence, such Access Person may dispense such information without obtaining prior written Approval:

(i) when there is a public report containing the same information;

(ii) when such information is dispensed in accordance with compliance procedures established to prevent conflicts of interest between the Company and its affiliates;

(iii) when such information is reported to directors of the Company; or

(iv) in the ordinary course of his or her duties on behalf of the Company.

4. All personal securities transactions should be conducted consistent with this Code and in such a manner as to avoid actual or potential conflicts of interest, the appearance of a conflict of interest, or any abuse of an individual's position of trust and responsibility within the Company.

b. Prohibited Transactions

1. No Access Person shall purchase or sell, directly or indirectly, any Covered Security in which he or she has, or by reason of such transaction acquires, any direct or indirect Beneficial Ownership and which such Access Person knows or should have known at the time of such purchase or sale is being considered for purchase or sale by the Company or its Investment Adviser on behalf of the Company, or is held in the portfolio of the Company unless such Access Person shall have obtained prior written approval for such purpose from the CCO.

   (i) An Access Person who becomes aware that the Company or its Investment Adviser is considering the purchase or sale of any Covered Security for the Company by any person or issuer must immediately notify the CCO of any interest that such Access Person may have in any outstanding Covered Securities of that issuer.

   (ii) An Access Person shall similarly notify the CCO of any other interest or connection that such Access Person might have in or with such issuer.

   (iii) Once an Access Person becomes aware that the Company or its Investment Adviser is considering the purchase or sale of a Covered Security for the Company or that the Company holds a Covered Security in its portfolio, such Access Person may not engage, without prior approval of the CCO, in any transaction in any Covered Securities of that issuer.

   (iv) The foregoing notifications or permission may be initially provided verbally, but should be confirmed in writing as soon and with as much detail as possible.

2. Investment Personnel of the Company or its Investment Adviser must obtain approval from the Company or its Investment Adviser before directly or indirectly acquiring beneficial ownership in any securities in an Initial Public Offering or in a Limited Offering. A copy of a pre-clearance form is attached hereto as Appendix 2.

3. No Investment Personnel shall execute a securities transaction in any security that the Company owns or that the Company or its Investment Adviser is considering for purchase or sale on behalf of the Company.

4. Investment Personnel who have been authorized to acquire securities in a Limited Offering must disclose that investment to the CCO when they are involved in the Company's subsequent consideration of an investment in the issuer, and the Company's or its Investment Adviser's decision to purchase such securities for the Company must be independently reviewed by Investment Personnel with no personal interest in that issuer.

5. No Access Person may accept, directly or indirectly, any gift, favor, or service of more than a de minimis value from any person with whom he or she transacts business on behalf of the Company under circumstances when to do so would conflict with the Company's best interests or would impair the ability of such person to be completely disinterested when required, in the course of business, to make judgments and/or recommendations on behalf of the Company.

V. REPORTING REQUIREMENTS

To enable the Company to determine with reasonable assurance whether the provisions of Rule 17j-1(a) and this Code are being observed by its Access Persons, the following reporting requirements apply, except as noted in sub-section (e) below:

a. Initial Holdings Report. Within 10 days after a person becomes an Access Person, he or she shall deliver a report in writing (an "Initial Holdings Report") to the CCO, in a form attached hereto as Appendix 3 or in any other form acceptable to the CCO, of all direct or indirect Beneficial Ownership interests of such Access Person in Covered Securities. Information to be reported must be current as of a date no more than 45 days prior to an individual becoming an Access Person and is to include:

   1. The title, number of shares and principal amount of each Covered Security in which the Access Person had any direct or indirect Beneficial Ownership when the person became an Access Person;

   2. The name of any broker, dealer or bank with whom the Access Person maintained an account in which any securities were held for the direct or indirect benefit of the Access Person as of the date the person became an Access Person; and

   3. The date the report is submitted by the Access Person.

b. Quarterly Transaction Report. Each Access Person shall deliver a report in writing (a "Quarterly Transaction Report"), to the CCO within 30 days of the end of each calendar quarter, in a form attached hereto as Appendix 4 or in any other form acceptable to the CCO, that includes:

   1. With respect to any transaction during the quarter in a Covered Security in which the Access Person had any direct or indirect Beneficial Ownership:

(i) The date of the transaction, the title, the interest rate and maturity date (if applicable), the number of shares and the principal amount of each Covered Security involved;

(ii) The nature of the transaction (i.e., purchase, sale or any other type of acquisition or disposition);

(iii) The price of the Covered Security at which the transaction was effected;

(iv) The name of the broker, dealer or bank with or through which the transaction was effected; and

(v) The date that the report is submitted by the Access Person.

2. With respect to any account established by the Access Person in which any securities were held during the quarter for the direct or indirect benefit of the Access Person:

(i) The name of the broker, dealer or bank with whom the Access Person established the account;

(ii) The date the account was established; and

(iii) The date that the report is submitted by the Access Person.

c. Annual Holdings Report. Each Access Person shall deliver a written report annually (an "Annual Holdings Report"), in a form attached hereto as Appendix 5 or in any other form acceptable to the CCO, no later than January 31 of each year, that includes the following information, which must be current as of December 31 of the prior calendar year:

1. The title, number of shares and principal amount of each Covered Security in which the Access Person had any direct or indirect beneficial ownership;

2. The name of any broker, dealer or bank with whom the Access Person maintains an account in which any securities are held for the direct or indirect benefit of the Access Person; and

3. The date the report is submitted.

d. Account Statements. In lieu of providing a Quarterly Transaction Report, an Access Person may direct his or her broker to provide to the CCO copies of periodic statements for all investment accounts in which they have Beneficial Ownership that provide the information required in quarterly transaction reports, as set forth above.

e. Exceptions from Reporting Requirements.

1. An Access Person need not submit reports pursuant to this Section V with respect to transactions effected for, and Covered Securities held in, any account over which such person has no direct or indirect influence or control.

2. An Access Person need not make a Quarterly Transaction Report with respect to transactions effected pursuant to an Automatic Investment Plan.

3. An Access Person of an Investment Adviser to the Company need not submit reports pursuant to this Section V provided that such person is otherwise subject to a code of ethics that is compliant with Rule 17j-1 of the 1940 Act and Rule 204A-1 of the Advisers Act and properly adopted by such Investment Adviser.

4. An Access Person of the Managing Dealer to the Company need not submit reports pursuant to this Section V if:

   (i) The Managing Dealer is not an affiliated person of the Company or any Investment Adviser of the Company; and

   (ii) The Managing Dealer has no officer, director or general partner who serves as an officer, director or general partner of the Company or of any Investment Adviser of the Company.

5. A director of the Company who is not an "interested person" of the Company (as defined in Section 2(a)(19) of the 1940 Act) (an "Independent Director"), and who would be required to make a report solely by reason of being a director of the Company, need not make:

   (i) An Initial Holdings Report or an Annual Holdings Report; and

   (ii) A Quarterly Transaction Report unless such director knew or, in the ordinary course of fulfilling his or her official duties as a director of the Company, should have known that, during the 15-day period immediately preceding or after the director's transaction in a Covered Security, the Company purchased or sold such Covered Security or the Company or its Investment Adviser considered purchasing or selling the Covered Security for the Company.

6. An Access Person need not make a Quarterly Transaction Report if the report would duplicate information contained in broker trade confirmations or account statements received by the Company, its Investment Adviser or the Managing Dealer with respect to the Access Person, provided such broker trade confirmations or account statements are received by the due date required for a Quarterly Transaction Report and broker trade confirmations or account statements contain all of the information required to be included in the Quarterly Transaction Report.

f. The form of reporting pursuant to this Section V shall be in accordance with such form and process as established by the CCO at his or her discretion.

g. It is the Company's policy that these reports be submitted quarterly by all Access Persons, whether or not securities transactions have occurred in their accounts during the relevant period. Those Access Persons having no securities transaction to report must indicate this fact in his or her report. The report must then be dated, signed and submitted to the CCO for review.

VI. CERTIFICATION

All Access Persons are required to certify that they have read and understand this Code and recognize that they are subject to the provisions hereof and will comply with the policy and procedures stated herein. Further, all Access Persons are required to certify annually that they have complied with the requirements of this Code and that they have reported all personal securities transactions required to be disclosed or reported pursuant to the requirements of such policies. A copy of the certification form to be used in complying with this paragraph is attached to this Code as Appendix 1.

VII. ENFORCEMENT

a. To the extent that any Access Person under this policy is also governed by a code of ethics of an Investment Adviser of the Company or the Managing Dealer, and such code of ethics has been determined by the CCO to be compliant with Rule 17j-1 of the 1940 Act, the CCO may direct the reporting obligations under Section V hereunder to the respective Investment Adviser or the Managing Dealer, provided that the chief compliance officer of such Investment Adviser or the Managing Dealer, as the case may be, provides quarterly certifications to the CCO hereunder, that such reporting obligations have been properly complied with by the Access Person(s). For purposes of verification of such certification, the CCO retains the authority to request and examine the books and records of the Investment Adviser or the Managing Dealer, as applicable, at his or her sole discretion.

b. Unless the chief compliance officer of the Investment Adviser or the Managing Dealer provides a list designating the individuals deemed to be Access Persons under this Code, the CCO shall presumptively conclude that all Advisory Persons of the Investment Adviser and any director, officer or general partner of the Managing Dealer are Access Persons subject to the reporting requirements hereunder.

c. If the CCO determines that a violation of this Code may have occurred, before making a final determination that a material violation has been committed by an individual, the CCO may give such person an opportunity to supply additional information regarding the transaction in question.

d. If the CCO determines that a material violation of this Code has occurred, he or she shall promptly report the violation to the Board. The Board, including a majority of the Independent Directors, with the exception of any person whose transaction is under consideration, shall take such actions as they consider appropriate, in addition to any disgorgement required pursuant to Section XII, including, among other things, a letter of sanction, suspension or termination of the employment of the violator.

e. No person shall participate in a determination of whether he or she has committed a violation of this Code or in the imposition of any sanction against himself or herself. If, for example, a securities transaction of the CCO is under consideration, a director of the Company designated for this purpose by the Board or, in the absence of such designation, the Chairman of the Company's Nominating and Governance Committee, shall act in all respects in the manner prescribed herein in place of the CCO.

VIII. REPORTS TO THE BOARD

Each of the CCO, the Company's Investment Adviser(s) and the Managing Dealer shall provide to the Board, no less frequently than annually, and the Board must consider, a written report that, to the extent not previously provided in a written report to the Board:

a. Describes any issues arising under this Code or corresponding procedures since the last report to the Board, including, but not limited to, information about material violations of this Code or corresponding procedures and any sanctions imposed in response to the material violations; and

b. Certifies that the Company, the Company's Investment Adviser(s) or the Managing Dealer, as the case may be, has adopted procedures reasonably necessary to prevent Access Persons from violating this Code.

Notwithstanding the foregoing, the Managing Dealer need not submit reports pursuant to this Section VIII if exempted from the reporting requirements pursuant to Section V above.

IX. RECORDKEEPING

The Company shall maintain the following records at its principal offices as follows:

a. This Code and any related procedures, and any code of ethics of the Company that has been in effect during the past five years, shall be maintained in an easily accessible place;

b. A record of any violation of this Code and of any action taken as a result of the violation, to be maintained in an easily accessible place for at least five years after the end of the fiscal year in which the violation occurs;

c. A copy of each report under this Code made by (or duplicate brokerage statements and/or confirmations for the account of) an Access Person, to be maintained for at least five years after the end of the fiscal year in which the report is made or the information is provided, the first two years in an easily accessible place;

d. A record of all persons, currently or within the past five years, who are or were required to make or to review reports made pursuant to Section V, to be maintained in an easily accessible place;

e. A copy of each report by the CCO to the Board, to be maintained for at least five years after the end of the fiscal year in which it is made, the first two years in an easily accessible place; and

f. A record of any decision, and the reasons supporting the decision, to approve an acquisition by an Investment Person of securities offered in an Initial Public Offering or in a Limited Offering, to be maintained for at least five years after the end of the fiscal year in which the approval is granted.

X. CONFIDENTIALITY

No Access Person shall reveal to any other person (except in the normal course of his or her duties on behalf of the Company) any information regarding securities transactions by the Company or consideration by the Company or the Investment Adviser(s) of any such securities transactions.

All information obtained from any Access Person hereunder shall be kept in strict confidence, except that reports of securities transactions hereunder will be made available to the Securities and Exchange Commission or any other regulatory or self-regulatory organization to the extent required by law or regulation.

XI. OBLIGATION TO REPORT A VIOLATION

Every Access Person who becomes aware of a violation of this Code of Ethics by any person must report it to the CCO, who shall report it to appropriate management personnel. The management personnel will take such disciplinary action that they consider appropriate under the circumstances. In the case of officers or other employees of the Company, such action may include removal from office. If the management personnel consider disciplinary action against any person, they will cause notice thereof to be given to that person and provide to that person the opportunity to be heard. The Board will be notified, in a timely manner, of remedial action taken with respect to violations of the Code.

XII. SANCTIONS

Upon discovering a violation of this Code, the Board may impose any sanctions it deems appropriate, including a letter of censure, the suspension or termination of any director, officer or employee of the Company, disgorgement, or the recommendation to the employer of the violator for the suspension or termination of the violator’s association with the Company.

XIII. APPROVAL REQUIREMENTS

This Code and any material changes must be approved by the Board, including a majority of the Independent Directors. Before initially retaining any Investment Adviser or the Managing Dealer, the Board, including a majority of the Independent Directors, must also approve the code of ethics of such Investment Adviser and/or the Managing Dealer, if required under federal securities laws to have such code of ethics, and must approve any material change to such codes of ethics within six months after the adoption of the material change. Each such approval must be based on a determination that the code of ethics in question contains provisions reasonably necessary to prevent Access Persons from engaging in any conduct prohibited by Rule 17j-1. Before approving this Code, or an Investment Adviser's or the Managing Dealer's code of ethics or any material amendments thereto, the Board must have received a certification from the relevant entity that it has adopted procedures reasonably necessary to prevent Access Persons from violating such entity's code of ethics.

Approved: May 31, 2012

APPENDIX 1

HMS INCOME FUND, INC.

CODE OF ETHICS

ACCESS PERSON CERTIFICATION FORM

CERTIFICATION UPON BEING DESIGNATED AN "ACCESS PERSON"

This is to certify that I have read and understand the Code of Ethics of HMS Income Fund, Inc. (the "Code of Ethics") and I recognize that I am subject to the provisions thereof and will comply with the policy and procedures stated therein.

Access Person's Name (Please Print): _____

Access Person's Signature: _____

Date of Certification: _____

ANNUAL CERTIFICATION

This is to further certify that I have complied with the requirements of such Code of Ethics and that I have reported all personal securities transactions required to be disclosed or reported pursuant to the requirements of such Code of Ethics.

Please sign and return this Certification Form to the Company's Chief Compliance Officer, Susan Dudley, at the offices of HMS Income Fund, Inc. Please retain the Code of Ethics for your records.

Access Person's Name (Please Print): _____

Access Person's Signature: _____

Date of Certification: _____

APPENDIX 2

____ HMS Income Fund, Inc.
or
____ HMS Adviser LP

PRE-CLEARANCE FORM

Use this form to request pre-clearance of a transaction to purchase a Limited Offering, Initial Public Offering or to purchase or sell a security issued by an issuer appearing on the Portfolio or Pipeline Reports. Please submit this form, together with a copy of the Limited Offering documentation to the Chief Compliance Officer at least five (5) business days before the planned investment.

Employee Name: **Date:**

Issuer/Investment Name:

Terms of Purchase (price, purchaser – individual, joint, entity, etc.):

Proposed Transaction Date:

How did you learn about this opportunity?

Related to a Portfolio or Pipeline security?

Approved: **Date:**

Not Approved: **Date:**

Comments:

APPENDIX 3

____ HMS Income Fund, Inc.
or
____ HMS Adviser LP

INITIAL HOLDINGS REPORT
As of _____

To: Chief Compliance Officer

A. Securities Holdings. I have listed below (or attached hereto a listing) all of my Securities Holdings held by me or Beneficial Owners as defined by the Code of Ethics of HMS Income Fund, Inc. and/or the Code of Ethics of HMS Adviser LP, as applicable.

Title of Security	CUSIP Number	Interest Rate and Maturity Date (If Applicable)	Date of Transaction	Number of Shares and Principal Amount	Dollar Amount of Transaction	Nature of Transaction (Purchase, Sale, Other)	Price	Broker/Dealer or Bank Through Whom Effected

B. Brokerage Accounts. I, or a Beneficial Owner, have established the following accounts in which securities are held for my direct or indirect benefit:

Name of Broker, Dealer or Bank
1.
2.
3.

Date: _____

Signature: _____
Print Name: _____

APPENDIX 4

___ HMS Income Fund, Inc.
or
___ HMS Adviser LP

QUARTERLY TRANSACTION REPORT
For the Calendar _____ Quarter Ended:

To: Chief Compliance Officer

A. Securities Transactions. During the quarter referred to above, the following transactions were effected in securities of which I had, or by reason of such transactions acquired, direct or indirect beneficial ownership, and which are required to be reported pursuant to the Code of Ethics of HMS Income Fund, Inc. and/or the Code of Ethics of HMS Adviser LP, as applicable:

Title of Security	CUSIP Number	Interest Rate and Maturity Date (If Applicable)	Date of Transaction	Number of Shares and Principal Amount	Dollar Amount of Transaction	Nature of Transaction (Purchase, Sale, Other)	Price	Broker/Dealer or Bank Through Whom Effected

B. New Brokerage Accounts. During the quarter referred to above, I established the following accounts in which securities were held during the quarter for my direct or indirect benefit:

	Name of Broker, Dealer or Bank	Date Account Was Established
1.		
2.		
3.		

C. Other Matters. This report (i) excludes transactions with respect to which I had no direct or indirect influence or control, (ii) excludes other transactions not required to be reported, and (iii) is not an admission that I have or had any direct or indirect beneficial ownership in the securities listed above.

Date: _____

Signature: _____
Print Name: _____

APPENDIX 5

_____ HMS Income Fund, Inc.
or
_____ HMS Adviser LP
(collectively, the "Company")

ANNUAL HOLDINGS REPORT
As of December 31, 20__

To: Chief Compliance Officer

As of December 31, 20__, I had direct or beneficial ownership interest in the securities listed below which are required to be reported pursuant to Rule 17j-1 under the Investment Company Act of 1940 or Rule 204A-1 of the Investment Advisers Act of 1940:

A. Securities Holdings. I have listed below (or attached hereto a listing) all of my Securities Holdings held by me or Beneficial Owners as defined by the Code of Ethics of HMS Income Fund, Inc. and/or the Code of Ethics of HMS Adviser LP, as applicable.

Title of Security	CUSIP Number	Number of Shares and Principal Amount

B. As of December 31, 20__, I maintained accounts with brokers, dealers, and banks listed below in which securities were held for my direct or indirect benefit:

Brokerage Accounts. I, or a Beneficial Owner, have established the following accounts in which securities were held during the year for my direct or indirect benefit:

	Name of Broker, Dealer or Bank	Date Account Was Established *
1.		
2.		
3.		

This report (i) excludes securities and accounts over which I had no direct or indirect influence or control; (ii) excludes securities not required to be reported (for example, direct obligations of the U.S. Government, shares of registered investment companies etc.); and (iii) is not an admission that I have or had any direct or indirect beneficial ownership in the securities accounts listed a*bove.*

Date: _____

Signature: _____
Print Name: _____

***Note: If account was established before 20___, you can state that it was established before 20___.**

HMS ADVISER LP
CODE OF ETHICS

This Code of Ethics ("Code") is adopted pursuant to Rule 204A-1 under the Investment Advisers Act of 1940, as amended (the "Advisers Act") and in accordance with Rule 17j-1(c) under the Investment Company Act of 1940, as amended (the "1940 Act"), by HMS Adviser LP (the "HMS Adviser") in order to set forth guidelines and procedures promoting ethical practices and conduct.

I. Standards of Business Conduct:

The Code is based on the principle that HMS Adviser owes its clients a duty of undivided loyalty. As an investment adviser, HMS Adviser has a fiduciary responsibility to its clients. Clients' interests must always be placed first. Thus, HMS Adviser personnel must conduct their personal securities transactions in a manner that does not interfere, or appear to interfere, with any transaction for a client or otherwise takes unfair advantage of a client relationship. Personnel must not take inappropriate advantage of their positions. No personnel shall accept any gift or other thing of more than de minimis value from any person or entity that does business with or on behalf of HMS Adviser. All HMS Adviser personnel must adhere to these fundamental principles as well as comply with the specific provisions set forth herein.

In particular, it shall be unlawful for any affiliated person of HMS Adviser, in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by any client of HMS Adviser, to:

- Employ any device, scheme or artifice to defraud the client;
- Make to the client any untrue statement of a material fact or omit to state to any client a material fact necessary in order to make the statement made, in light of the surrounding circumstances, not misleading;
- Engage in any act, practice or course of business that operates or would operate as a fraud or deceit on any client; or
- Engage in any manipulative practice with respect to any client.

It bears emphasis that technical compliance with these provisions will not insulate from scrutiny transactions that demonstrate a pattern of compromise or abuse of personnel's fiduciary responsibilities to clients. All personnel must seek to be scrupulous in their adherence to the ideals of openness, integrity, honesty and trust.

Rule 204A-1 of the Advisers Act requires that all HMS Adviser personnel must comply with all applicable Federal Securities Laws.

II. Definitions:

The following definitions apply for purposes of the Code:

A. Access Person means:

1. Any of HMS Adviser's supervised persons who have access to nonpublic information regarding any clients' purchase or sale of securities, or nonpublic information regarding the portfolio holdings of any reportable fund, or who is involved in making securities recommendations to clients, or who has access to such recommendations that are nonpublic.

2. All directors, officers and partners of HMS Adviser are presumed to be access persons.

B. Automatic Investment Plan refers to any program in which regular periodic purchases (or withdrawals) are made automatically in (or from) investment accounts in accordance with a predetermined schedule and allocation, including a dividend reinvestment plan.

C. Beneficial Ownership is interpreted consistent with Section 16 of the Securities Exchange Act of 1934, as amended ("Exchange Act") and Rule 16a-1(a)(2) thereunder. Rule 16a-1(a)(2) provides that the term "beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise, has or shares a direct or indirect pecuniary interest in any equity security. Therefore, an Access Person may be deemed to have Beneficial Ownership of securities held by members of his or her immediate family sharing the same household, or by certain partnerships, trusts, corporations, or other arrangements.

D. Control has the same meaning as in Section 2(a)(9) of the 1940 Act.

E. Federal Securities Laws means the Securities Act of 1933, as amended (the "1933 Act"), the Exchange Act, the Sarbanes-Oxley Act of 2002, the 1940 Act, the Advisers Act, Title V of the Gramm-Leach-Bliley Act, any rules adopted by the Commission under any of the referenced statutes, the Bank Secrecy Act as it applies to funds and investment advisers, and any rules adopted thereunder by the Commission or the Department of the Treasury.

F. HMS Adviser means HMS Adviser LP (may also be referred to herein as the "Adviser").

G. Fund means an investment company registered under the 1940 Act.

H. Initial Public Offering means an offering of securities registered under the 1933 Act, the issuer of which, immediately before the registration, was not subject to the reporting requirements of sections 13 or 15(d) of the Exchange Act.

I. Limited Offering means an offering that is exempt from registration under the 1933 Act, pursuant to Section 4(2) or 4(5) or pursuant to Rules 504, 505 and 506 promulgated under the 1933 Act.

J. Purchase or Sale of Securities includes, among other things, the writing of an option to purchase or sell a security.

K. Reportable Fund means any Fund for which HMS Adviser serves as an investment adviser as defined in section 2(a)(20) of the 1940 Act (*i.e.,* in most cases, HMS Adviser must be approved by the Fund's board of directors before it can serve), or any Fund whose investment adviser or principal underwriter Controls HMS Adviser, is Controlled by HMS Adviser, or is under common Control with HMS Adviser.

L. Reportable Security means any note, stock, treasury stock, security future, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guaranty of, or warrant or right to subscribe to or purchase any of the foregoing, except that a Reportable Security does not include:

1. Direct obligations of the Government of the United States;

2. Bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements;

3. Shares issued by money market funds other than Reportable Funds;

4. Shares issued by open-end funds; and

5. Shares issued by unit investment trusts that are invested exclusively in one or more open-end funds, none of which are Reportable Funds.

M. Supervised Person means any partner, officer, director (or other person occupying a similar status or performing similar functions), or employee of HMS Adviser, or other person who provides investment advice on behalf of HMS Adviser and is subject to the supervision and control of HMS Adviser.

III. Pre-clearance of and Prohibited Securities Transactions:

No Access Person shall purchase or sell, directly or indirectly, any security in which he or she has, or by reason of such transaction shall acquire, any direct or indirect Beneficial Ownership in any security in an initial public offering or in a limited offering, unless such Access Person shall have obtained prior written approval for such transaction from the Chief Compliance Officer. A copy of a pre-clearance form is attached hereto as Appendix B. In determining whether to approve the transaction, the Chief Compliance Officer will consider whether the opportunity to purchase or sell such Securities should be first offered to eligible clients, or whether an Access Person is being offered the opportunity because of his or her position with the Adviser. Pre-clearance shall be effective for five days.

The Chief Compliance Officer shall, when necessary, obtain prior written approval for such transactions from the Chief Executive Officer, who shall, in making a determination whether to approve the transaction, consider whether the opportunity to purchase or sell such Securities should be first offered to eligible clients, or whether an Access Person is being offered the opportunity because of his or her position with the Adviser. Pre-clearance shall be effective for five days.

In addition, the Chief Compliance Officer shall maintain a current list of issuers of securities that the Adviser is analyzing and/or recommending for client transactions. No Access Person shall purchase or sell, directly or indirectly, any security in which he or she has, or by reason of such transaction shall acquire, any direct or indirect Beneficial Ownership in any security that is on such list.

IV. Reporting Requirements:

The Adviser shall appoint a Chief Compliance Officer who shall furnish each Supervised Person with a copy of this Code, and any amendments, upon commencement of employment and annually thereafter.

Each Supervised Person is required to certify, through a written acknowledgment, within 10 days of commencement of employment, that he or she has received, read and understands this Code and recognizes that he or she is subject to the provisions and principles detailed therein. In addition, the Chief Compliance Officer shall notify each Access Person of his or her obligation to file an initial holdings report, quarterly transaction reports, and annual holdings reports, as described below.

A. Initial Holdings Reports:

Each Access Person must, no later than 10 days after the person becomes an Access Person, submit to the Chief Compliance Officer or other designated person a report of the Access Person's current securities holdings. A copy of a form of such report is attached hereto as Exhibit C. The information provided must be current as of a date no more than 45 days prior to the date the person becomes an Access Person. The report must include the following:

1. The title and type of the security and, as applicable, the exchange ticker symbol or CUSIP number, the number of shares held for each security, and the principal amount of each Reportable Security in which the Access Person has any direct or indirect Beneficial Ownership;

2. The name of any broker, dealer or bank with which the Access Person maintains an account in which any securities are held for the Access Person's direct or indirect benefit; and

3. The date the Access Person submits the report.

B. Quarterly Transaction Reports:

Each Access Person must, no later than 30 days after the end of each calendar quarter, submit to the Chief Compliance Officer or other designated person a report of the Access Person's transactions involving a Reportable Security in which the Access Person had, or as a result of the transaction acquired, any direct or indirect Beneficial Ownership. A copy of a form of such report is attached hereto as Appendix D. The report must cover all transactions occurring during the calendar quarter most recently ending. The report must contain the following information:

1. The date of the transaction;

2. The title and, as applicable, the exchange ticker symbol or CUSIP number, of each reportable security involved, the interest rate and maturity date of each reportable security involved, the number of shares of each reportable security involved, the principal amount of each reportable security involved;

3. The nature of the transaction (i.e., purchase, sale or other type of acquisition or disposition);

4. The price of the security at which the transaction was effected;

5. The name of the broker, dealer or bank with or through which the transaction was effected; and

6. The date the Access Person submits the report.

C. Annual Holdings Reports:

Each Access Person must submit, to the Chief Compliance Officer or other designated person, an annual holdings report reflecting holdings as of a date no more than 45 days before the report is submitted. The Annual Holdings Report must be submitted at least once every 12-month period, on a date to be designated by the Adviser. A copy of a form of such report is attached hereto as Appendix E. The Chief Compliance Officer will notify every Access Person of the date. Each report must include:

1. The title and type of the security and, as applicable, the exchange ticker symbol or CUSIP number, the number of shares held for each security, the principal amount of each Reportable Security in which the Access Person has any direct or indirect Beneficial Ownership;

2. The name of any broker, dealer or bank with which the Access Person maintains an account in which any securities are held for the Access Person's direct or indirect benefit; and

3. The date the Access Person submits the report.

D. Exceptions from Reporting Requirements:

An Access Person need not submit a quarterly transaction report under this section of the Code for:

1. Securities held in accounts over which the Access Person had no direct or indirect influence or control;

2. Transactions effected pursuant to an automatic investment plan; or

3. Duplicate information contained in broker trade confirmations or account statements that the Adviser holds in its records, so long as the Adviser receives the confirmations or statements no later than 30 days after the end of the applicable calendar quarter.

E. Annual Certification of Compliance:

All Supervised Persons must certify annually, through an Acknowledgment Regarding Code of Ethics in the form provided in Appendix A, which acknowledges that (1) they have read, understood and agree to abide by this Code; (2) they have complied with all applicable requirements of this Code; and (3) they have reported all transactions and holdings that they are required to report under this Code.

V. Confidentiality:

All reports of securities transactions and any other information filed pursuant to this Code shall be treated as confidential, but are subject to review as provided herein and by representatives of the Securities and Exchange Commission, upon request.

VI. Review and Enforcement:

Access Persons are required to promptly report potential violations of the Code to the Chief Compliance Officer or, provided the Chief Compliance Officer also receives reports of all violations, to another designated person. All reported potential violations will be investigated and, if appropriate, sanctions will be imposed. Sanctions may include, but are not limited to, a letter of caution or warning, reversal of a trade or transaction, disgorgement of profit and absorption of costs associated with a transaction, supervisor approval to trade for a proscribed period, fine or other monetary penalty, suspension of personal trading privileges, suspension of employment (with or without compensation) and termination of employment.

An exception to any of the policies, restrictions and requirements set forth herein may be granted only upon a showing by an Access Person, to the Chief Compliance Officer, that such Access Person would suffer extreme financial hardship should an exception not be granted. The grant of such exception will be in the sole discretion of the Chief Compliance Officer.

All Initial Holdings Reports, Quarterly Transactions Reports, Annual Holdings Reports and certifications must be reviewed by the Chief Compliance Officer, or some other designated person. This review will include, but is not limited to, an assessment of whether the Access

Person followed pre-clearance requirements, a comparison of personal securities transactions to any restricted lists, an assessment of whether the Access Person is trading for his or her own account in the same securities he or she is trading for clients and if so, whether the clients are receiving terms as favorable as those the Access Person takes for himself, periodic analyses of the Access Person's trading for patterns indicating abuse and investigations into any substantial disparities between the percentage of trades that are profitable when the Access Person trades for his or her own account versus the percentage that are profitable when he or she trades for clients.

VII. Record-keeping:

The Adviser shall maintain records in the manner and to the extent set forth below, which may be maintained on microfilm or electronically as permissible under the conditions described in Rule 204-2(g) under the Advisers Act, or under no-action letters or interpretations under that Rule, and shall be available for examination by representatives of the Securities and Exchange Commission.

The records required to be maintained must be kept in an easily accessible place for five years, the first two in an appropriate office of the Adviser.

A. A copy of this Code and any amendments hereto adopted shall be preserved (including for five years after the Code or amendment, as applicable, is no longer in effect).

B. A record of any violation of this Code and of any action taken as a result of that violation shall be preserved for a period of not less than five years following the end of the fiscal year in which the last entry in the record of the violation is made. This requirement does not suggest that reports of violations need be kept as records under this Code.

C. A record of all written acknowledgements, as required by Section IV of this Code, for each person who is currently or within the past five years was a Supervised Persons, shall be preserved.

D. A copy of each report made by an Access Person, including any information provided in lieu of any report, pursuant to this Code shall be preserved.

E. A list of all Access Persons who are, or within the past five years have been, required to make reports pursuant to this Code and all persons who are, or within the past five years have been, responsible for reviewing the reports, shall be maintained.

F. A copy of any decisions, and any reasons supporting the decisions, to approve the purchase of private placement securities or public offerings by Access Persons shall be maintained for at least five years after the end of the fiscal year in which the approval is granted.

VIII. Amendment and Interpretation:

This Code may be amended as necessary to maintain compliance with Federal Securities Laws by the written concurrence of the Chief Compliance Officer and the Chief Executive Officer. Notice of any and all amendments shall be promptly given to each Access Person and any other persons subject to the provisions of this Code and each such person will provide a

written acknowledgement of his or her receipt of the amended Code. In addition, the Board of Directors of HMS Income Fund, Inc. shall be promptly notified of any material change in this Code. This Code is subject to interpretation by the Chief Compliance Officer, but shall in all cases be interpreted consistent with the language of the Code, Rule 204A-1 under the Advisers Act and Rule 17j-1 under the 1940 Act.

Approved: May 31, 2012

Appendix A

HMS ADVISER LP
CODE OF ETHICS
ACCESS PERSON CERTIFICATION FORM

CERTIFICATION UPON BEING DESIGNATED AN "ACCESS PERSON"

This is to certify that I have read and understand the Code of Ethics of HMS Adviser LP (the "Code of Ethics") and I recognize that I am subject to the provisions thereof and will comply with the policy and procedures stated therein.

Access Person's Name (Please Print): _____

Access Person's Signature: _____

Date of Certification: _____

ANNUAL CERTIFICATION

This is to further certify that I have complied with the requirements of such Code of Ethics and that I have reported all personal securities transactions required to be disclosed or reported pursuant to the requirements of such Code of Ethics.

Please sign and return this Certification Form to the Company's Chief Compliance Officer, Susan Dudley, at the offices of HMS Adviser LP. Please retain the Code of Ethics for your records.

Access Person's Name (Please Print): _____

Access Person's Signature: _____

Date of Certification: _____

Appendix B

___ HMS Income Fund, Inc.
or
___ HMS Adviser LP

PRE-CLEARANCE FORM

Use this form to request pre-clearance of a transaction to purchase a Limited Offering, Initial Public Offering or to purchase or sell a security issued by an issuer appearing on the Portfolio or Pipeline Reports. Please submit this form, together with a copy of the Limited Offering documentation to the Chief Compliance Officer at least five (5) business days before the planned investment.

Employee Name: **Date:**

Issuer/Investment Name:

Terms of Purchase (price, purchaser – individual, joint, entity, etc.):

Proposed Transaction Date:

How did you learn about this opportunity?

Related to a Portfolio or Pipeline security?

Approved: **Date:**

Not Approved: **Date:**

Comments:

Appendix C

____ HMS Income Fund, Inc.
or
____ HMS Adviser LP

INITIAL HOLDINGS REPORT
As of _____

To: Chief Compliance Officer

A. Securities Holdings. I have listed below (or attached hereto a listing) all of my Securities Holdings held by me or Beneficial Owners as defined by the Code of Ethics of HMS Income Fund, Inc. and/or the Code of Ethics of HMS Adviser LP, as applicable.

Title of Security	CUSIP Number	Interest Rate and Maturity Date (If Applicable)	Date of Transaction	Number of Shares and Principal Amount	Dollar Amount of Transaction	Nature of Transaction (Purchase, Sale, Other)	Price	Broker/Dealer or Bank Through Whom Effected

B. Brokerage Accounts. I, or a Beneficial Owner, have established the following accounts in which securities are held for my direct or indirect benefit:

Name of Broker, Dealer or Bank
1.
2.
3.

Date: _____

Signature: _____
Print Name: _____

Appendix D

_____ HMS Income Fund, Inc.
or
_____ HMS Adviser LP

QUARTERLY TRANSACTION REPORT
For the Calendar _____ Quarter Ended:

To: Chief Compliance Officer

A. Securities Transactions. During the quarter referred to above, the following transactions were effected in securities of which I had, or by reason of such transactions acquired, direct or indirect beneficial ownership, and which are required to be reported pursuant to the Code of Ethics of HMS Income Fund, Inc. and/or the Code of Ethics of HMS Adviser LP, as applicable:

Title of Security	CUSIP Number	Interest Rate and Maturity Date (If Applicable)	Date of Transaction	Number of Shares and Principal Amount	Dollar Amount of Transaction	Nature of Transaction (Purchase, Sale, Other)	Price	Broker/Dealer or Bank Through Whom Effected

B. New Brokerage Accounts. During the quarter referred to above, I established the following accounts in which securities were held during the quarter for my direct or indirect benefit:

	Name of Broker, Dealer or Bank	Date Account Was Established
1.		
2.		
3.		

C. Other Matters. This report (i) excludes transactions with respect to which I had no direct or indirect influence or control, (ii) excludes other transactions not required to be reported, and (iii) is not an admission that I have or had any direct or indirect beneficial ownership in the securities listed above.

Date: _____

Signature: _____
Print Name: _____

Appendix E

____ HMS Income Fund, Inc.
or
____ HMS Adviser LP
(collectively, the "Company")

ANNUAL HOLDINGS REPORT
As of December 31, 20____

To: Chief Compliance Officer

As of December 31, 20____, I had direct or beneficial ownership interest in the securities listed below which are required to be reported pursuant to Rule 17j-1 under the Investment Company Act of 1940 or Rule 204A-1 of the Investment Advisers Act of 1940:

A. Securities Holdings. I have listed below (or attached hereto a listing) all of my Securities Holdings held by me or Beneficial Owners as defined by the Code of Ethics of HMS Income Fund, Inc. and/or the Code of Ethics of HMS Adviser LP, as applicable.

Title of Security	CUSIP Number	Number of Shares and Principal Amount

B. As of December 31, 20____, I maintained accounts with brokers, dealers, and banks listed below in which securities were held for my direct or indirect benefit:

Brokerage Accounts. I, or a Beneficial Owner, have established the following accounts in which securities were held during the year for my direct or indirect benefit:

	Name of Broker, Dealer or Bank	Date Account Was Established *
1.		
2.		
3.		

This report (i) excludes securities and accounts over which I had no direct or indirect influence or control; (ii) excludes securities not required to be reported (for example, direct obligations of the U.S. Government, shares of registered investment companies etc.); and (iii) is not an admission that I have or had any direct or indirect beneficial ownership in the securities accounts listed above.

Date: _____ Signature: _____

Print Name: _____

***Note: If account was established before 20____, you can state that it was established before 20____.**

MAIN STREET CAPITAL CORPORATION
AND MAIN STREET CAPITAL PARTNERS, LLC

AMENDED AND RESTATED
CODE OF ETHICS

This Code of Ethics has been adopted by the Board of Directors of **Main Street Capital Corporation** (the ***"Company"***) in accordance with Rule 17j-l(c) under the Investment Company Act of 1940, as amended (the ***"1940 Act"***), and the May 9, 1994 Report of the Advisory Group on Personal Investing by the Investment Company Institute (the ***"Report"***). Rule 17j-1 generally describes fraudulent or manipulative practices with respect to purchases or sales of securities held or to be acquired by business development companies if effected by access persons of such companies.

In addition, this Code Ethics shall serve as the code of ethics required to be adopted by Rule 204A-1 under the Investment Advisers Act of 1940 (the "***Advisers Act***") and, to the extent applicable, by Rule 17j-1 under the 1940 Act in connection with the Company's provision of investment advisory services to third parties ("***Clients***"). Rule 204A-1 requires every registered investment adviser to establish, maintain, and enforce a written investment adviser code of ethics that is applicable to its "supervised persons." Section 202(a)(25) of the Advisers Act defines the term "supervised persons" to include all of the officers, directors, and employees of the investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser. As applied to the Company, the term consists of all employees of the Company and Main Street Capital Partners, LLC who, in the course of their business, act as an investment adviser as defined under the Advisers Act in providing investment advice to Clients and those employees that make, participate in or obtain non-public information regarding the portfolio management decisions relating to the investment advisory services.

The purpose of this Code of Ethics is to reflect the following: (1) the duty at all times to place the interests of shareholders and Clients, as appropriate, of the Company first; (2) the requirement that all personal securities transactions be conducted consistent with the Code of Ethics and in such a manner as to avoid any actual or potential conflict of interest or any abuse of an individual's position of trust and responsibility; and (3) the fundamental standard that business development company and investment advisory personnel, as appropriate, should not take inappropriate advantage of their positions.

PART A. RULE 17j-1 OF THE 1940 ACT

SECTION I: STATEMENT OF PURPOSE AND APPLICABILITY

(A) Statement of Purpose

It shall be a violation of the policy of the Company for any affiliated person of the Company, in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by the Company,

(1) To employ any device, scheme or artifice to defraud the Company;

(2) To make to the Company any untrue statement of a material fact or omit to state to the Company a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading;

(3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the Company; or

(4) To engage in any manipulative practice with respect to the Company.

(B) Scope of the Code

In order to prevent the Access Persons, as defined in Section II, paragraph (A) below, of the Company from engaging in any of these prohibited acts, practices or courses of business, the Board of Directors of the Company has adopted this Code of Ethics (***"Code"***).

SECTION II: DEFINITIONS

(A) Access Person. "Access Person" means any director, officer, or "Advisory Person" of the Company.

(B) Advisory Person. "Advisory Person" of the Company means: (i) any employee of the Company or of any company in a control relationship to the Company, who, in connection with his or her regular functions or duties, makes, participates in, or obtains information regarding the purchase or sale of a Covered Security by the Company, or whose functions relate to the making of any recommendations with respect to such purchases or sales; and (ii) any natural person in a control relationship to the Company who obtains information concerning recommendations made to the Company with regard to the purchase or sale of Covered Security.

(C) Beneficial Interest. "Beneficial Interest" includes any entity, person, trust, or account with respect to which an Access Person exercises investment discretion or provides investment advice. A beneficial interest shall be presumed to include all accounts in the name of or for the benefit of the Access Person, his or her spouse, dependent children, or any person living with him or her or to whom he or she contributes economic support.

(D) Beneficial Ownership. "Beneficial Ownership" shall be determined in accordance with Rule 16a-1(a)(2) under the Securities Exchange Act of 1934, except that the determination of direct or indirect Beneficial Ownership shall apply to all securities, and not just equity securities, that an Access Person has or acquires. Rule 16a-1(a)(2) provides that the term "beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise, has or shares a direct or indirect pecuniary interest in any equity security. Therefore, an Access Person may be deemed to have Beneficial Ownership of securities held by members of his or her immediate family sharing the same household, or by certain partnerships, trusts, corporations, or other arrangements.

(E) Control. "Control" shall have the same meaning as that set forth in Section 2(a)(9) of the 1940 Act.

(F) Covered Security. "Covered Security" means a security as defined in Section 2(a)(36) of the 1940 Act, except that it does not include (i) direct obligations of the Government of the United States; (ii) banker's acceptances, bank certificates of deposit, commercial paper and high

quality short-term debt instruments including repurchase agreements; and (iii) shares issued by registered open-end investment companies (i.e., mutual funds); however, exchange traded funds structured as unit investment trusts or open-end funds are considered "Covered Securities".

(G) Company. The "Company" means Main Street Capital Corporation, a Maryland corporation.

(H) Designated Officer. "Designated Officer" shall mean the officer of the Company designated by the Board of Directors from time to time to be responsible for management of compliance with this Code. The Designated Officer may appoint a designee to carry out certain of his or her functions pursuant to this Code.

(I) Disinterested Director. "Disinterested Director" means a director of the Company who is not an "interested person" of the Company within the meaning of Section 2(a)(19) of the 1940 Act.

(J) Initial Public Offering. "Initial Public Offering" means an offering of securities registered under the Securities Act of 1933, as amended (the ***"Securities Act"***), the issuer of which, immediately before the registration, was not subject to the reporting requirements of Sections 13 or 15(d) of the Securities Exchange Act of 1934.

(K) Investment Personnel. "Investment Personnel" means: (i) any employee of the Company (or of any company in a control relationship to the Company) who, in connection with his or her regular functions or duties, makes or participates in making recommendations regarding the purchase or sale of securities by the Company; and (ii) any natural person who controls the Company and who obtains information concerning recommendations regarding the purchase or sale of securities by the Company.

(L) Limited Offering. "Limited Offering" means an offering that is exempt from registration under the Securities Act pursuant to Section 4(2) or Section 4(6) or pursuant to Rule 504, Rule 505 or Rule 506 under the Securities Act.

(M) Purchase or Sale of a Covered Security. "Purchase or Sale of a Covered Security" is broad and includes, among other things, the writing of an option to purchase or sell a covered security, or the use of a derivative product to take a position in a Covered Security.

SECTION III: STANDARDS OF CONDUCT

(A) General Standards

(1) No Access Person shall engage, directly or indirectly, in any business transaction or arrangement for personal profit that is inconsistent with the best interests of the Company or its shareholders; nor shall he or she make use of any confidential information gained by reason of his or her employment by or affiliation with the Company or affiliates thereof in order to derive a personal profit for himself or herself or for any Beneficial Interest, in violation of the fiduciary duty owed to the Company or its shareholders.

(2) Any Access Person recommending or authorizing the purchase or sale of a Covered Security by the Company shall, at the time of such recommendation or authorization, disclose any Beneficial Interest in, or Beneficial Ownership of, such Covered Security or the issuer thereof.

(3) No Access Person shall dispense any information concerning securities holdings or securities transactions of the Company to anyone outside the Company, without obtaining prior written approval from the Designated Officer, or such person or persons as these individuals may designate to act on their behalf. Notwithstanding the preceding sentence, such Access Person may dispense such information without obtaining prior written approval:

(a) when there is a public report containing the same information;

(b) when such information is dispensed in accordance with compliance procedures established to prevent conflicts of interest between the Company and its affiliates;

(c) when such information is reported to directors of the Company; or

(d) in the ordinary course of his or her duties on behalf of the Company.

(4) All personal securities transactions should be conducted consistent with this Code and in such a manner as to avoid actual or potential conflicts of interest, the appearance of a conflict of interest, or any abuse of an individual's position of trust and responsibility within the Company.

(B) Prohibited Transactions

(1) General Prohibition. No Access Person shall purchase or sell, directly or indirectly, any Covered Security in which he or she has, or by reason of such transaction acquires, any direct or indirect Beneficial Ownership and which such Access Person knows or should have known at the time of such purchase or sale is being considered for purchase or sale by the Company, or is held in the portfolio of the Company unless such Access Person shall have obtained prior written approval for such purpose from the Designated Officer.

(a) An Access Person who becomes aware that the Company is considering the purchase or sale of any Covered Security by any person (an issuer) must immediately notify the Designated Officer of any interest that such Access Person may have in any outstanding Covered Securities of that issuer.

(b) An Access Person shall similarly notify the Designated Officer of any other interest or connection that such Access Person might have in or with such issuer.

(c) Once an Access Person becomes aware that the Company is considering the purchase or sale of a Covered Security or that the Company holds a Covered Security in its portfolio, such Access Person may not engage, without prior approval of the Designated Officer, in any transaction in any Covered Securities of that issuer.

(d) The foregoing notifications or permission may be provided verbally, but should be confirmed in writing as soon and with as much detail as possible.

(2) Initial Public Offerings and Limited Offerings. Investment Personnel of the Company must obtain approval from the Company before directly or indirectly acquiring beneficial ownership in any securities in an Initial Public Offering or in a Limited Offering.

(3) Blackout Periods. No Investment Personnel shall execute a securities transaction in any security that the Company owns or is considering for purchase or sale.

(4) Company Acquisition of Shares in Companies that Investment Personnel Hold Through Limited Offerings. Investment Personnel who have been authorized to acquire securities in a Limited Offering must disclose that investment to the Designated Officer when they are involved in the Company's subsequent consideration of an investment in the issuer, and the Company's decision to purchase such securities must be independently reviewed by Investment Personnel with no personal interest in that issuer.

(5) Gifts. No Access Person may accept, directly or indirectly, any gift, favor, or service of more than a *de minimis* value from any person with whom he or she transacts business on behalf of the Company under circumstances when to do so would conflict with the Company's best interests or would impair the ability of such person to be completely disinterested when required, in the course of business, to make judgments and/or recommendations on behalf of the Company.

(6) Service as Director. No Access Person shall serve on the board of directors of a portfolio company of the Company without prior written authorization of the Designated Officer based upon a determination that the board service would be consistent with the interests of the Company and its shareholders.

SECTION IV: PROCEDURES TO IMPLEMENT CODE OF ETHICS

The following reporting procedures have been established to assist Access Persons in avoiding a violation of this Code, and to assist the Company in preventing, detecting, and imposing sanctions for violations of this Code. Every Access Person must follow these procedures. Questions regarding these procedures should be directed to the Designated Officer.

(A) Applicability

All Access Persons are subject to the reporting requirements set forth in Section IV(B) except:

(1) with respect to transactions effected for, and Covered Securities held in, any account over which the Access Person has no direct or indirect influence or control;

(2) a Disinterested Director, who would be required to make a report solely by reason of being a Director, need not make: (1) an initial holdings or an annual holdings report; and (2) a quarterly transaction report, unless the Disinterested Director knew or, in the ordinary course of fulfilling his or her official duties as a Director, should have known that during the 15-day period immediately before or after such Disinterested Director's transaction in a Covered Security, the Company purchased or sold the Covered Security, or the Company considered purchasing or selling the Covered Security.

(3) an Access Person need not make a quarterly transaction report if the report would duplicate information contained in broker trade confirmations or account statements received by the Company with respect to the Access Person in the time required by subsection (B)(2) of this Section IV, if all of the information required by subsection (B)(2) of this Section IV is contained in the broker trade confirmations or account statements, or in the records of the Company, as specified in subsection (B)(4) of this Section IV.

(B) Report Types

(1) Initial Holdings Report. An Access Person must file an initial report not later than 10 days after that person became an Access Person. The initial report must: (a) contain the title, number of shares and principal amount of each Covered Security in which the Access Person had any direct or indirect beneficial ownership when the person became an Access Person; (b) identify any broker, dealer or bank with whom the Access Person maintained an account in which any Covered Securities were held for the direct or indirect benefit of the Access Person as of the date the person became an Access Person; and (c) indicate the date that the report is filed with the Designated Person. A copy of a form of such report is attached hereto as Exhibit B.

(2) Quarterly Transaction Report. An Access Person must file a quarterly transaction report not later than 30 days after the end of a calendar quarter.

(a) With respect to any transaction made during the reporting quarter in a Covered Security in which such Access Person had any direct or indirect beneficial ownership, the quarterly transaction report must contain: (i) the transaction date, title, interest date and maturity date (if applicable), the number of shares and the principal amount of each Covered Security; (ii) the nature of the transaction (i.e., purchase, sale or any other type of acquisition or disposition); (iii) the price of the Covered Security at which the transaction was effected; (iv) the name of the broker, dealer or bank through which the transaction was effected; and (v) the date that the report is submitted by the Access Person. A copy of a form of such report is attached hereto as Exhibit C.

(b) With respect to any account established by the Access Person in which any securities were held during the quarter for the direct or indirect benefit of the Access Person, the quarterly transaction report must contain: (i) the name of the broker, dealer or bank with whom the Access Person established the account; (ii) the date the account was established; and (iii) the date that the report is submitted by the Access Person.

(3) Annual Holdings Report. An Access Person must file an annual holdings report not later than 30 days after the end of a fiscal year. The annual report must contain the following information (which information must be current as of a date no more than 30 days before the report is submitted): (a) the title, number of shares, and principal amount of each Covered Security in which the Access Person had any direct or indirect beneficial ownership; (b) the name of any broker, dealer or bank in which any Covered Securities are held for the direct or indirect benefit of the Access Person; and (c) the date the report is submitted. A copy of a form of such report is attached hereto as Exhibit D.

(4) Account Statements. In lieu of providing a quarterly transaction report, an Access Person may direct his or her broker to provide to the Designated Officer copies of periodic statements for all investment accounts in which they have Beneficial Ownership that provide the information required in quarterly transaction reports, as set forth above.

(5) Company Reports. No less frequently than annually, the Company must furnish to the Board, and the Board must consider, a written report that:

(a) describes any issues arising under the Code or procedures since the last report to the Board, including but not limited to, information about material violations of the code or procedures and sanctions imposed in response to the material violations; and

(b) certifies that the Company has adopted procedures reasonably necessary to prevent Access Persons from violating the Code.

(C) Disclaimer of Beneficial Ownership. Any report required under this Section IV may contain a statement that the report shall not be construed as an admission by the person submitting such duplicate confirmation or account statement or making such report that he or she has any direct or indirect beneficial ownership in the Covered Security to which the report relates.

(D) Review of Reports. The reports required to be submitted under this Section IV shall be delivered to the Designated Officer. The Designated Officer shall review such reports to determine whether any transactions recorded therein constitute a violation of the Code. Before making any determination that a violation has been committed by any Access Person, such Access Person shall be given an opportunity to supply additional explanatory material. The Designated Officer shall maintain copies of the reports as required by Rule 17j-1(f).

(E) Acknowledgment and Certification. Upon becoming an Access Person and annually thereafter, all Access Persons shall sign an acknowledgment and certification of their receipt of and intent to comply with this Code in the form attached hereto as Exhibit A and return it to the Designated Officer. Each Access Person must also certify annually that he or she has read and understands the Code and recognizes that he or she is subject to the Code. In addition, each access person must certify annually that he or she has complied with the requirements of the Code and that he or she has disclosed or reported all personal securities transactions required to be disclosed or reported pursuant to the requirements of the Code.

(F) Records. The Company shall maintain records with respect to this Code in the manner and to the extent set forth below, which records may be maintained on microfilm or electronic storage media under the conditions described in Rule 31a-2(f) under the 1940 Act and shall be available for examination by representatives of the Securities and Exchange Commission (the ***"SEC"***):

(1) A copy of this Code and any other code of ethics of the Company that is, or at any time within the past five years has been, in effect shall be maintained in an easily accessible place;

(2) A record of any violation of this Code and of any action taken as a result of such violation shall be maintained in an easily accessible place for a period of not less than five years following the end of the fiscal year in which the violation occurs;

(3) A copy of each report made by an Access Person or duplicate account statement received pursuant to this Code, including any information provided in lieu of the reports under subsection (A)(3) of this Section IV shall be maintained for a period of not less than five years from the end of the fiscal year in which it is made or the information is provided, the first two years in an easily accessible place;

(4) A record of all persons who are, or within the past five years have been, required to make reports pursuant to this Code, or who are or were responsible for reviewing these reports, shall be maintained in an easily accessible place;

(5) A copy of each report required under subsection (B)(5) of this Section IV shall be maintained for at least five years after the end of the fiscal year in which it is made, the first two years in an easily accessible place; and

(6) A record of any decision, and the reasons supporting the decision, to approve the direct or indirect acquisition by an Access Person of beneficial ownership in any securities in an Initial Public Offering or Limited Offering shall be maintained for at least five years after the end of the fiscal year in which the approval is granted.

(G) Obligation to Report a Violation. Every Access Person who becomes aware of a violation of this Code by any person must report it to the Designated Officer, who shall report it to appropriate management personnel. The management personnel will take such disciplinary action that they consider appropriate under the circumstances. In the case of officers or other employees of the Company, such action may include removal from office. If the management personnel consider disciplinary action against any person, they will cause notice thereof to be given to that person and provide to that person the opportunity to be heard. The Board will be notified, in a timely manner, of remedial action taken with respect to violations of the Code.

(H) Confidentiality. All reports of Covered Securities transactions, duplicate confirmations, account statements and other information filed with the Company or furnished to any person pursuant to this Code shall be treated as confidential, but are subject to review as provided herein and by representatives of the SEC or otherwise to comply with applicable law or the order of a court of competent jurisdiction.

SECTION V: SANCTIONS

Upon determination that a violation of this Code has occurred, appropriate management personnel of the Company may impose such sanctions as they deem appropriate, including, among other things, disgorgement of profits, a letter of censure or suspension or termination of the employment of the violator. All violations of this Code and any sanctions imposed with respect thereto shall be reported in a timely manner to the Board of Directors of the Company.

PART B. RULE 204A-1 OF THE ADVISERS ACT/RULE 17j-1 OF THE 1940 ACT

For purposes of Rule 204A-1 of the Advisers Act and, to the extent applicable, Rule 17j-1 of the 1940 Act, the provisions set forth in Part A to this Code of Ethics shall apply in connection with the Company's provision of investment advisory services to Clients except that it shall be interpreted in a manner to protect the interests of Clients, including prohibiting supervised persons of the Company from (i) employing any device, scheme or artifice to defraud the Client; (ii) making any untrue statement of a material fact to the Client or omitting to state a material fact necessary in order to make the statements made to the Client, in light of the circumstances under which they are made, not misleading; (iii) engaging in any act, practice or course of business conduct that operates or would operate as a fraud or deceit on the Client; and (iv) engaging in any manipulative practice with respect to the Client.

Notwithstanding the foregoing, the administrative provisions, enforcement provisions, approval (including pre-approval) provisions and recordkeeping provisions (which shall be read to refer to Rule 204-2 under the Advisers Act for purposes of this Part B) set forth in Part A of this Code of Ethics shall continue to be the exclusive/sole province of the Company for purposes of Part B of this Code of Ethics. For example, the initial, annual and quarterly holding report obligations set forth in Part A of this Code of Ethics shall be furnished by supervised persons of the Company to the Company (and not to the Client) for purposes of Part B to this Code of Ethics.

EXHIBIT A
ACKNOWLEDGMENT AND CERTIFICATION

I acknowledge receipt of the Code of Ethics of Main Street Capital Corporation and Main Street Capital Partners, LLC. I have read and understand such Code of Ethics and agree to be governed by it at all times. Further, if I have been subject to the Code of Ethics during the preceding year, I certify that I have complied with the requirements of the Code of Ethics and have disclosed or reported all personal securities transactions required to be disclosed or reported pursuant to the requirements of the Code of Ethics.

_____
(signature)

_____
(please print name)

Date: _____

EXHIBIT B
INITIAL HOLDINGS REPORT

Name _____ Date _____

NAME OF ISSUER	NUMBER OF SHARES	PRINCIPAL AMOUNT

I certify that the foregoing is a complete and accurate list of all securities in which I have any Beneficial Ownership.

Signature

EXHIBIT C
QUARTERLY TRANSACTION REPORT

Name _____ Date _____

DATE	NAME OF ISSUER	NUMBER OF SHARES	INTEREST DATE	MATURITY DATE	PRINCIPAL AMOUNT	TYPE OF TRANSACTION	NAME OF BROKER/ DEALER/ BANK

I certify that the foregoing is a complete and accurate list of all transactions for the covered period in securities in which I have any Beneficial Ownership.

Signature

EXHIBIT D
ANNUAL HOLDINGS REPORT

Name _____ Date _____

NAME OF ISSUER	NUMBER OF SHARES	PRINCIPAL AMOUNT	NAME OF BROKER/DEALER/ BANK

I certify that the foregoing is a complete and accurate list of all securities in which I have any Beneficial Ownership.

_____
Signature

EXHIBIT E

PERSONAL SECURITIES ACCOUNT INFORMATION

Name _____ Date _____

SECURITIES FIRM NAME AND ADDRESS	ACCOUNT NUMBER	ACCOUNT NAME(S)

I certify that the foregoing is a complete and accurate list of all securities accounts in which I have any Beneficial Ownership.

Signature

HINES SECURITIES, INC.
RULE 17j-1 CODE OF ETHICS

This Rule 17j-1 Code of Ethics (this "Code") has been adopted by the Board of Directors (the "Board") of Hines Securities, Inc. (the "Company" or "Principal Underwriter") in accordance with Rule 17j-1 under the 1940 Act. Terms that are capitalized in this Code and not otherwise defined are defined in Section II below.

The Company serves as principal underwriter for an investment company that intends to elect or has elected to be a business development company under the 1940 Act. This Code sets forth the procedures and restrictions governing personal securities transactions for certain personnel of the Company.

It is the intention of this Code to establish the fundamental standard to be followed with regard to personal securities transactions of the Company's Access Persons. This Code is designed to ensure that all personal securities transactions by individuals with access to information regarding real or potential portfolio securities of the Fund are conducted in such a manner as to avoid any actual or potential conflict of interest between the Access Person's interest and the interests of the Fund or abuse of the Access Person's position of trust and responsibility. It is not the intention of this Code to prohibit personal securities activities by Access Persons but to ensure the protection of the interests of the Fund's stockholders while doing so.

Potential conflicts arising from personal investment activities could include buying or selling securities based on knowledge of the Fund's trading position or plans (sometimes referred to as front-running) and acceptance of personal favors that could influence trading judgments on behalf of the Fund. While this Code is designed to address identified conflicts and potential conflicts, it cannot possibly be written broadly enough to cover all potential situations and, in this regard, Access Persons are expected to adhere not only to the letter, but also the spirit, of the policies contained herein.

The Board recognizes that certain Access Persons may have reporting obligations under other codes of ethics in addition to this Code. Further, this Code contains certain exclusions from its requirements that may apply to certain Access Persons. If it is unclear to you if any of these exceptions or exclusions apply to you, please contact the Company's Chief Compliance Officer (the "CCO").

I. NOTIFICATION OF REPORTING OBLIGATIONS

All persons in a supervisory role shall: (i) promptly notify the CCO when any person becomes or is identified as becoming an Access Person, as defined below; (ii) provide notice to the Access Person of his or her being designated as an Access Person and of his or her obligations hereunder; (iii) provide the Access Person with a copy of this Code as currently in effect; and (iv) facilitate the execution of the Access Person certification in accordance with Section VI below.

II. DEFINITIONS

a. **1933 Act** is the Securities Act of 1933, as amended.

b. **1934 Act** is the Securities Exchange Act of 1934, as amended.

c. **1940 Act** is the Investment Company Act of 1940, as amended.

d. **Access Person** includes:

1. Any director, officer or employee of the Company who serves as a director or officer of the Fund; and

2. Any director, officer or general partner of the Company who, in the ordinary course of business, makes, participates in or obtains information regarding an actual or potential purchase or sale of Covered Securities by the Fund or whose functions or duties in the ordinary course of business relate to the making of any recommendations to the Fund with respect to such transactions.

e. **Advisers Act** is the Investment Advisers Act of 1940, as amended.

f. **Automatic Investment Plan** means a program in which regular periodic purchases (or withdrawals) are made automatically to (or from) investment accounts in accordance with a predetermined schedule and allocation. An Automatic Investment Plan includes a dividend reinvestment plan.

g. **Beneficial Interest** includes any entity, person, trust, or account with respect to which an Access Person exercises investment discretion or provides investment advice. A beneficial interest shall be presumed to include all accounts in the name of or for the benefit of the Access Person, his or her spouse, dependent children, or any person living with him or her or to whom he or she contributes economic support.

h. **Beneficial Ownership** generally means any interest in a security for which an Access Person or any member of his or her immediate family sharing the same household can directly or indirectly receive a monetary ("pecuniary") benefit. It shall be interpreted in the same manner as it would be under Rule 16a-1(a)(2) of the 1934 Act, in determining whether a person is the beneficial owner of a security for purposes of Section 16 of the 1934 Act and the rules and regulations thereunder, that, generally speaking, encompass those situations where the beneficial owner has the right to enjoy a direct or indirect economic benefit from the ownership of the security. A person is normally regarded as the beneficial owner of securities held in: (i) the name of his or her spouse, domestic partner, minor children, or other relatives living in his or her household; (ii) a trust, estate or other account in which he/she has a present or future interest in the income, principal or right to obtain title to the securities; or (iii) the name of another person or entity by reason of any contract, understanding, relationship, agreement or other arrangement whereby he or she obtains benefits substantially equivalent to those of ownership.

i. **Chief Compliance Officer (CCO)** means the person or persons designated by the Board to fulfill the responsibilities assigned to the CCO hereunder. The CCO may designate any responsibilities hereunder to any person qualified to perform such responsibilities.

j. **Control** has the same meaning as that set forth in Section 2(a)(9) of the 1940 Act.

k. **Covered Security** means any Security, but *excluding*:

   1. Direct obligations of the Government of the United States;

   2. Bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements; and

   3. Shares of open-end investment companies registered under the 1940 Act.

l. **Fund** means HMS Income Fund, Inc., a company that intends to elect or has elected to be a business development company under the 1940 Act and for which the Company is the principal underwriter.

m. **Initial Public Offering** or **IPO** means an offering of securities registered under the 1933 Act, the issuer of which, immediately before the registration, was not subject to the reporting requirements of Sections 13 or 15(d) of the 1934 Act.

n. **Investment Adviser(s)** shall be defined in accordance with Section 2(20) of the 1940 Act and shall include all investment advisers of the Fund, including all investment sub-advisers.

o. **Investment Personnel** or **Investment Person** means:

   1. Any employee of the Fund or its Investment Adviser(s) (or of any company in a Control relationship to the Fund or its Investment Adviser(s)) who, in connection with his or her regular functions or duties, makes or participates in making recommendations regarding the purchase or sale of securities by the Fund or the evaluation of, or investment in, a Covered Security by the Fund; or

2. Any natural person who controls the Fund or its Investment Adviser(s) and who obtains information concerning recommendations regarding the purchase or sale of securities or the evaluation of or investment in a Covered Security by the Fund.

p. **Limited Offering** means an offering or a private placement of securities that is exempt from registration under the 1933 Act pursuant to Section 4(2) or Section 4(5) or pursuant to Rule 504, Rule 505 or Rule 506 under the 1933 Act.

q. **Security** means a security as defined in Section 2(a)(36) of the 1940 Act, which includes: any note, stock, treasury stock, security future, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, any put, call, straddle, option or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

r. **Security Held or to be Acquired by the Fund** means:

1. any Covered Security that, within the most recent 15 days, is or has been held by the Fund or is being or has been considered by the Fund or its Investment Adviser(s) for purchase by the Fund; or

2. any option to purchase or sell, and any security convertible into or exchangeable for, a Covered Security described in subparagraph (1) of this definition.

s. **Service Provider(s)** means, as appropriate, the Fund's Investment Adviser(s) and/or the Principal Underwriter.

III. GENERAL PRINCIPLES

Rule 17j-1 makes it unlawful for any Access Person of the Company to:

a. Employ any device, scheme or artifice to defraud the Fund;

b. Make any untrue statement of a material fact to the Fund or omit to state a material fact necessary in order to make the statements made to the Fund, in light of the circumstances under which they are made, not misleading;

c. Engage in any act, practice or course of business which operates or would operate as a fraud or deceit on the Fund; or

d. Engage in any manipulative practice with respect to the Fund.

No Access Person shall engage in any act, practice or course of conduct that would violate the provisions of Rule 17j-1 set forth above. The interests of the Fund and its stockholders are paramount and come before the interests of any Access Person. Personal investing activities of all Access Persons must be conducted in a manner that avoids actual or potential conflicts of interest with the Fund and its stockholders. Access Persons shall not use their positions, or any investment opportunities presented by virtue of such positions, to the detriment of the Fund and its stockholders.

IV. STANDARDS OF CONDUCT

a. General Standards

1. No Access Person shall engage, directly or indirectly, in any business transaction or arrangement for personal profit that is inconsistent with the best interests of the Fund or its stockholders; nor shall he or she make use of any confidential information gained by reason of his or her employment by or affiliation with the Fund or affiliates thereof in order to derive a personal profit for himself or herself or for any Beneficial Interest, in violation of the fiduciary duty owed to the Fund and its stockholders.

2. No Access Person shall dispense any information concerning securities holdings or securities transactions of the Fund to anyone outside the Company or the Fund without obtaining prior written approval from the CCO, or such person or persons as these individuals may designate to act on their behalf.

   Notwithstanding the preceding sentence, such Access Person may dispense such information without obtaining prior written Approval:

   (i) when there is a public report containing the same information;

   (ii) when such information is dispensed in accordance with compliance procedures established to prevent conflicts of interest between the Fund and its affiliates;

   (iii) when such information is reported to directors of the Fund; or

   (iv) in the ordinary course of his or her duties on behalf of the Fund.

3. All personal securities transactions should be conducted consistent with this Code and in such a manner as to avoid actual or potential conflicts of interest with the Fund, the appearance of a conflict of interest with the Fund, or any abuse of an individual's position of trust and responsibility within the Company.

b. Prohibited Transactions

1. No Access Person shall purchase or sell, directly or indirectly, any Covered Security in which he or she has, or by reason of such transaction acquires, any direct or indirect Beneficial Ownership and which such Access Person knows or should have known at the time of such purchase or sale is being considered for purchase or sale by the Fund or its Investment Adviser(s) on behalf of the Fund, or is held in the portfolio of the Fund unless such Access Person shall have obtained prior written approval for such purpose from the CCO.

   (i) An Access Person who becomes aware that the Fund or its Investment Adviser(s) is considering the purchase or sale of any Covered Security for the Fund by any person or issuer must immediately notify the CCO of any interest that such Access Person may have in any outstanding Covered Securities of that issuer.

   (ii) An Access Person shall similarly notify the CCO of any other interest or connection that such Access Person might have in or with such issuer.

   (iii) Once an Access Person becomes aware that the Fund or its Investment Adviser(s) is considering the purchase or sale of a Covered Security for the Fund or that the Fund holds a Covered Security in its portfolio, such Access Person may not engage, without prior approval of the CCO, in any transaction in any Covered Securities of that issuer.

   (iv) The foregoing notifications or permission may be initially provided verbally, but should be confirmed in writing as soon and with as much detail as possible.

2. Access Persons must obtain approval from the before directly or indirectly acquiring beneficial ownership in any securities in an Initial Public Offering or in a Limited Offering. A copy of a pre-clearance form is attached hereto as Appendix 2.

3. No Access Person shall execute a securities transaction in any security that the Fund owns or that the Fund or its Investment Adviser(s) is considering for purchase or sale on behalf of the Fund.

4. No Access Person may accept, directly or indirectly, any gift, favor, or service of more than a de minimis value from any person with whom he or she transacts business on behalf of the Fund under circumstances when to do so would conflict with the Fund's best interests or would impair the ability of such person to be completely disinterested when required, in the course of business, to make judgments and/or recommendations on behalf of the Fund.

V. REPORTING REQUIREMENTS

To enable the Company and the Fund to determine with reasonable assurance whether the provisions of Rule 17j-1 and this Code are being observed by the Access Persons, the following reporting requirements apply, except as noted in sub-section (e) below:

a. Initial Holdings Report. Within 10 days after a person becomes an Access Person, he or she shall deliver a report in writing (an "Initial Holdings Report") to the CCO, in a form attached hereto as Appendix 3 or in any other form acceptable to the CCO, of all direct or indirect Beneficial Ownership interests of such Access Person in Covered Securities. Information to be reported must be current as of a date no more than 45 days prior to an individual becoming an Access Person and is to include:

1. The title, number of shares and principal amount of each Covered Security in which the Access Person had any direct or indirect Beneficial Ownership when the person became an Access Person;

2. The name of any broker, dealer or bank with whom the Access Person maintained an account in which any securities were held for the direct or indirect benefit of the Access Person as of the date the person became an Access Person; and

3. The date the report is submitted by the Access Person.

b. Quarterly Transaction Report. Each Access Person shall deliver a report in writing (a "Quarterly Transaction Report"), to the CCO within 30 days of the end of each calendar quarter, in a form attached hereto as Appendix 4 or in any other form acceptable to the CCO, that includes:

1. With respect to any transaction during the quarter in a Covered Security in which the Access Person had any direct or indirect Beneficial Ownership:

(i) The date of the transaction, the title, the interest rate and maturity date (if applicable), the number of shares and the principal amount of each Covered Security involved;

(ii) The nature of the transaction (i.e., purchase, sale or any other type of acquisition or disposition);

(iii) The price of the Covered Security at which the transaction was effected;

(iv) The name of the broker, dealer or bank with or through which the transaction was effected; and

(v) The date that the report is submitted by the Access Person.

2. With respect to any account established by the Access Person in which any securities were held during the quarter for the direct or indirect benefit of the Access Person:

(i) The name of the broker, dealer or bank with whom the Access Person established the account;

(ii) The date the account was established; and

(iii) The date that the report is submitted by the Access Person.

c. Annual Holdings Report. Each Access Person shall deliver a written report annually (an "Annual Holdings Report"), in a form attached hereto as Appendix 5 or in any other form acceptable to the CCO, no later than January 31 of each year, that includes the following information, which must be current as of December 31 of the prior calendar year:

1. The title, number of shares and principal amount of each Covered Security in which the Access Person had any direct or indirect beneficial ownership;

2. The name of any broker, dealer or bank with whom the Access Person maintains an account in which any securities are held for the direct or indirect benefit of the Access Person; and

3. The date the report is submitted.

d. Account Statements. In lieu of providing a Quarterly Transaction Report, an Access Person may direct his or her broker to provide to the CCO copies of periodic statements for all investment accounts in which they have Beneficial Ownership that provide the information required in quarterly transaction reports, as set forth above.

e. Exceptions from Reporting Requirements.

1. An Access Person need not submit reports pursuant to this Section V with respect to transactions effected for, and Covered Securities held in, any account over which such person has no direct or indirect influence or control.

2. An Access Person need not make a Quarterly Transaction Report with respect to transactions effected pursuant to an Automatic Investment Plan.

3. An Access Person need not submit reports pursuant to this Section V if:

(i) The Company is not an affiliated person of the Fund or any Investment Adviser(s) of the Fund; and

(ii) The Company has no officer, director or general partner who serves as an officer, director or general partner of the Fund or of any Investment Adviser(s) of the Fund.

4. An Access Person need not make a Quarterly Transaction Report if the report would duplicate information contained in broker trade confirmations or account statements received by the Company or the Fund, provided such broker trade confirmations or account statements are received by the due date required for a Quarterly Transaction Report and broker trade confirmations or account statements contain all of the information required to be included in the Quarterly Transaction Report.

f. The form of reporting pursuant to this Section V shall be in accordance with such form and process as established by the CCO at his or her discretion.

g. It is the Company's policy that these reports be submitted quarterly by all Access Persons, whether or not securities transactions have occurred in their accounts during the relevant period. Those Access Persons having no securities transaction to report must indicate this fact in his or her report. The report must then be dated, signed and submitted to the CCO for review.

VI. CERTIFICATION

All Access Persons are required to certify that they have read and understand this Code and recognize that they are subject to the provisions hereof and will comply with the policy and procedures stated herein. Further, all Access Persons are required to certify annually that they have complied with the requirements of this Code and that they have reported all personal securities transactions required to be disclosed or reported pursuant to the requirements of such policies. A copy of the certification form to be used in complying with this paragraph is attached to this Code as Appendix 1.

VII. ENFORCEMENT

a. To the extent that any Access Person under this policy is also governed by a code of ethics of the Fund or any Investment Adviser(s) of the Fund, and such code of ethics has been determined by the CCO to be compliant with Rule 17j-1 of the 1940 Act, the CCO may direct the reporting obligations under Section V hereunder to the Fund or its Investment Adviser(s), as applicable, provided that the chief compliance officer of the Fund or its Investment Adviser(s), as the case may be, provides quarterly certifications to the CCO hereunder, that the Access Person(s) have properly complied with such reporting obligations. For purposes of verification of such certification, the CCO retains the authority to request and examine the books and records of the Fund or its Investment Adviser(s), as applicable, at his or her sole discretion.

b. If the CCO determines that a violation of this Code may have occurred, before making a final determination that a material violation has been committed by an individual, the CCO may give such person an opportunity to supply additional information regarding the transaction in question.

c. If the CCO determines that a material violation of this Code has occurred, he or she shall promptly report the violation to the Board. The Board, with the exception of any person whose transaction is under consideration, shall take such actions as they consider appropriate, in addition to any disgorgement required pursuant to Section XII, including, among other things, a letter of sanction, suspension or termination of the employment of the violator.

d. No person shall participate in a determination of whether he or she has committed a violation of this Code or in the imposition of any sanction against himself or herself. If, for example, a securities transaction of the CCO is under consideration, a director of the Company designated for this purpose by the Board or, shall act in all respects in the manner prescribed herein in place of the CCO.

VIII. REPORTS TO THE FUND'S BOARD

The CCO shall provide to the Fund's board of directors, no less frequently than annually, and the Fund's board of directors must consider, a written report that, to the extent not previously provided in a written report to the Fund's board of directors:

a. Describes any issues arising under this Code or corresponding procedures since the last report to the Fund's board of directors, including, but not limited to, information about material violations of this Code or corresponding procedures and any sanctions imposed in response to the material violations; and

b. Certifies that the Company has adopted procedures reasonably necessary to prevent Access Persons from violating this Code.

Notwithstanding the foregoing, the Company need not submit reports pursuant to this Section VIII if exempted from the reporting requirements pursuant to Section V above.

IX. RECORDKEEPING

The Company shall maintain the following records at its principal offices as follows:

a. This Code and any related procedures, and any code of ethics of the Company that has been in effect during the past five years, shall be maintained in an easily accessible place;

b. A record of any violation of this Code and of any action taken as a result of the violation, to be maintained in an easily accessible place for at least five years after the end of the fiscal year in which the violation occurs;

c. A copy of each report under this Code made by (or duplicate brokerage statements and/or confirmations for the account of) an Access Person, to be maintained for at least five years after the end of the fiscal year in which the report is made or the information is provided, the first two years in an easily accessible place;

d. A record of all persons, currently or within the past five years, who are or were required to make or to review reports made pursuant to Section V, to be maintained in an easily accessible place;

e. A copy of each report by the CCO to the Fund's board of directors, to be maintained for at least five years after the end of the fiscal year in which it is made, the first two years in an easily accessible place; and

f. A record of any decision, and the reasons supporting the decision, to approve an acquisition by an Access Person of securities offered in an Initial Public Offering or in a Limited Offering, to be maintained for at least five years after the end of the fiscal year in which the approval is granted.

X. CONFIDENTIALITY

No Access Person shall reveal to any other person (except in the normal course of his or her duties on behalf of the Company or the Fund) any information regarding securities transactions by the Fund or consideration by the Fund or its Investment Adviser(s) of any such securities transactions.

All information obtained from any Access Person hereunder shall be kept in strict confidence, except that reports of securities transactions hereunder will be made available to the Securities and Exchange Commission or any other regulatory or self-regulatory organization to the extent required by law or regulation.

XI. OBLIGATION TO REPORT A VIOLATION

Every Access Person who becomes aware of a violation of this Code of Ethics by any person must report it to the CCO, who shall report it to appropriate management personnel. The management personnel will take such disciplinary action that they consider appropriate under the circumstances. In the case of officers or other employees of the Company, such action may include removal from office. If the management personnel consider disciplinary action against any person, they will cause notice thereof to be given to that person and provide to that person the opportunity to be heard. The Board will be notified, in a timely manner, of remedial action taken with respect to violations of the Code.

XII. SANCTIONS

Upon discovering a violation of this Code, the Board may impose any sanctions it deems appropriate, including a letter of censure, the suspension or termination of any director, officer or employee of the Company, disgorgement, or the recommendation to the employer of the violator for the suspension or termination of the violator's association with the Company.

XIII. APPROVAL REQUIREMENTS

This Code and any material changes must be approved by the Board. Before initially retaining any Investment Adviser(s) or the Principal Underwriter, the Fund's board of directors, including a majority of its independent directors, must also approve the code of ethics of such Investment Adviser(s) and/or the Principal Underwriter, if required under federal securities laws to have such code of ethics, and must approve any material change to such codes of ethics within six months after the adoption of the material change. Each such approval must be based on a determination that the code of ethics in question contains provisions reasonably necessary to prevent applicable persons from engaging in any conduct prohibited by Rule 17j-1. Before approving this Code, or an Investment Advisers' code of ethics or any material amendments thereto, the Fund's board of directors must have received a certification from the relevant entity that it has adopted procedures reasonably necessary to prevent applicable persons from violating such entity's code of ethics.

Approved: May 31, 2012

APPENDIX 1

HINES SECURITIES, INC.
CODE OF ETHICS
ACCESS PERSON CERTIFICATION FORM

CERTIFICATION UPON BEING DESIGNATED AN "ACCESS PERSON"

This is to certify that I have read and understand the Code of Ethics of Hines Securities, Inc. (the "Code of Ethics") and I recognize that I am subject to the provisions thereof and will comply with the policy and procedures stated therein.

Access Person's Name (Please Print): _____

Access Person's Signature: _____

Date of Certification: _____

ANNUAL CERTIFICATION

This is to further certify that I have complied with the requirements of such Code of Ethics and that I have reported all personal securities transactions required to be disclosed or reported pursuant to the requirements of such Code of Ethics.

Please sign and return this Certification Form to the Company's Chief Compliance Officer, Susan Dudley, at the offices of Hines Securities, Inc. Please retain the Code of Ethics for your records.

Access Person's Name (Please Print): _____

Access Person's Signature: _____

Date of Certification: _____

APPENDIX 2

HMS Income Fund, Inc.

or

HMS Adviser LP

or

Hines Securities, Inc.

PRE-CLEARANCE FORM

Use this form to request pre-clearance of a transaction to purchase a Limited Offering, Initial Public Offering or to purchase or sell a security issued by an issuer appearing on the Portfolio or Pipeline Reports. Please submit this form, together with a copy of the Limited Offering documentation to the Chief Compliance Officer at least five (5) business days before the planned investment.

Employee Name: **Date:**

Issuer/Investment Name:

Terms of Purchase (price, purchaser – individual, joint, entity, etc.):

Proposed Transaction Date:

How did you learn about this opportunity?

Related to a Portfolio or Pipeline security?

Approved: **Date:**

Not Approved: **Date:**

Comments:

APPENDIX 3

HMS Income Fund, Inc.

or

HMS Adviser LP

or

Hines Securities, Inc.

INITIAL HOLDINGS REPORT

As of

To: Chief Compliance Officer

A. Securities Holdings. I have listed below (or attached hereto a listing) all of my Securities Holdings held by me or Beneficial Owners as defined by the Code of Ethics of HMS Income Fund, Inc., the Code of Ethics of HMS Adviser LP, and/or the Code of Ethics of Hines Securities, Inc., as applicable.

Title of Security	CUSIP Number	Interest Rate and Maturity Date (If Applicable)	Date of Transaction	Number of Shares and Principal Amount	Dollar Amount of Transaction	Nature of Transaction (Purchase, Sale, Other)	Price	Broker/Dealer or Bank Through Whom Effected

B. Brokerage Accounts. I, or a Beneficial Owner, have established the following accounts in which securities are held for my direct or indirect benefit:

Name of Broker, Dealer or Bank

1.
2.
3.

Date: _____

Signature: _____

Print Name: _____

APPENDIX 4

HMS Income Fund, Inc.

or

HMS Adviser LP

or

Hines Securities, Inc.

QUARTERLY TRANSACTION REPORT

For the Calendar Quarter Ended:

To: Chief Compliance Officer

A. Securities Transactions. During the quarter referred to above, the following transactions were effected in securities of which I had, or by reason of such transactions acquired, direct or indirect beneficial ownership, and which are required to be reported pursuant to the Code of Ethics of HMS Income Fund, Inc., the Code of Ethics of HMS Adviser LP and/or the Code of Ethics of Hines Securities, Inc., as applicable:

Title of Security	CUSIP Number	Interest Rate and Maturity Date (If Applicable)	Date of Transaction	Number of Shares and Principal Amount	Dollar Amount of Transaction	Nature of Transaction (Purchase, Sale, Other)	Price	Broker/Dealer or Bank Through Whom Effected

B. New Brokerage Accounts. During the quarter referred to above, I established the following accounts in which securities were held during the quarter for my direct or indirect benefit:

	Name of Broker, Dealer or Bank	Date Account Was Established
1.		
2.		
3.		

C. Other Matters. This report (i) excludes transactions with respect to which I had no direct or indirect influence or control, (ii) excludes other transactions not required to be reported, and (iii) is not an admission that I have or had any direct or indirect beneficial ownership in the securities listed above.

Date: _____

Signature: _____

Print Name: _____

APPENDIX 5

HMS Income Fund, Inc.

or

HMS Adviser LP

or

Hines Securities, Inc.

ANNUAL HOLDINGS REPORT

As of December 31, 20

To: Chief Compliance Officer

As of December 31, 20 , I had direct or beneficial ownership interest in the securities listed below which are required to be reported pursuant to Rule 17j-1 under the Investment Company Act of 1940 or Rule 204A-1 of the Investment Advisers Act of 1940:

A. Securities Holdings. I have listed below (or attached hereto a listing) all of my Securities Holdings held by me or Beneficial Owners as defined by the Code of Ethics of HMS Income Fund, Inc., the Code of Ethics of HMS Adviser LP and/or the Code of Ethics of Hines Securities, Inc., as applicable.

Title of Security	CUSIP Number	Number of Shares and Principal Amount

B. As of December 31, 20 , I maintained accounts with brokers, dealers, and banks listed below in which securities were held for my direct or indirect benefit:

Brokerage Accounts. I, or a Beneficial Owner, have established the following accounts in which securities were held during the year for my direct or indirect benefit:

Name of Broker, Dealer or Bank	Date Account Was Established *
1.	
2.	
3.	

This report (i) excludes securities and accounts over which I had no direct or indirect influence or control; (ii) excludes securities not required to be reported (for example, direct obligations of the U.S. Government, shares of registered investment companies etc.); and (iii) is not an admission that I have or had any direct or indirect beneficial ownership in the securities accounts listed above.

Date: _____

Signature: _____

Print Name: _____

* **Note: If account was established before 20 , you can state that it was established before 20 .**