As filed with the Securities and Exchange Commission on September 28, 2004

Registration No. 333-114656

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM N-2

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933
☒ **PRE-EFFECTIVE AMENDMENT NO. 2**
☐ **POST-EFFECTIVE AMENDMENT NO.**

ARES CAPITAL CORPORATION

(Exact Name of Registrant as Specified in Charter)

780 Third Avenue, 46th Floor
New York, New York 10017
(Address of Principal Executive Offices)

Registrant's Telephone Number, including Area Code: **(212) 750-7300**

Kevin Frankel
c/o Ares Management LLC
1999 Avenue of the Stars, Suite 1900
Los Angeles, CA 90067
(310) 201-4100
(Name and Address of Agent for Service)

Copies of information to:

Michael A. Woronoff
Proskauer Rose LLP
2049 Century Park East, 32 nd Floor
Los Angeles, CA 90067-3206
(310) 557-2900

Valerie Ford Jacob
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004-1980
(212) 859-8000

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).

If appropriate, check the following box:

☐ This [post-effective amendment] designates a new effective date for a previously filed [post-effective amendment] [registration statement].

☐ This form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act and the Securities Act registration statement number of the earlier effective registration statement for the same offering is .

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of Securities Being Registered	Amount Being Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price(1)(2)	Amount of Registration Fee(3)
Common Stock, $0.001 par value per share	30,000,000	$15.00	$450,000,000	$57,015

(1) Includes the underwriters' overallotment option.

(2) Estimated pursuant to Rule 457 solely for the purpose of determining the registration fee.

(3) $57,015 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 THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SECTION 8(a), MAY DETERMINE.

EXPLANATORY NOTE

The purpose of this Amendment No. 2 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2, is to file and add additional exhibits. Accordingly, this Amendment No. 2 consists only of the facing page, this explanatory note and Part C of the Registration Statement. The prospectus and financial statements are unchanged and have been omitted.

PART C

Other information

ITEM 24. FINANCIAL STATEMENTS AND EXHIBITS

(1) Financial Statements

The following statements of Ares Capital Corporation (the "Company" or the "Registrant") are included in Part A of this Registration Statement:

(2) Exhibits

(a)(1)	Articles of Incorporation(1)
(a)(2)	Articles of Amendment(2)
(a)(3)	Articles of Amendment and Restatement(2)
(b)(1)	Bylaws(2)
(b)(2)	Amended and Restated Bylaws(2)
(c)	Not Applicable
(d)	Form of Stock Certificate*
(e)	Dividend Reinvestment Plan(2)
(f)	Not Applicable
(g)	Investment Advisory and Management Agreement between Registrant and Ares Capital Management LLC(2)
(h)	Form of Purchase Agreement among the Registrant, Ares Capital Management, L.P., Ares Capital Administration, LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wachovia Capital Markets, LLC and the other underwriters named therein*
(i)	Not Applicable
(j)	Custodian Agreement between Registrant and U.S. Bank National Association*
(k)(1)	Administration Agreement between Registrant and Ares Technical Administration LLC(2)
(k)(2)	Form of Stock Transfer Agency Agreement between Registrant and Computershare Investor Services, LLC*
(k)(3)	License Agreement between the Registrant and Ares Management LLC(2)
(k)(4)	Form of Indemnification Agreement between the Registrant and directors and certain officers*
(k)(5)	Form of Indemnification Agreement between the Registrant and the members of the Ares Capital Management LLC investment committee*
(k)(6)	Agreement Regarding Purchase of Loan Portfolio dated as of September 16, 2004, by and between Ares Capital Corporation and Royal Bank of Canada*

(k)(7)	Form of Agreement Regarding Repayment of Sales Load Advance by and between Ares Capital Corporation and Ares Capital

	Management LLC*
(l)	Opinion and Consent of Venable LLP, special Maryland counsel for Registrant*
(m)	Not Applicable
(n)	Consent of independent registered public accounting firm for Registrant(2)
(o)	Not Applicable
(p)	Not Applicable
(q)	Not Applicable
(r)	Code of Ethics*

* Filed herewith.

(1) Incorporated by reference to the corresponding exhibit number to the Registrant's Registration Statement under the Securities Act of 1933 on Form N-2 filed on April 21, 2004.

(2) Incorporated by reference to the corresponding exhibit number to the Registrant's pre-effective Amendment No. 1 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2, filed on September 17, 2004.

ITEM 25. MARKETING ARRANGEMENTS

The information contained under the heading "Underwriting" on this Registration Statement is incorporated herein by reference.

ITEM 26. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

Commission registration fee	$	57,315
NASDAQ National Market Listing Fee	$	105,000
NASD filing fee	$	30,500
Accounting fees and expenses	$	15,000
Legal fees and expenses	$	875,000
Printing and engraving	$	250,000
Miscellaneous fees and expenses	$	267,185
Total	$	1,600,000

All of the expenses set forth above shall be borne by the Company.

ITEM 27. PERSONS CONTROLLED BY OR UNDER COMMON CONTROL

Immediately prior to this offering, Ares Capital Management LLC will own shares of the Registrant, representing 100% of the common stock outstanding. Following the completion of this offering, Ares Capital Management's share ownership is expected to represent less than 3% of the common stock outstanding.

ITEM 28. NUMBER OF HOLDERS OF SECURITIES

The following table sets forth the approximate number of record holders of the Company's common stock at August 31, 2004.

TITLE OF CLASS	NUMBER OF RECORD HOLDERS
Common stock, $0.001 par value	1

ITEM 29. 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 as being material to the cause of action. Our charter contains such a provision which eliminates directors' and officers' liability to the maximum extent permitted by Maryland law, subject to the requirements of the 1940 Act.

Our charter authorizes us, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to obligate us to indemnify any present or former director or officer or any individual who, while a director or officer and at our request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee, from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her status as a present or former director or officer and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. Our bylaws obligate us, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to indemnify any present or former director or officer or any individual who, while a director or officer and at our request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee and who is made a party to the proceeding by reason of his service in that capacity from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her status as a present or former director or officer and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. The charter and bylaws also permit us to indemnify and advance expenses to any person who served a predecessor of us in any of the capacities described above and any of our employees or agents or any employees or agents of our predecessor. 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 willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office. In addition to the indemnification provided for in our bylaws, prior to the completion of this offering we also intend to enter into indemnification agreements with each of our current and future directors and officers and with members of our investment adviser's investment committee. The indemnification agreements attempt to provide these directors and senior officers the maximum indemnification permitted under Maryland law and the 1940 Act. The agreements provide, among other things, for the advancement of expenses and indemnification for liabilities incurred which such person may incur by reason of his status as a present or former director or officer or member of our investment adviser's investment committee in any action or proceeding arising out of the performance of such person's services as a present or former director or officer or member of our investment adviser's investment committee.

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, on the merits or otherwise, in the defense of any proceeding to which he or she is 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 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. 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.

The investment advisory and management agreement provides that, absent willful misfeasance, bad faith or gross negligence in the performance of its duties or by reason of the reckless disregard of its duties and obligations, Ares Capital Management LLC (the "Adviser") and its officers, managers, agents, employees, controlling persons, members and any other person or entity affiliated with it are 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 the Adviser's services under the investment advisory and management agreement or otherwise as an investment adviser of the Company.

The administration agreement provides 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, Ares Technical Administration LLC and its officers, manager, agents, employees, controlling persons, members and any other person or entity affiliated with it are 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 Ares Technical Administration LLC's services under the administration agreement or otherwise as administrator for the Company.

The underwriters' agreement provides that each underwriter severally agrees to indemnify, defend and hold harmless the Company, its directors and officers, and any person who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and the successors and assigns of all of the foregoing persons, from and against any loss, damage, expense, liability or claim (including the reasonable cost of investigation) which, jointly or severally the Company or any such person may incur under the Act, the Exchange Act, the 1940 Act, the common law or otherwise, insofar as such loss, damage, expense, liability or claim arises out of or is based upon any untrue statement or alleged untrue statement of a material fact contained in and in conformity with information concerning such underwriter furnished in writing by or on behalf of such underwriter through the managing underwriter to the Company expressly for use in this Registration Statement (or in the Registration Statement as amended by any post-effective amendment hereof by the Company) or in the Prospectus contained in this Registration Statement, or arises out of or is based upon any omission or alleged omission to state a material fact in connection with such information required to be stated in this Registration Statement or such Prospectus or necessary to make such information not misleading.

Insofar as indemnification for liability arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Company pursuant to the foregoing provisions, or otherwise, the Company has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Company of expenses incurred or paid by a director, officer or controlling

person of the Company in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Company will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

ITEM 30. BUSINESS AND OTHER CONNECTIONS OF INVESTMENT ADVISER

A description of any other business, profession, vocation or employment of a substantial nature in which the Adviser, and each managing director, director or executive officer of the 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." Additional information regarding the Adviser and its officers and directors will be set forth in its Form ADV, as filed with the Securities and Exchange Commission (SEC File No. 801-63168), and is incorporated herein by reference.

ITEM 31. 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 are maintained at the offices of:

(1) the Registrant, Ares Capital Corporation, 1999 Avenue of the Stars, Suite 1900, Los Angeles, California 90067;

(2) the Transfer Agent, Computershare Investor Services, LLC, 2 N. LaSalle Street, Chicago, Illinois 60602;

(3) the Custodian, U.S. Bank National Association, Corporate Trust Services, One Federal Street, 3rd floor, Boston, Massachusetts 02110; and

(4) the Adviser, Ares Capital Management LLC 1999 Avenue of the Stars, Suite 1900, Los Angeles, California 90067.

ITEM 32. MANAGEMENT SERVICES

Not Applicable.

ITEM 33. UNDERTAKINGS

1. The Registrant undertakes to suspend the offering of shares until the prospectus is amended if (1) subsequent to the effective date of its registration statement, the net asset value declines more than ten percent from its net asset value as of the effective date of the registration statement; or (2) the net asset value increases to an amount greater than the net proceeds as stated in the prospectus.

2. The Registrant undertakes that:

(a) For the purpose of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 497(h) under the Securities Act of 1933 shall be deemed to be part of this registration statement as of the time it was declared effective.

(b) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 Los Angeles, in the State of California, on the 28 th day of September, 2004.

ARES CAPITAL CORPORATION

By: /s/ MICHAEL J. AROUGHETI

Michael J. Arougheti
President

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on September 28, 2004. This document may be executed by the signatories hereto on any number of counterparts, all of which constitute one and the same instrument.

SIGNATURE	TITLE
/s/ MICHAEL J. AROUGHETI Michael J. Arougheti	President (principal executive officer)
* Daniel F. Nguyen	Chief Financial Officer (principal financial officer)
* Douglas E. Coltharp	Director
* Antony P. Ressler	Co-Chairman and Director
* Robert L. Rosen	Director

*	Co-Chairman and Director
Bennett Rosenthal	
*	Director
Eric B. Siegel	

*By: /s/ KEVIN A. FRANKEL

Kevin A. Frankel
Attorney-in-fact

EXHIBIT INDEX

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(d)	Form of Stock Certificate*
(e)	Dividend Reinvestment Plan(2)
(f)	Not Applicable
(g)	Investment Advisory and Management Agreement between Registrant and Ares Capital Management, L.P.(2)
(h)	Form of Purchase Agreement among the Registrant, Ares Capital Management LLC, Ares Technical Administration LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wachovia Capital Markets, LLC and the other underwriters named therein*
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(k)(7)	Form of Agreement Regarding Repayment of Sales Load Advance by and between Ares Capital Corporation and Ares Capital Management LLC*
(l)	Opinion and Consent of Venable LLP, special Maryland counsel for Registrant*
(m)	Not Applicable
(n)	Consent of independent registered public accounting firm for Registrant(2)
(o)	Not Applicable
(p)	Not Applicable
(q)	Not Applicable
(r)	Code of Ethics*

* Filed herewith.

(1) Incorporated by reference to the corresponding exhibit number to the Registrant's Registration Statement under the Securities Act of 1933 on Form N-2 filed on April 21, 2004.

(2) Incorporated by reference to the corresponding exhibit number to the Registrant's pre-effective Amendment No. 1 to the Registration Statement under the Securities Act of 1933, as amended, on Form N-2, filed on September 17, 2004.

QuickLinks

QuickLinks -- Click here to rapidly navigate through this document

Exhibit (d)

COMMON STOCK

PAR VALUE $.001

COMMON STOCK

THIS CERTIFICATE IS TRANSFERABLE IN
NEW YORK, NY OR CHICAGO, IL

Certificate Number
0

Shares
0****
0**
****0****
*****0***
******0**

ARES CAPITAL CORPORATION

INCORPORATED UNDER THE LAWS OF THE STATE OF MARYLAND

THIS CERTIFIES THAT

MR. SAMPLE & MRS. SAMPLE &
MR. SAMPLE & MRS. SAMPLE

CUSIP 04010L 10 3
SEE REVERSE FOR CERTAIN DEFINITIONS

is the owner of

*****ZERO*****

FULLY-PAID AND NON-ASSESSABLE SHARES OF THE COMMON STOCK OF

Ares Capital Corporation (hereinafter called the "Corporation"), transferable on the books of the Corporation in person or by duly authorized attorney, upon surrender of this Certificate properly endorsed. This Certificate and the shares represented hereby, are issued and shall be held subject to all of the provisions of the Articles of Incorporation, as amended, and the Bylaws, as amended, of the Corporation (copies of which are on file with the Corporation and with the Transfer Agent), to all of which each holder, by acceptance hereof, assents. This Certificate is not valid unless countersigned and registered by the Transfer Agent and Registrar.

Witness the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.

/s/ MICHAEL J. AROUGHETI
President

/s/ KEVIN A. FRANKEL
Secretary

[ARES CAPITAL CORPORATION SEAL]

DATED <<Month Day, Year>>
COUNTERSIGNED AND REGISTERED:
COMPUTERSHARE INVESTOR SERVICES, LLC.
(CHICAGO)
TRANSFER AGENT AND REGISTRAR,

By _____

AUTHORIZED SIGNATURE

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	—	as tenants in common
TEN ENT	—	as tenants by the entireties
JT TEN	—	as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT— _____ Custodian _____
(Cust) (Minor)
under Uniform Gifts to Minors Act

_____
(State)

UNIF TRF MIN ACT— _____ Custodian (until age ____) _____
(Cust) (Minor)
under Uniform Transfers to Minors Act

_____
(State)

Additional abbreviations may also be used though not in the above list

ARES CAPITAL CORPORATION

THE CORPORATION WILL FURNISH WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS, A SUMMARY OF THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OF THE CORPORATION AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND RIGHTS, AND THE VARIATIONS IN RIGHTS, PREFERENCES AND LIMITATIONS DETERMINED FOR EACH SERIES, WHICH ARE FIXED BY THE ARTICLES OF INCORPORATION OF THE CORPORATION, AS AMENDED, AND THE RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE CORPORATION, AND THE AUTHORITY OF THE BOARD OF DIRECTORS TO DETERMINE VARIATIONS FOR FUTURE SERIES. SUCH REQUEST MAY BE MADE TO THE OFFICE OF THE SECRETARY OF THE CORPORATION OR TO THE TRANSFER AGENT. THE BOARD OF DIRECTORS MAY REQUIRE THE OWNER OF A LOST OR DESTROYED STOCK CERTIFICATE, OR HIS LEGAL REPRESENTATIVES, TO GIVE THE CORPORATION A BOND TO INDEMNIFY IT AND ITS TRANSFER AGENTS AND REGISTRARS AGAINST ANY CLAIM THAT MAY BE MADE AGAINST THEM ON ACCOUNT OF THE ALLEGED LOSS OR DESTRUCTION OF ANY SUCH CERTIFICATE.

For value received, _____hereby sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

_____

_____

_____

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING POSTAL ZIP CODE, OF ASSIGNEE)

_____

_____

_____ Shares

of the capital stock represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____ Attorney

to transfer the said stock on the books of the within-named Corporation with full power of substitution in the premises.

Dated: _____ 20 ____ Signature: _____

Signature(s) Guaranteed: Signature: _____

BY: _____

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Banks, Stockbrokers, Savings and Loan Associations and Credit Unions) WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM, PURSUANT TO S.E.C. RULE 17Ad-15.

Notice: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATEVER.

QuickLinks

Exhibit (d)

Exhibit (h)

ARES CAPITAL CORPORATION
(a Maryland corporation)

17,000,000 Shares of Common Stock

PURCHASE AGREEMENT

Dated: • , 2004

ARES CAPITAL CORPORATION
(a Maryland corporation)

17,000,000 Shares of Common Stock
(Par Value $.001 Per Share)

PURCHASE AGREEMENT

• 2004

MERRILL LYNCH & CO.
Merrill Lynch, Pierce, Fenner & Smith
Incorporated
Wachovia Capital Markets, LLC
Jefferies & Company, Inc.
as Representatives of the several Underwriters

c/o Merrill Lynch & Co.
Merrill Lynch, Pierce, Fenner & Smith
Incorporated
4 World Financial Center
New York, New York 10080

Ladies and Gentlemen:

Ares Capital Corporation, a Maryland corporation (the "Company"), confirms its agreement with Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") and each of the other Underwriters named in Schedule A hereto (collectively, the "Underwriters", which term shall also include any underwriter substituted as hereinafter provided in Section 10 hereof), for whom Merrill Lynch, Wachovia Capital Markets, LLC and Jefferies & Company, Inc. are acting as representatives (in such capacity, the "Representatives"), with respect to the issue and sale by the Company and the purchase by the Underwriters, acting severally and not jointly, of the respective numbers of shares of Common Stock, par value $.001 per share, of the Company ("Common Stock") set forth in said Schedule A, and with respect to the grant by the Company to the Underwriters, acting severally and not jointly, of the option described in Section 2(b) hereof to purchase all or any part of 2,550,000 additional shares of Common Stock to cover overallotments, if any. The aforesaid 17,000,000 shares of Common Stock (the "Initial Securities") to be purchased by the Underwriters and all or any part of the 2,550,000 shares of Common Stock subject to the option described in Section 2(b) hereof (the "Option Securities") are hereinafter called, collectively, the "Securities".

The Company understands that the Underwriters propose to make a public offering of the Securities as soon as the Representatives deem advisable after this Agreement has been executed and delivered.

The Company and the Underwriters agree that up to 316,600 shares of the Securities to be purchased by the Underwriters (the "Reserved Securities") shall be reserved for sale by the Underwriters to the Adviser (as defined below) as part of the distribution of the Securities by the Underwriters, subject to the terms of this Agreement, the applicable rules, regulations and interpretations of the National Association of Securities Dealers, Inc. (the "NASD") and all other applicable laws, rules and regulations. To the extent that such Reserved Securities are not orally confirmed for purchase by the Adviser by the end of the first business day after the date of this Agreement, such Reserved Securities may be offered to the public as part of the public offering contemplated hereby.

The Company has filed with the Securities and Exchange Commission (the "Commission") a registration statement on Form N-2 (File No. 333-114656), including the related preliminary prospectus or prospectuses, covering the registration of the Securities under the Securities Act of 1933, as amended (the "1933 Act"). Promptly after execution and delivery of this Agreement, the Company will prepare and file a prospectus in accordance with the provisions of Rule 430A ("Rule 430A") of the rules and regulations of the Commission under the 1933 Act (the "1933 Act Regulations") and paragraph (h) of Rule 497 ("Rule 497(h)") of the 1933 Act Regulations. The information included in such prospectus that was omitted from such registration statement at the time it became effective but that is deemed to be part of such registration statement at the time it became effective pursuant to paragraph (b) of Rule 430A is referred to as "Rule 430A Information." Each prospectus used before such registration statement became effective, and any prospectus that omitted the Rule 430A Information, that was used after such effectiveness and prior to the execution and delivery of this Agreement, is herein called a "preliminary prospectus." Unless the context otherwise requires, such registration statement, including all documents filed as a part thereof, and including any Rule 430A Information contained in a prospectus subsequently filed with the Commission pursuant to Rule 497(h) under the 1933 Act and deemed to be part of the registration statement at the time of effectiveness and also including any registration statement filed pursuant to Rule 462(b) of the 1933 Act Regulations, is herein called the "Registration Statement." The final prospectus in the form filed by the Company with the Commission pursuant to Rule 497(h) under the 1933 Act on or before the second business day after the date hereof (or such earlier time as may be required under the 1933 Act) or, if no such filing is required, the form of final prospectus included in the Registration Statement at the time it became effective, is herein called the "Prospectus." For purposes of this Agreement, all references to the Registration Statement, any preliminary prospectus, the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system ("EDGAR").

A Form N-54A Notification of Election to be Subject to Sections 55 through 65 of the Investment Company Act of 1940 filed Pursuant to Section 54(a) of the Investment Company Act (File No. 814-00663) (the "Notification of Election") was filed with the Commission on April 21, 2004 under the Investment Company Act of 1940, as amended, and the rules and regulations thereunder (collectively, the "1940 Act").

The Company has entered into an Investment Advisory and Management Agreement, dated as of • , 2004 (the "Investment Advisory Agreement"), with Ares Capital Management LLC, a Delaware limited liability company registered as an investment adviser (the "Adviser"), under the Investment Advisers Act of 1940, as amended, and the rules and regulations thereunder (collectively, the "Advisers Act").

The Company has entered into an Administration Agreement, dated as of • , 2004 (the "Administration Agreement"), with Ares Technical Administration LLC, a Delaware limited liability Company (the "Administrator").

SECTION 1. *Representations and Warranties* .

(a) *Representations and Warranties by the Company.* The Company, the Adviser and the Administrator, jointly and severally, represent and warrant to each Underwriter as of the date hereof, as of the Closing Time referred to in Section 2(c) hereof, and as of each Date of Delivery (if any) referred to in Section 2(b) hereof, and agrees with each Underwriter, as follows:

(i) *Compliance with Registration Requirements* . The Company is eligible to use Form N-2. The Registration Statement (and the Registration Statement as amended by any post-effective amendment if the Company shall have made any amendments thereto after the effective date of the Registration Statement) has become effective under the 1933 Act and no stop order suspending the effectiveness of the Registration Statement (and the Registration Statement as

amended by any post-effective amendment if the Company shall have made any amendments thereto after the effective date of the Registration Statement) has been issued under the 1933 Act and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated by the Commission, and any request on the part of the Commission for additional information has been complied with.

At the respective times the Registration Statement and any post-effective amendments thereto became effective and at the Closing Time (and, if any Option Securities are purchased, at the Date of Delivery), the Registration Statement complied and will comply in all material respects with the requirements of the 1933 Act, the 1933 Act Regulations and the 1940 Act and did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and the Prospectus, the preliminary prospectus in the form distributed in connection with the offering of the Shares (as amended or supplemented) and any prospectus wrapper prepared in connection therewith, at their respective times of issuance and at the Closing Time (and, if any Option Securities are purchased, at the Date of Delivery), complied and will comply in all material respects with any applicable laws or regulations of foreign jurisdictions in which the Prospectus and such preliminary prospectus (as amended or supplemented, if applicable), are distributed in connection with the offer and sale of Reserved Securities. Neither the Prospectus nor any amendments or supplements thereto (including any prospectus wrapper), at the time the Prospectus or any such amendment or supplement was issued, and at the Closing Time (and, if any Option Securities are purchased, at the Date of Delivery), included or will include an untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The representations and warranties in this subsection shall not apply to statements in or omissions from the Registration Statement or Prospectus made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through Merrill Lynch expressly for use in the Registration Statement (or any amendment thereto) or the Prospectus (or any amendment or supplement thereto).

The Prospectus, each preliminary prospectus and the prospectus filed as part of the Registration Statement as originally filed or as part of any amendment thereto complied when so filed in all material respects with the 1933 Act, the 1933 Act Regulations and the 1940 Act except for any corrections to any preliminary prospectus that are made in the Prospectus (or any amendment or supplement thereto prior to the effective date of the Registration Statement) and each preliminary prospectus and the Prospectus delivered to the Underwriters for use in connection with this offering was identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(ii) *Independent Accountants* . The accountants who certified the statement of assets and liabilities included in the Registration Statement are independent public accountants as required by the 1933 Act, the 1933 Act Regulations and the Securities Exchange Act of 1934, as amended (the "1934 Act").

(iii) *Financial Statements* . The audited statement of assets and liabilities included in the Registration Statement and the Prospectus, together with the related notes, present fairly the financial position of the Company as of the date indicated; there are no financial statements that are required to be included in the Registration Statement or Prospectus that are not included as required; said financial statements have been prepared in conformity with generally accepted accounting principles in the United States ("GAAP") applied on a consistent basis throughout the periods involved. The financial data set forth in the Prospectus under the caption "Capitalization" fairly presents the information set forth therein on a basis consistent with that of the audited financial statements and related notes thereto contained in the Registration Statement.

(iv) *No Material Adverse Change in Business* . Since the respective dates as of which information is given in the Registration Statement and the Prospectus, except as otherwise stated therein, (A) there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (B) there have been no transactions entered into by the Company, other than those in the ordinary course of business, which are material with respect to the Company, and (C) there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(v) *Good Standing of the Company* . The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Maryland and has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Prospectus and to enter into and perform its obligations under this Agreement, the Investment Advisory Agreement and the Administration Agreement; and the Company is duly qualified as a foreign corporation to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not reasonably be expected to result in a Material Adverse Effect.

(vi) *Subsidiaries* . The Company has no subsidiaries. The Company does not own, directly or indirectly, any shares of stock or any other equity or debt securities of any corporation or have any equity or debt interest in any firm, partnership, joint venture, association or other entity.

(vii) *Capitalization* . The authorized, issued and outstanding capital stock of the Company is as set forth in the Prospectus in the column entitled "Actual" under the caption "Capitalization" (except for subsequent issuances, if any, pursuant to this Agreement or pursuant to reservations, agreements or employee benefit plans, if any, referred to in the Prospectus or pursuant to the exercise of convertible securities or options, if any, referred to in the Prospectus). The shares of issued and outstanding capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable; none of the outstanding shares of capital stock of the Company was issued in violation of preemptive or other similar rights of any securityholder of the Company.

(viii) *Authorization of Agreements* . This Agreement, the Investment Advisory Agreement and the Administration Agreement have each been duly authorized, executed and delivered by the Company. The Investment Advisory Agreement and the Administration Agreement are valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be subject to (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or thereafter in effect relating to creditors' rights generally and (ii) general principles of equity and the discretion of the court before which any proceeding therefor may be brought.

(ix) *Authorization and Description of Securities* . The Securities have been duly authorized for issuance and sale to the Underwriters pursuant to this Agreement and, when issued and delivered by the Company pursuant to this Agreement against payment of the consideration set forth herein, will be validly issued and fully paid and non-assessable; the Common Stock conforms in all material respects to all statements relating thereto contained in the Prospectus and such description conforms in all material respects to the rights set forth in the instruments defining the same; and the issuance of the Securities is not subject to the preemptive or other similar rights of any securityholder of the Company.

(x) *Absence of Defaults and Conflicts* . The Company is not in violation of its charter or by-laws or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement,

note, lease or other agreement or instrument to which the Company is a party or by which it may be bound, or to which any of the property or assets of the Company is subject (collectively, "Agreements and Instruments") except for such defaults that would not reasonably be expected to result in a Material Adverse Effect; and the execution, delivery and performance of this Agreement, the Investment Advisory Agreement and the Administration Agreement and the consummation of the transactions contemplated herein and therein and in the Registration Statement (including the issuance and sale of the Securities and the use of the proceeds from the sale of the Securities as described in the Prospectus under the caption "Use of Proceeds") and compliance by the Company with its obligations hereunder and thereunder do not and will not, whether with or without the giving of notice or passage of time or both, (A) conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company pursuant to, the Agreements and Instruments, except for such conflicts, breaches, defaults or Repayment Events that would not reasonably be expected to result in a Material Adverse Effect, or (B) conflict with or constitute a breach of, or default under, any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which Ares is a party or by which Ares may be bound, or to which any of the property or assets of Ares Management LLC ("Ares") is subject, or the limited partner agreement or other governing documents of any fund managed by, advised by or affiliated with Ares, except for such conflicts, breaches or defaults that would not reasonably be expected to result in a Material Adverse Effect, nor will such action result in any violation of the provisions of the charter or by-laws of the Company or any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company or any of its assets, properties or operations. As used herein, a "Repayment Event" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company.

(xi) *Absence of Proceedings* . Other than as disclosed in the Registration Statement, there is no action, suit or proceeding or, to the knowledge of the Company, inquiry or investigation, before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Company, threatened, against or affecting the Company, which is required to be disclosed in the Registration Statement, or which would reasonably be expected to result in a Material Adverse Effect, or which would reasonably be expected to materially and adversely affect the properties or assets thereof or the consummation of the transactions contemplated in this Agreement, the Investment Advisory Agreement or the Administration Agreement or the performance by the Company of its obligations hereunder or thereunder; the aggregate of all pending legal or governmental proceedings to which the Company is a party or of which any of its property or assets is the subject which are not described in the Registration Statement, including ordinary routine litigation incidental to the business, would not reasonably be expected to result in a Material Adverse Effect.

(xii) *Accuracy of Exhibits* . There are no contracts or documents which are required to be described in the Registration Statement or the Prospectus or to be filed as exhibits thereto which have not been so described and filed as required.

(xiii) *Possession of Intellectual Property* . The Company owns or possesses, or can acquire on reasonable terms, adequate patents, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property (collectively, "Intellectual Property") necessary to carry on the business now operated by

it or proposed to be operated by it immediately following the offering of the Securities as described in the Prospectus, except where the failure to own or possess or otherwise be able to acquire such rights in a timely manner would not otherwise reasonably be expected to result in a Material Adverse Effect, and the Company has not received any notice of and is not otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interest of the Company therein, and which infringement or conflict (if the subject of any unfavorable decision, ruling or finding) or invalidity or inadequacy, singly or in the aggregate, would reasonably be expected to result in a Material Adverse Effect.

(xiv) *Absence of Further Requirements* . No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is necessary or required for the performance by the Company of its obligations hereunder, in connection with the offering, issuance or sale of the Securities hereunder or the consummation of the transactions contemplated by this Agreement, the Investment Advisory Agreement, the Administration Agreement or the Prospectus (including the use of the proceeds from the sale of the Securities as described in the Prospectus under the caption "Use of Proceeds"), except (A) such as have been already obtained under the 1933 Act, the 1933 Act Regulations or the 1940 Act, (B) such as may be required under state securities laws, (C) the filing of the Notification of Election under the 1940 Act, which has been effected and (D) such as have been obtained under the laws and regulations of jurisdictions outside the United States in which the Reserved Securities are offered.

(xv) *Absence of Manipulation* . Neither the Company nor any affiliate of the Company has taken, nor will the Company or any affiliate take, directly or indirectly, any action which is designed to or which has constituted or which would be expected to cause or result in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities in violation of any law, statute, regulation or rule applicable to the Company or its affiliates.

(xvi) *Possession of Licenses and Permits* . The Company possesses such permits, licenses, approvals, consents and other authorizations (collectively, "Governmental Licenses") issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct the business now operated by it or proposed to be operated by it immediately following the offering of the Securities as described in the Prospectus, except where the failure so to possess would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect; the Company is in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect; all of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect; and the Company has not received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in a Material Adverse Effect.

(xix) *Investment Company Act* . The Company is not required, and upon the issuance and sale of the Securities as herein contemplated and the application of the net proceeds therefrom as described in the Prospectus will not be required, to register as a "registered management investment company" under the 1940 Act.

(xx) *Registration Rights* . There are no persons with registration rights or other similar rights to have any securities registered pursuant to the Registration Statement or otherwise registered by the Company under the 1933 Act.

(xxi) *Related Party Transactions* . There are no business relationships or related party transactions involving the Company or any other person required to be described in the Prospectus which have not been described as required.

(xxii) *Notification of Election* **.** When the Notification of Election was filed with the Commission, it (A) contained all statements required to be stated therein in accordance with, and complied in all material respects with the requirements of, the 1940 Act and (B) did not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(xxiii) *Investment Advisory Agreement* . (A) The terms of the Investment Advisory Agreement, including compensation terms, comply in all material respects with all applicable provisions of the 1940 Act and the Advisers Act and (B) the approvals by the board of directors and the sole stockholder of the Company of the Investment Advisory Agreement have been made in accordance with the requirements of Section 15 of the 1940 Act applicable to companies that have elected to be regulated as business development companies under the 1940 Act.

(xxiv) *Interested Persons* . Except as disclosed in the Registration Statement and the Prospectus (A) no person is serving or acting as an officer, director or investment adviser of the Company, except in accordance with the provisions of the 1940 Act and the Advisers Act, and (B) to the knowledge of the Company, no director of the Company is an "interested person" (as defined in the 1940 Act) of the Company or an "affiliated person" (as defined in the 1940 Act) of any of the Underwriters.

(xxv) *Business Development Company* . (A) The Company has duly elected to be treated by the Commission under the 1940 Act as a business development company, such election is effective and all required action has been taken by the Company under the 1933 Act and the 1940 Act to make the public offering and consummate the sale of the Securities as provided in this Agreement; (B) the provisions of the corporate charter and by-laws of the Company, and the investment objectives, policies and restrictions described in the Prospectus, assuming they are implemented as described, will comply in all material respects with the requirements of the 1940 Act; and (C) the operations of the Company are in compliance in all material respects with the provisions of the 1940 Act applicable to business development companies.

(xxvi) *Employees and Executives* . The Company is not aware that (A) any executive, key employee or significant group of employees of the Company, the Adviser or the Administrator plans to terminate employment with the Company, the Adviser or the Administrator or (B) any such executive or key employee is subject to any noncompete, nondisclosure, confidentiality, employment, consulting or similar arrangement that would be violated by the present or proposed business activities of the Company, the Adviser or the Administrator.

(xxvii) *No Extension of Credit* . The Company has not, directly or indirectly, extended credit, arranged to extend credit, or renewed any extension of credit, in the form of a personal loan, to or for any director or executive officer of the Company, or to or for any family member or affiliate of any director or executive officer of the Company.

(b) *Representations and Warranties of the Adviser and the Administrator* . The Adviser and the Administrator, jointly and severally, represent to each Underwriter as of the date hereof, as of the

Closing Time referred in Section 2(c) hereof, and as of each Date of Delivery (if any) referred to in Section 2(b) hereof, and agrees with each Underwriter as follows:

(i) *No Material Adverse Change in Business* . Since the respective dates as of which information is given in the Registration Statement and the Prospectus, except as otherwise stated therein, there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs, business prospects or regulatory status of the Adviser or the Administrator, whether or not arising in the ordinary course of business, that would reasonably be expected to result in a Material Adverse Effect.

(ii) *Good Standing* . Each of the Adviser and the Administrator has been duly organized and is validly existing as a limited liability company in good standing under the laws of the State of Delaware, and has limited liability company power and authority to own, lease and operate its properties and to conduct its business as described in the Prospectus and to enter into and perform its obligations under this Agreement; the Adviser has limited liability company power and authority to execute and deliver and perform its obligations under the Investment Advisory Agreement; the Administrator has limited liability company power and authority to enter into and perform its obligations under the Administration Agreement; and each of the Adviser and the Administrator is duly qualified to transact business as a foreign entity and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of ownership or leasing of its property or the conduct of business, except where the failure to qualify or be in good standing would not otherwise reasonably be expected to result in a Material Adverse Effect.

(iii) *Registration Under Advisers Act* . The Adviser is duly registered with the Commission as an investment adviser under the Advisers Act and is not prohibited by the Advisers Act or the 1940 Act from acting under the Investment Advisory Agreement for the Company as contemplated by the Prospectus. There does not exist any proceeding or, to the Adviser's knowledge, any facts or circumstances the existence of which could lead to any proceeding which might adversely affect the registration of the Adviser with the Commission.

(iv) *Absence of Proceedings* . There is no action, suit or proceeding or, to the knowledge of the Adviser or the Administrator, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Adviser or the Administrator, threatened, against or affecting either the Adviser or the Administrator, which is required to be disclosed in the Registration Statement (other than as disclosed therein), or which would reasonably be expected to result in a Material Adverse Effect, or which would reasonably be expected to materially and adversely affect the consummation of the transactions contemplated in this Agreement, the Investment Advisory Agreement or the Administration Agreement; the aggregate of all pending legal or governmental proceedings to which the Adviser or the Administrator is a party or of which any of their respective property or assets is the subject which are not described in the Registration Statement, including ordinary routine litigation incidental to their business, would not reasonably be expected to result in a Material Adverse Effect.

(v) *Absence of Defaults and Conflicts* . Neither the Adviser nor the Administrator is in violation of its limited liability company operating agreement or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Adviser or the Administrator is a party or by which it or any of them may be bound, or to which any of the property or assets of the Adviser or the Administrator is subject (collectively, the "Adviser/Administrator Agreements and Instruments"), or in violation of any law, statute, rule, regulation, judgment, order or decree except for such violations or defaults that would not reasonably be expected to result in a Material Adverse Effect; and the execution,

delivery and performance of this Agreement, the Investment Advisory Agreement and the Administration Agreement and the consummation of the transactions contemplated herein and therein and in the Registration Statement (including the issuance and sale of the Securities and the use of the proceeds from the sale of the Securities as described in the Prospectus under the caption "Use of Proceeds") and compliance by the Adviser and the Administrator with their respective obligations hereunder and under the Investment Advisory Agreement and the Administration Agreement do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Adviser or the Administrator pursuant to, the Adviser/Administrator Agreements and Instruments except for such violations or defaults that would not reasonably be expected to result in a Material Adverse Effect, nor will such action result in any violation of the provisions of the limited liability company operating agreement of the Adviser or Administrator, respectively, or any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Adviser or the Administrator or any of their assets, properties or operations.

(vi) *Authorization of Agreements* . This Agreement, the Investment Advisory Agreement and the Administration Agreement have been duly authorized, executed and delivered by the Adviser and the Administrator, as applicable. This Agreement, the Investment Advisory Agreement and the Administration Agreement are valid and binding obligations of the Adviser or the Administrator, as applicable, enforceable against them in accordance with their terms, except as the enforcement thereof may be subject to (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or thereafter in effect relating to creditors' rights generally and (ii) general principles of equity and the discretion of the court before which any proceeding therefor may be brought.

(vii) *Absence of Further Requirements* . No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is necessary or required for the performance by the Adviser or the Administrator of their obligations hereunder, in connection with the offering, issuance or sale of the Securities hereunder or the consummation of the transactions contemplated by this Agreement, the Investment Advisory Agreement, the Administration Agreement or the Prospectus (including the use of the proceeds from the sale of the Securities as described in the Prospectus under the caption "Use of Proceeds"), except (A) such as have been already obtained under the 1933 Act, the 1933 Act Regulations or the 1940 Act, (B) such as may be required under state securities laws, (C) the filing of the Notification of Election under the 1940 Act, which has been effected and (D) such as have been obtained under the laws and regulations of jurisdictions outside the United States in which the Reserved Securities are offered.

(viii) *Description of Adviser and Administrator* . The description of the Adviser and the Administrator contained in the Prospectus does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

(ix) *Possession of Licenses and Permits* . The Adviser and the Administrator possess such Governmental Licenses issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct the business now operated by them, except where the failure so to possess would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect; the Adviser and the Administrator are in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, result in a Material Adverse Effect; all of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not, singly or in the

aggregate, result in a Material Adverse Effect; and neither the Adviser nor the Administrator has received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in a Material Adverse Effect.

(x) *Stabilization and Manipulation* . Neither the Adviser, the Administrator nor any of their respective partners, officers, affiliates or controlling persons has taken, directly or indirectly, any action designed, under the 1934 Act, to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale of the Securities in violation of any law, statute, regulation or rule applicable to the Adviser, the Administrator or any of their respective partners, officers, affiliates or controlling persons.

(xi) *Employment Status* . The Adviser is not aware that (A) any executive, key employee or significant group of employees of the Company, if any, the Adviser or the Administrator, as applicable, plans to terminate employment with the Company, the Adviser or the Administrator or (B) any such executive or key employee is subject to any non-compete, nondisclosure, confidentiality, employment, consulting or similar agreement that would be violated by the present or proposed business activities of the Company or the Adviser except where such termination or violation would not reasonably be expected to have a Material Adverse Effect.

(xii) *Internal Controls* . The Adviser is using its commercially reasonable efforts to implement a system of internal controls sufficient to provide reasonable assurance that (A) transactions effectuated by it under the Investment Advisory Agreement are executed in accordance with its management's general or specific authorization; and (B) access to the Company's assets that are in its possession or control is permitted only in accordance with its management's general or specific authorization.

(xiii) *Accounting Controls* . The Administrator is using its commercially reasonable efforts to operate a system of internal accounting controls sufficient to provide reasonable assurance that (A) transactions for which it has bookkeeping and record keeping responsibility for under the Administration Agreement are recorded as necessary to permit preparation of the Company's financial statements in conformity with GAAP and to maintain financial statements in conformity with GAAP and to maintain accountability for the Company's assets and (B) the recorded accountability for such assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(c) *Officer's Certificates.* Any certificate signed by any officer of the Company, the Adviser or the Administrator delivered to the Representatives or to counsel for the Underwriters shall be deemed a representation and warranty by the Company, the Adviser and or the Adminstrator, as applicable, to each Underwriter as to the matters covered thereby.

SECTION 2. *Sale and Delivery to Underwriters; Closing* .

(a) *Initial Securities.* On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company agrees to sell to each Underwriter, severally and not jointly, and each Underwriter, severally and not jointly, agrees to purchase from the Company, at the price per share set forth in Schedule B, the number of Initial Securities set forth in Schedule A opposite the name of such Underwriter, plus any additional number of Initial Securities which such Underwriter may become obligated to purchase pursuant to the provisions of Section 10 hereof. In addition, in connection with the sale of the Initial Securities, the Adviser agrees to pay to Merrill Lynch, for the account of the Underwriters, the amount per share set forth on Schedule B (the "Adviser Sales Load Payment") with respect to the Initial Securities.

(b) *Option Securities.* In addition, on the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company hereby grants an

option to the Underwriters, severally and not jointly, to purchase up to an additional 2,550,000 shares of Common Stock at the price per share set forth in Schedule B, less an amount per share equal to any dividends or distributions declared by the Company and payable on the Initial Securities but not payable on the Option Securities. The option hereby granted will expire 30 days after the date hereof and may be exercised in whole or in part from time to time on one or more occasions only for the purpose of covering overallotments which may be made in connection with the offering and distribution of the Initial Securities upon notice by Merrill Lynch to the Company setting forth the number of Option Securities as to which the several Underwriters are then exercising the option and the time and date of payment and delivery for such Option Securities. Any such time and date of delivery (a "Date of Delivery") shall be determined by Merrill Lynch, but shall not be later than seven full business days after the exercise of said option, nor in any event prior to the Closing Time, as hereinafter defined. If the option is exercised as to all or any portion of the Option Securities, each of the Underwriters, acting severally and not jointly, will purchase that proportion of the total number of Option Securities then being purchased which the number of Initial Securities set forth in Schedule A opposite the name of such Underwriter bears to the total number of Initial Securities, subject in each case to such adjustments as Merrill Lynch in its discretion shall make to eliminate any sales or purchases of fractional shares. In addition, in connection with the sale of any Option Securities, the Adviser agrees to make the per share Adviser Sales Load Payment with respect to such Option Securities.

(c) *Payment.* Payment of the purchase price for, against delivery of certificates for, the Initial Securities and payment of the Adviser Sales Load Payment with respect to the Initial Securities shall be made at the offices of Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, NY 10004, or at such other place as shall be agreed upon by the Representatives and the Company, at 9:00 A.M. (Eastern time) on the third (fourth, if the pricing occurs after 4:30 P.M. (Eastern time) on any given day) business day after the date hereof (unless postponed in accordance with the provisions of Section 10), or such other time not later than ten business days after such date as shall be agreed upon by the Representatives and the Company (such time and date of payment and delivery being herein called "Closing Time").

In addition, in the event that any or all of the Option Securities are purchased by the Underwriters, payment of the purchase price for, and delivery of certificates for, such Option Securities and payment of the Adviser Sales Load Payment in respect thereof, shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Representatives and the Company, on each Date of Delivery as specified in the notice from the Representatives to the Company.

Payment shall be made to the Company by wire transfer of immediately available funds to a bank account designated by the Company, against delivery to the Representatives through the facilities of The Depository Trust Company ("DTC") for the respective accounts of the Underwriters of certificates for the Securities to be purchased by them and payment of the Adviser Sales Load Payment shall be made to Merrill Lynch by wire transfer of immediately available funds to a bank account designated by Merrill Lynch. It is understood that each Underwriter has authorized the Representatives, for its account, to accept delivery of, receipt for, and make payment of the purchase price for, the Initial Securities and the Option Securities, if any, which it has agreed to purchase and has authorized Merrill Lynch, for its account, to accept delivery of the Adviser Sales Load Payment with respect to the Initial Securities and the Option Securities. Merrill Lynch, individually and not as representative of the Underwriters, may (but shall not be obligated to) make payment of the purchase price for the Initial Securities or the Option Securities, if any, to be purchased by any Underwriter whose funds have not been received by the Closing Time or the relevant Date of Delivery, as the case may be, but such payment shall not relieve such Underwriter from its obligations hereunder.

(d) *Denominations; Registration.* The certificates for the Initial Securities and the Option Securities, if any, shall be transferred electronically at the Closing Time or the relevant Date of

Delivery, as the case may be, in such denominations and registered in such names as the Representatives may request; provided that any such request must be received in writing at least one full business day before the Closing Time or the relevant Date of Delivery, as the case may be.

SECTION 3. *Covenants of the Company* . The Company covenants with each Underwriter as follows:

(a) *Compliance with Securities Regulations and Commission Requests.* The Company, subject to Section 3(b), will comply with the requirements of Rule 430A and Rule 497 and will notify the Representatives immediately, and confirm the notice in writing, (i) when any post-effective amendment to the Registration Statement shall become effective, or any supplement to the Prospectus or any amended Prospectus shall have been filed, (ii) of the receipt of any comments from the Commission relating to the Registration Statement, (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or for additional information, and (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of any order preventing or suspending the use of any preliminary prospectus, or of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes. The Company will promptly effect the filings necessary pursuant to Rule 497(h) and will take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 497(h) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Company will use its reasonable efforts to prevent the issuance of any stop order and, if any stop order is issued, to obtain the lifting thereof at the earliest possible moment.

(b) *Filing of Amendments.* The Company will give the Representatives notice of its intention to file or prepare any amendment to the Registration Statement (including any filing under Rule 462(b)) or any amendment, supplement or revision to either the prospectus included in the Registration Statement at the time it became effective or to the Prospectus, will furnish the Representatives with copies of any such documents a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file or use any such document to which the Representatives or counsel for the Underwriters shall object.

(c) *Delivery of Commission Filings.* The Company has furnished or will deliver to the Representatives and counsel for the Underwriters, without charge, conformed copies of (i) the Notification of Election and (ii) the Registration Statement, each as originally filed, and of each amendment thereto (including exhibits filed therewith or incorporated by reference therein) and conformed copies of all consents and certificates of experts, and, upon the Representative's request, will also deliver to the Representatives, without charge, a conformed copy of the Notification of Election and the Registration Statement as originally filed and of each amendment thereto (without exhibits) for each of the Underwriters. The copies of the Notification of Election and Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T, or as filed with the Commission in paper form as permitted by Regulation S-T.

(d) *Delivery of Prospectuses.* The Company has delivered to each Underwriter, without charge, as many copies of each preliminary prospectus as such Underwriter reasonably requested, and the Company hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Company will furnish to each Underwriter, without charge, during the period when the Prospectus is required to be delivered under the 1933 Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted

copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) *Continued Compliance with Securities Laws.* The Company will use its commercially reasonable efforts to comply with the 1933 Act and the 1933 Act Regulations so as to permit the completion of the distribution of the Securities as contemplated in this Agreement and in the Prospectus. If at any time when a prospectus is required by the 1933 Act to be delivered in connection with sales of the Securities, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Underwriters or for the Company, to amend the Registration Statement or amend or supplement the Prospectus in order that the Prospectus will not include any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it shall be necessary, in the opinion of such counsel, at any such time to amend the Registration Statement or amend or supplement the Prospectus in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, the Company will promptly prepare and file with the Commission, subject to Section 3(b), such amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement or the Prospectus comply with such requirements, and the Company will furnish to the Underwriters such number of copies of such amendment or supplement as the Underwriters may reasonably request.

(f) *Blue Sky Qualifications.* The Company will use its commercially reasonable efforts, in cooperation with the Underwriters, to qualify the Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representatives may designate and to maintain such qualifications in effect for as long as the Representatives reasonably request; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(g) *Rule 158.* The Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to its securityholders as soon as reasonably practicable an earnings statement for the purposes of, and to provide the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(h) *Use of Proceeds.* The Company will use the net proceeds received by it from the sale of the Securities in the manner specified in the Prospectus under "Use of Proceeds".

(i) *Listing.* The Company will use its commercially reasonable efforts to effect the quotation of the Securities on the Nasdaq National Market.

(j) *Restriction on Sale of Securities.* During a period of 180 days from the date of the Prospectus, the Company will not, without the prior written consent of Merrill Lynch, (i) directly or indirectly, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of any share of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock or file any registration statement under the 1933 Act with respect to any of the foregoing or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Common Stock, whether any such swap or transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing sentence shall not apply to (A) the registration and sale of Securities to be sold hereunder, (B) the issuance of any shares of Common Stock issued by the Company upon the exercise of an option or warrant or the conversion of a security outstanding on the date hereof and referred to in the Prospectus, and any registration related thereto, (C) any shares of Common Stock issued or options to purchase Common Stock granted pursuant to

existing employee benefit plans of the Company referred to in the Prospectus, and any registration related thereto, (D) any shares of Common Stock issued pursuant to any non-employee director stock plan or dividend reinvestment plan, and any registration related thereto, or (E) any shares of Common Stock issued to directors in lieu of directors' fees, and any registration related thereto.

(k) *Reporting Requirements.* The Company, during the period when the Prospectus is required to be delivered under the 1933 Act, will file all documents required to be filed with the Commission pursuant to the 1934 Act within the time periods required by the 1934 Act and the rules and regulations of the Commission thereunder.

(l) *Business Development Company Status* . The Company, during a period of at least 12 months from the effective date of the company's election to be a business development company, will use its commercially reasonable efforts to maintain its status as a business development company; *provided , however,* the Company may cease to be, or withdraw its election as, a business development company, with the approval of the board of directors and a vote of stockholders as required by Section 58 of the 1940 Act or an successor provision.

(m) *Regulated Investment Company Status* . During the 12-month period following the Closing Time, the Company will use its commercially reasonable efforts to qualify and elect to be treated as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended (the "Code") and to maintain such qualification and election in effect for each full fiscal year during which it is a business development company under the 1940 Act.

(n) *Accounting Controls.* The Company will use its commercially reasonable efforts to establish and maintain a system of internal accounting controls sufficient to provide reasonable assurances that (A) transactions are executed in accordance with management's authorization; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's authorization; (D) the recorded accountability for inventory assets is compared with the existing inventory assets at reasonable intervals and appropriate action is taken with respect to any differences; (E) material information relating to the Company and the assets managed by the Adviser is promptly made known to the officers responsible for establishing and maintaining the system of internal accounting controls; and (F) any significant deficiencies or weaknesses in the design or operation of internal accounting controls which could adversely affect the Company's ability to record, process, summarize and report financial data, and any fraud whether or not material that involves management or other employees who have a significant role in internal controls, are adequately and promptly disclosed to the Company's independent auditors and the audit committee of the Company's board of directors.

(o) *Disclosure Controls* . The Company will use its commercially reasonable efforts to establish and employ disclosure controls and procedures that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the 1934 Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and is accumulated and communicated to the Company's management, including its principal executive officer or officers and principal financial officer or officers, as appropriate to allow timely decisions regarding disclosure.

SECTION 4. *Payment of Expenses* .

(a) *Expenses.* The Company will pay all expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and of each amendment thereto, (ii) the printing and delivery to the Underwriters of this Agreement, any Agreement among Underwriters and such other documents as may be required in connection with the offering, purchase, sale, issuance or

delivery of the Securities, (iii) the preparation, issuance and delivery of the certificates for the Securities to the Underwriters, including any stock or other transfer taxes and any stamp or other duties payable upon the sale, issuance or delivery of the Securities to the Underwriters, (iv) the fees and disbursements of the Company's, the Adviser's and the Administrator's counsel, accountants and other advisors, (v) the qualification of the Securities under securities laws in accordance with the provisions of Section 3(f) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplement thereto, (vi) the printing and delivery to the Underwriters of copies of each preliminary prospectus and of the Prospectus and any amendments or supplements thereto, (vii) the preparation, printing and delivery to the Underwriters of copies of the Blue Sky Survey and any supplement thereto, (viii) the fees and expenses of any transfer agent or registrar for the Securities, (ix) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the Securities, including without limitation, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and 50% of the cost of aircraft and other transportation chartered in connection with the road show, (x) the filing fees incident to, and the reasonable fees and disbursements of counsel to the Underwriters in connection with, the review by the NASD of the terms of the sale of the Securities, (xi) the fees and expenses incurred in connection with the inclusion of the Securities in the Nasdaq National Market and (xii) all costs and expenses of the Underwriters, including the fees and disbursements of counsel for the Underwriters, in connection with matters related to the Reserved Securities which are designated by the Company for sale to the Adviser.

(b) *Termination of Agreement.* If this Agreement is terminated by the Representatives in accordance with the provisions of Section 5 or Section 9(a)(i) hereof, the Company, the Adviser and the Administrator, jointly and severally, shall reimburse the Underwriters for all of their out-of-pocket expenses incurred, including the reasonable fees and disbursements of counsel for the Underwriters.

SECTION 5. *Conditions of Underwriters' Obligations* . The obligations of the several Underwriters hereunder are subject to the accuracy of the representations and warranties of the Company, the Adviser and the Administrator contained in Section 1 hereof or in certificates of any officer of the Company, the Adviser or the Administrator, to the performance by the Company, the Adviser and the Administrator of their respective covenants and other obligations hereunder, and to the following further conditions:

(a) *Effectiveness of Registration Statement.* The Registration Statement, including any Rule 462(b) Registration Statement, has become effective and at Closing Time no stop order suspending the effectiveness of the Registration Statement shall have been issued under the 1933 Act or proceedings therefor initiated or threatened by the Commission, and any request on the part of the Commission for additional information shall have been complied with to the reasonable satisfaction of counsel to the Underwriters. A prospectus containing the Rule 430A Information shall have been filed with the Commission in accordance with Rule 497(h) (or a post-effective amendment providing such information shall have been filed and declared effective in accordance with the requirements of Rule 430A).

(b) *Opinions of Counsel for Company.* At Closing Time, the Representatives shall have received the favorable opinion, dated as of Closing Time, of Proskauer Rose LLP, counsel for the Company, Venable LLP, special Maryland counsel for the Company, and Kevin A. Frankel, general counsel of Ares and chief compliance officer and secretary of the Company, in each case in form and substance reasonably satisfactory to counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters to the effect set forth in Exhibits A through C hereto. Such counsel may state that, insofar as such opinion involves factual matters, they have relied upon certificates of officers of the Company and certificates of public officials.

(c) *Opinion of Counsel for Underwriters.* At Closing Time, the Representatives shall have received the favorable opinion, dated as of Closing Time, of Fried, Frank, Harris, Shriver & Jacobson LLP, counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters with respect to the matters set forth in opinions (iii), (xiv) (solely as to the authorization by the Adviser of the Purchase Agreement), the third to last paragraph and the penultimate paragraph of Exhibit A hereto and opinions 1, 3 (solely as to the second clause thereof), 5 and 6 of Exhibit B hereto. In giving such opinion such counsel may rely, as to all matters governed by the laws of jurisdictions other than the law of the State of New York and the federal law of the United States upon the opinions of counsel reasonably satisfactory to the Representatives, including counsel of the Company. Such counsel may also state that, insofar as such opinion involves factual matters, they have relied, to the extent they deem proper, upon certificates of officers of the Company and certificates of public officials.

(d) *Officers' Certificates.* (i) At Closing Time, there shall not have been, since the date hereof or since the respective dates as of which information is given in the Prospectus, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company, whether or not arising in the ordinary course of business, and the Representatives shall have received a certificate of the president of the Company and of the chief financial or chief accounting officer of the Company, dated as of Closing Time, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties in Section 1(a) hereof are true and correct with the same force and effect as though expressly made at and as of Closing Time, (iii) the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to Closing Time, and (iv) no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been instituted or are pending or, to their knowledge, contemplated by the Commission.

(ii) At Closing Time, there shall not have been, since the date hereof or since the respective dates as of which information is given in the Prospectus, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs, business prospects or regulatory status of the Adviser or the Administrator, whether or not arising in the ordinary course of business, that would reasonably be expected to result in a Material Adverse Effect (collectively, with respect to each of the Adviser and the Administrator, an "Advisers Material Adverse Effect"), and the Representatives shall have received a certificate of the president and the chief financial or chief accounting officer of each of the Adviser and the Administrator, dated as of Closing Time, to the effect that (i) there has been no such Advisers Material Adverse Effect, (ii) the representations and warranties of the Adviser and Administrator in Sections 1(a) and 1(b) hereof are true and correct with the same force and effect as though expressly made at and as of Closing Time, (iii) the Adviser and the Administrator have complied with all agreements and satisfied all conditions on their part to be performed or satisfied at or prior to Closing Time, and (iv) no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been instituted or are pending or, to their knowledge, contemplated by the Commission.

(e) *Accountant's Comfort Letter.* At the time of the execution of this Agreement, the Representatives shall have received from KPMG LLP a letter dated such date, in form and substance reasonably satisfactory to the Representatives, together with signed or reproduced copies of such letter for each of the other Underwriters containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement and the Prospectus.

(f) *Bring-down Comfort Letter.* At Closing Time, the Representatives shall have received from KPMG LLP a letter, dated as of Closing Time, to the effect that they reaffirm the statements made in

the letter furnished pursuant to subsection (e) of this Section, except that the specified date referred to shall be a date not more than three business days prior to Closing Time.

(g) *Approval of Listing.* At Closing Time, the Securities shall have been approved for inclusion in the Nasdaq National Market, subject only to official notice of issuance.

(h) *No Objection.* The NASD has confirmed that it has not raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements.

(i) *Lock-up Agreements.* At the date of this Agreement, the Representatives shall have received an agreement substantially in the form of Exhibit D hereto signed by the persons listed on Schedule C hereto.

(j) *Adviser Sales Load Payment.* Merrill Lynch shall have received the Adviser Sales Load Payment with respect to the Initial Securities from the Adviser.

(k) *Conditions to Purchase of Option Securities.* In the event that the Underwriters exercise their option provided in Section 2(b) hereof to purchase all or any portion of the Option Securities, the representations and warranties of the Company, the Adviser and the Administrator contained herein and the statements in any certificates furnished by the Company, the Adviser and the Administrator hereunder shall be true and correct as of each Date of Delivery and, at the relevant Date of Delivery, the Representatives shall have received:

(i) *Officers' Certificates* . (A) A certificate, dated such Date of Delivery, of the president of the Company and of the chief financial or chief accounting officer of the Company confirming that the certificate delivered at the Closing Time pursuant to Section 5 (d)(i) hereof remains true and correct as of such Date of Delivery.

(B) A certificate, dated such Date of Delivery, of the president and the chief financial or chief accounting officers of each of the Adviser and the Administrator confirming that the certificates delivered at the Closing Time pursuant to Section 5(d) (ii) hereof remains true and correct as of such Date of Delivery.

(ii) *Opinion of Counsel for Company* . The favorable opinion of Proskauer Rose LLP, counsel for the Company, Venable LLP, special Maryland counsel for the Company, and Kevin A. Frankel, general counsel of Ares and chief compliance officer and secretary of the Company, in each case in form and substance reasonably satisfactory to the Representatives, dated such Date of Delivery, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinions required by Section 5(b) hereof.

(iii) *Opinion of Counsel for Underwriters* . The favorable opinion of Fried, Frank, Harris, Shriver & Jacobson, LLP, counsel for the Underwriters, dated such Date of Delivery, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(c) hereof.

(iv) *Bring-down Comfort Letter* . A letter from KPMG LLP, in form and substance reasonably satisfactory to the Representatives and dated such Date of Delivery, substantially in the same form and substance as the letter furnished to the Representatives pursuant to Section 5(f) hereof, except that the "specified date" in the letter furnished pursuant to this paragraph shall be a date not more than five days prior to such Date of Delivery.

(v) *Adviser Sales Load Payment.* Merrill Lynch shall have received the Adviser Sales Load Payment from the Adviser in respect to the Option Securities.

(l) *Additional Documents.* At Closing Time and at each Date of Delivery, counsel for the Underwriters shall have been furnished with such documents as they may reasonably require for the purpose of enabling them to pass upon the issuance and sale of the Securities as herein contemplated,

or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company, the Adviser and the Administrator in connection with the issuance and sale of the Securities as herein contemplated shall be reasonably satisfactory in form and substance to the Representatives and counsel for the Underwriters.

(m) *Termination of Agreement.* If any condition specified in this Section shall not have been fulfilled when and as required to be fulfilled, this Agreement, or, in the case of any condition to the purchase of Option Securities, on a Date of Delivery which is after the Closing Time, the obligations of the several Underwriters to purchase the relevant Option Securities, may be terminated by the Representatives by notice to the Company at any time at or prior to Closing Time or such Date of Delivery, as the case may be, and such termination shall be without liability of any party to any other party except as provided in Section 4 and except that Sections 1, 6, 7 and 8 shall survive any such termination and remain in full force and effect.

SECTION 6. *Indemnification* .

(a) (1) *Indemnification of Underwriters by the Company and the Adviser.* The Company and the Adviser, jointly and severally, agree to indemnify and hold harmless each Underwriter, its affiliates, as such term is defined in Rule 501(b) under the 1933 Act (each, an "Affiliate"), its selling agents and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including the Rule 430A Information or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 6(d) below) any such settlement is effected with the written consent of the Company;

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by Merrill Lynch), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided , however , that (i) this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through Merrill Lynch expressly for use in the Registration Statement (or any amendment thereto), including the Rule 430A Information or any preliminary prospectus or the Prospectus (or any amendment or supplement thereto) and (ii) this indemnity agreement shall not apply, with respect to any particular Underwriter, to any loss, liability, claim, damage or expense to the

extent arising out of any untrue statement or omission or alleged untrue statement or omission contained in any preliminary prospectus to the extent that the Company complied with its prospectus delivery requirements contained herein and the particular Underwriter was legally required to and failed to send or give a copy of the Prospectus, as then amended or supplemented, to the person alleging such defect and the untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact in such preliminary prospectus was corrected in such Prospectus, as amended or supplemented.

(2) *Indemnification of Underwriters by the Administrator*. The Administrator agrees to indemnify and hold harmless each Underwriter, its Affiliates, its selling agents and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including the Rule 430A Information or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading to the extent the loss, liability, claim, damage and expense relates to information concerning Ares Management LLC or the Administrator;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission related to Ares Management LLC or the Administrator or any such alleged untrue statement or omission related to Ares Management LLC or the Administrator; provided that (subject to Section 6(d) below) any such settlement is effected with the written consent of the Company;

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by Merrill Lynch), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission related to Ares Management LLC or the Administrator, or any such alleged untrue statement or omission related to Ares Management LLC or the Administrator, to the extent that any such expense is not paid under (i) or (ii) above;

provided , however , that (i) this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through Merrill Lynch expressly for use in the Registration Statement (or any amendment thereto), including the Rule 430A Information or any preliminary prospectus or the Prospectus (or any amendment or supplement thereto) and (ii) this indemnity agreement shall not apply, with respect to any particular Underwriter, to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission contained in any preliminary prospectus to the extent that the Company complied with its prospectus delivery requirements contained herein and the particular Underwriter was legally required to and failed to send or give a copy of the Prospectus, as then amended or supplemented, to the person alleging such defect and the untrue statement or alleged untrue statement of a material fact or

omission or alleged omission to state a material fact in such preliminary prospectus was corrected in such Prospectus, as amended or supplemented.

(b) *Indemnification of Company, Directors, Officers, Adviser and Administrator.* Each Underwriter severally agrees to indemnify and hold harmless the Company, its directors, each of its officers, each person, if any, who controls the Company, the Adviser or the Administrator within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act, the Adviser and the Administrator against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), including the Rule 430A Information or any preliminary prospectus or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with written information furnished to the Company by such Underwriter through Merrill Lynch expressly for use in the Registration Statement (or any amendment thereto) or such preliminary prospectus or the Prospectus (or any amendment or supplement thereto).

(c) *Actions against Parties; Notification.* Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder (an "Action"), but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 6(a) above, counsel to the indemnified parties shall be selected by Merrill Lynch, and, in the case of parties indemnified pursuant to Section 6(b) above, counsel to the indemnified parties shall be selected by the Company. An indemnifying party may participate at its own expense in the defense of any such Action; *provided , however* , that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one Action or separate but similar or related Actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 6 or Section 7 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party. Notwithstanding anything to the contrary herein, neither the assumption of the defense of any such Action nor the payment of any fees or expenses related thereto shall be deemed to be an admission by the indemnifying party that it has obligation to indemnify any person pursuant to this Agreement.

(d) *Settlement Without Consent if Failure to Reimburse.* If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 6(a)(1)(ii) or 6(a)(2)(ii) or settlement of any claim in connection with any violation referred to in Section 6 (e) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

(e) *Indemnification for Reserved Securities* . In connection with the offer and sale of the Reserved Securities, the Company and the Adviser, jointly and severally, agree to indemnify and hold harmless the Underwriters, their Affiliates and selling agents and each person, if any, who controls any Underwriter within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 Act, from and against any and all loss, liability, claim, damage and expense (including, without limitation, any legal or other expenses reasonably incurred in connection with defending, investigating or settling any such action or claim), as incurred, (i) arising out of the violation of any applicable laws or regulations of foreign jurisdictions where Reserved Securities have been offered; (ii) arising out of any untrue statement or alleged untrue statement of a material fact contained in any prospectus wrapper or other material prepared by or with the consent of the Company for distribution to the Adviser in connection with the offering of the Reserved Securities or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; (iii) caused by the failure of the Adviser to pay for and accept delivery of Reserved Securities which have been orally confirmed for purchase by the Adviser by the end of the first business day after the date of the Agreement; or (iv) related to, or arising out of or in connection with, the offering of the Reserved Securities; *provided , however* , that (A) this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through Merrill Lynch expressly for use in the Registration Statement (or any amendment thereto), including the Rule 430A Information or any preliminary prospectus or the Prospectus (or any amendment or supplement thereto) and (B) this indemnity agreement shall not apply, with respect to any particular Underwriter, to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission contained in any preliminary prospectus to the extent that the Company complied with its prospectus delivery requirements contained herein and the particular Underwriter was legally required to and failed to send or give a copy of the Prospectus, as then amended or supplemented, to the person alleging such defect and the untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact in such preliminary prospectus was corrected in such Prospectus, as amended or supplemented.

SECTION 7. *Contribution* . If the indemnification provided for in Section 6 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, the Adviser and the Administrator on the one hand and the Underwriters on the other hand from the offering of the Securities pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, the Adviser and the Administrator on the one hand and of the Underwriters on the other hand in connection with the statements or omissions, or in connection with any violation of the nature referred to in Section 6(e) hereof, which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company, the Adviser and the Administrator on the one hand and the Underwriters on the other hand in connection with the offering of the Securities pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Securities pursuant to this Agreement (before deducting expenses) received by the Company and the total underwriting discount received by the Underwriters, in each case as set forth on the cover of the Prospectus, bear to the aggregate initial public offering price of the Securities as set forth on the cover of the Prospectus.

The relative fault of the Company, the Adviser and the Administrator on the one hand and the Underwriters on the other hand shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company, the Adviser and the Administrator or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission or any violation of the nature referred to in Section 6(e) hereof.

The Company, the Adviser, the Administrator and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 7. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 7 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 7, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of any such untrue or alleged untrue statement or omission or alleged omission.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 7, each person, if any, who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and each Underwriter's Affiliates and selling agents shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company, and each person, if any, who controls the Company, Adviser or Administrator within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company, Adviser or Administrator, as the case may be. The Underwriters' respective obligations to contribute pursuant to this Section 7 are several in proportion to the number of Initial Securities set forth opposite their respective names in Schedule A hereto and not joint.

SECTION 8. *Representations, Warranties and Agreements to Survive* . All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company, the Adviser and the Administrator submitted pursuant hereto, shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of any Underwriter or its Affiliates or selling agents, any person controlling any Underwriter, its officers or directors or any person controlling the Company and (ii) delivery of and payment for the Securities.

SECTION 9. *Termination of Agreement* .

(a) *Termination; General.* The Representatives may terminate this Agreement, by notice to the Company, at any time at or prior to Closing Time (i) if there has been, since the time of execution of this Agreement or since the respective dates as of which information is given in the Prospectus, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company, the Adviser or the Administrator, whether or not arising in the ordinary course of business, or (ii) if there has occurred any material adverse change in the financial

markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of the Representatives, impracticable or inadvisable to market the Securities or to enforce contracts for the sale of the Securities, or (iii) if trading in any securities of the Company has been suspended or materially limited by the Commission or Nasdaq National Market, or if trading generally on the American Stock Exchange or the New York Stock Exchange or in the Nasdaq National Market has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by such system or by order of the Commission, the National Association of Securities Dealers, Inc. or any other governmental authority, or (iv) a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States, or (v) if a banking moratorium has been declared by either Federal or New York authorities.

(b) *Liabilities*. If this Agreement is terminated pursuant to this Section, such termination shall be without liability of any party to any other party except as provided in Section 4 hereof, and provided further that Sections 1, 6, 7 and 8 shall survive such termination and remain in full force and effect.

SECTION 10. *Default by One or More of the Underwriters* . If one or more of the Underwriters shall fail at Closing Time or a Date of Delivery to purchase the Securities which it or they are obligated to purchase under this Agreement (the "Defaulted Securities"), the Representatives shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representatives shall not have completed such arrangements within such 24-hour period, then:

(i) if the number of Defaulted Securities does not exceed 10% of the number of Securities to be purchased on such date, each of the non-defaulting Underwriters shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(ii) if the number of Defaulted Securities exceeds 10% of the number of Securities to be purchased on such date, this Agreement or, with respect to any Date of Delivery which occurs after the Closing Time, the obligation of the Underwriters to purchase and of the Company to sell the Option Securities to be purchased and sold on such Date of Delivery shall terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section shall relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of this Agreement or, in the case of a Date of Delivery which is after the Closing Time, which does not result in a termination of the obligation of the Underwriters to purchase and the Company to sell the relevant Option Securities, as the case may be, either the Representatives or the Company shall have the right to postpone Closing Time or the relevant Date of Delivery, as the case may be, for a period not exceeding seven days in order to effect any required changes in the Registration Statement or Prospectus or in any other documents or arrangements. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 10.

SECTION 11. *Tax Disclosure* . Notwithstanding any other provision of this Agreement, from the commencement of discussions with respect to the transactions contemplated hereby, the Company (and each employee, representative or other agent of the Company) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure (as such terms are used in Sections

6011, 6111 and 6112 of the U.S. Code and the Treasury Regulations promulgated thereunder) of the transactions contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided relating to such tax treatment and tax structure.

SECTION 12. *Notices* . All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to the Representatives at 4 World Financial Center, New York, New York 10080, attention of Colbert Narcisse, with a copy to Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, New York 10004, attention Valerie Ford Jacob; and notices to the Company, the Adviser and Administrator shall be directed to them at 1999 Avenue of the Stars, Suite 1900, Los Angeles, CA 90067, attention of Kevin Frankel, with a copy to Proskauer Rose LLP, 2049 Century Park East, 32 nd Floor, Los Angeles, CA 90067-3206, attention: Michael A. Woronoff.

SECTION 13. *Parties* . This Agreement shall each inure to the benefit of and be binding upon the Underwriters and the Company and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Underwriters, the Company, the Adviser and the Administrator and their respective successors and the controlling persons and officers and directors referred to in Sections 6 and 7 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Underwriters, the Company, the Adviser and the Administrator and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

SECTION 14. *GOVERNING LAW* . THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, INCLUDING WITHOUT LIMITATION SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

SECTION 15. *TIME* . TIME SHALL BE OF THE ESSENCE OF THIS AGREEMENT. EXCEPT AS OTHERWISE SET FORTH HEREIN, SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

SECTION 16. *Counterparts* . This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

SECTION 17. *Effect of Headings* . The Section headings herein are for convenience only and shall not affect the construction hereof.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will

become a binding agreement between the Underwriters, the Company, the Adviser and the Administrator in accordance with its terms.

Very truly yours,

COMPANY:

ARES CAPITAL CORPORATION
By

Name:
Title:

ADVISER:

ARES CAPITAL MANAGEMENT LLC
By

Name:
Title:

ADMINISTRATOR:

ARES TECHNICAL ADMINISTRATION LLC
By

Name:
Title:

CONFIRMED AND ACCEPTED,
as of the date first above written:

MERRILL LYNCH & CO. MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED
WACHOVIA CAPITAL MARKETS, LLC
JEFFERIES & COMPANY, INC.

By: MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED

By

Authorized Signatory

For themselves and as Representatives of the
other Underwriters named in Schedule A hereto.

QuickLinks

Exhibit (h)

PURCHASE AGREEMENT

Exhibit (j)

CUSTODIAN AGREEMENT

By and between

ARES CAPITAL CORPORATION,
and
U.S. BANK NATIONAL ASSOCIATION

Dated as of October , 2004

TABLE OF CONTENTS

THIS CUSTODIAN AGREEMENT (this "Agreement") is dated as of October , 2004 and is by and among ARES CAPITAL CORPORATION (the "Company"), having a business address at c/o ARES Management LLC, 1999 Avenue of the Stars, Suite 1900, Los Angeles, CA 90067, and U.S. BANK NATIONAL ASSOCIATION, a national banking association (the "Custodian"), having a place of business at One Federal Street, 3rd Floor, Boston, MA 02110.

WHEREAS, the Company desires to engage the Custodian to act as custodian for the Company with respect to the Company's acquisition of certain investments to be made by the Company, subject to the terms of this Agreement; and

WHEREAS, the Custodian is willing to act in such capacity as custodian under and subject to the terms of this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. *DEFINITIONS*

1.1 The following words have these meanings as used in this Agreement:

"Account" or "Accounts" shall mean, collectively the Cash Account and the Securities Account.

"Authorized Person" shall have the meaning assigned in Section 3.10 (a).

"Business Day" means a day on which the Custodian or the relevant sub-custodian, including a Foreign Sub-custodian, is open for business in the market or country in which a transaction is to take place.

"Cash Account" shall have the meaning set forth in Section 2.2(b).

"Delivery Date" means such date or dates on which Securities may be delivered to the Custodian (including the relevant sub-custodian) from time to time pursuant to the terms of this Agreement (it being hereby expressly acknowledged that there will be more than one Delivery Date).

"Eligible Investments" 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 "AAAm" and "Aam" and such ratings by Moody's Investor Service, Inc. are "Aaa" and "Aa";

(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 Custodian or its affiliates) or United States government securities funds designed to maintain a fixed share price and high liquidity.

"Eligible Securities Depository" has the meaning set forth in Section (b)(1) of Rule 17f-7 under the 1940 Act.

"Federal Reserve Bank Book-Entry System" means a depository and securities transfer system operated by the Federal Reserve Bank of the United States on which are eligible to be held all United States Government direct obligation bills, notes and bonds.

"Foreign Intermediary" means a Foreign Sub-custodian and Eligible Securities Depository.

"Foreign Sub-custodian" means and includes (i) any branch of a "U.S. Bank," as that term is defined in Rule 17f-5 under the 1940 Act, (ii) any "Eligible Foreign Custodian," as that term is defined in Rule 17f-5 under the 1940 Act, having a contract with the Custodian which the Custodian has determined will provide reasonable care of assets of the Company based on the standards specified in Section 9.7 below.

"Foreign Securities" means Securities for which the primary market is outside the United States.

"1940 Act" means the Investment Company Act of 1940, as amended.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof) unincorporated organization, or any government or agency or political subdivision thereof.

"Proceeds" means, collectively, (i) all distributions, earnings, dividends and other payments paid on the Securities by or on behalf of the issuer or obligor thereof, or applicable paying agent, and received by the Custodian during the term hereof, and (ii) the net proceeds of the sale or other disposition of the Securities pursuant to the terms of this Agreement and received by the Custodian during the term hereof (and any Reinvestment Earnings from investment of the foregoing, as defined in Section 3.4(b) hereof).

"Proper Instructions" means instructions received by the Custodian from an Authorized Person acting on behalf of the Company, including but not limited to the Company's investment adviser, Ares Capital Management LLC (the "Management Company"), in any of the following forms acceptable to the Custodian:

(a) in writing signed by the Authorized Person; or

(b) in tested communication; or

(c) in a communication utilizing access codes effected between electro- mechanical or electronic devices; or

(d) such other means as may be agreed upon from time to time by the Custodian and the party giving such instructions, including oral instructions.

"Securities" means, collectively, the (i) investments acquired by the Company and delivered to the Custodian by the Company from time to time during the term of, and pursuant to the terms of, this Agreement, and (ii) all dividends in kind (e.g., non-cash dividends) from the investments described in clause (i).

"Securities Account" shall have the meaning set forth in Section 2.2(a).

"Securities System" means the Federal Reserve Book Entry System, a clearing agency which acts as a securities depository, or another book entry system for the central handling of securities (including an Eligible Securities Depository).

"Street Delivery Custom" means a custom of the United States securities market to deliver securities which are being sold to the buying broker for examination to determine that the securities are in proper form.

"Street Name" means the form of registration in which the securities are held by a broker who is delivering the securities to another broker for the purposes of sale, it being an accepted custom in the United States securities industry that a security in Street Name is in proper form for delivery to a buyer and that a security may be re-registered by a buyer in the ordinary course.

1.2 In this Agreement unless the contrary intention appears:

(a) a reference to this Agreement or another instrument refers to such agreement or instrument as the same may be amended, modified or otherwise rewritten from time to time;

(b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

(c) the singular includes the plural and vice versa;

(d) a reference to a Person includes a reference to the Person's executors, administrators, successors and permitted assigns;

(e) an agreement, representation or warranty in favor of two or more Persons is for the benefit of them jointly and severally;

(f) an agreement, representation or warranty on the part of two or more Persons binds them jointly and severally;

(g) a reference to any accounting term is to be interpreted in accordance with generally accepted principles and practices in the United States, consistently applied, unless otherwise instructed by the Company or the Management Company; and

(h) the term "include" or "including" shall mean without limitation by reason of enumeration.

1.3 Headings are inserted for convenience and do not affect the interpretation of this Agreement.

2. *APPOINTMENT OF CUSTODIAN AND DESIGNATION OF ACCOUNTS*

2.1 Appointment of Custodian

(a) The Company hereby appoints the Custodian as the custodian of the Securities and Proceeds received by it pursuant to this Agreement, and in such capacity appoints the Custodian to act as custodial agent on behalf of the Company with respect thereto. All Securities and Proceeds delivered to the Custodian, its agents or its sub-custodians shall be held and dealt with in accordance with this Agreement. The Custodian shall not be responsible for any property held or received by the Company, the Management Company or any other Person and not delivered to the Custodian (its agents or its sub-custodians) pursuant to the terms of this Agreement. At the time of each delivery of Securities to the Custodian (or any sub custodian) by or on behalf of the Company, the Company agrees that it shall, or it shall direct the Management Company to, expressly identify the same to the Custodian as Securities being delivered under this Agreement.

(b) The Custodian accepts its appointment as custodian hereunder, and agrees to receive and hold, as custodian for the Company pursuant to the terms of this Agreement, the Securities delivered and identified to it by the Company on each Delivery Date and any Proceeds received from time to time therefrom.

2.2 Establishment of Accounts

(a) There shall be established at the Custodian a securities account to which the Custodian shall deposit and hold the Securities received by it (and any Proceeds received by it from time to time in the form of dividends in kind) pursuant to this Agreement, which account shall be designated the "ARES Capital Corporation Securities Custody Account" (the "Securities Account").

(b) There shall be established at the Custodian a deposit account to which the Custodian shall deposit and hold any cash Proceeds received by it from time to time from or with respect to the Securities, which deposit account shall be designated the "ARES Capital Corporation Cash Proceeds Account" (the "Cash Account").

(c) Securities held in the Securities Account may be withdrawn by the Company from time to time pursuant to Section 3.2 below. Amounts held in the Cash Account from time to time may be withdrawn by the Company or the Management Company on the Company's behalf, upon receipt of Proper Instructions therefor, and may be invested upon and pursuant to specific direction of the Company, acting through the Management Company, in the form of Proper Instruction, pursuant to Section 3.5 below.

3. *DUTIES OF THE CUSTODIAN*

3.1 Holding Securities

The Custodian shall hold and segregate, or direct its agents or its sub-custodians to hold and segregate, for the account of the Company all Securities received by it pursuant to this Agreement other than Securities which are held in a Securities System, or which are maintained in one or more omnibus accounts at the Custodian, its agents or sub-custodians, and shall properly account for all Securities held in a Securities System or maintained through one or more omnibus accounts and identify the same on its books and records as held for the account of the Company.

3.2 Delivery of Securities

(a) Delivery of Securities to the Custodian shall be in Street Name or other good delivery form.

(b) The Custodian shall release and deliver, or direct its agents or sub-custodians to release and deliver, as the case may be, Securities of the Company held by the Custodian, its agents or its sub-custodians from time to time upon receipt of Proper Instructions (which shall, among other things specify the Securities to be released, with such delivery and other information as may be necessary to enable the Custodian to perform), which may be standing instructions (in form acceptable to the Custodian) in the following cases:

(i) upon sale of such Securities by or on behalf of the Company and, unless otherwise directed by Proper Instructions:

(A) in accordance with the customary or established practices and procedures in the jurisdiction or market where the transactions occur, including delivery to the purchaser thereof or to a dealer therefor (or an agent of such purchaser or dealer) against expectation of receiving later payment; or

(B) in the case of a sale effected through a Securities System, in accordance with the rules governing the operations of the securities System;

(ii) upon the receipt of payment in connection with any repurchase agreement related to such securities;

(iii) to the depositary agent in connection with tender or other similar offers for securities;

(iv) to the issuer thereof or its agent when such securities are called, redeemed, retired or otherwise become payable (unless otherwise directed by Proper Instructions, the cash or other consideration is to be delivered to the Custodian, its agents or its sub-custodians);

(v) to an issuer thereof, or its agent, for transfer into the name of the Custodian or of any nominee of the Custodian or into the name of any of its agents or sub-custodians or their nominees or for exchange for a different number of bonds, certificates or other evidence representing the same aggregate face amount or number of units;

(vi) to brokers clearing banks or other clearing agents for examination in accordance with the Street Delivery Custom;

(vii) for exchange or conversion pursuant to any plan of merger, consolidation, recapitalization, reorganization or readjustment of the securities of the issuer of such securities, or pursuant to any deposit agreement (unless otherwise directed by Proper Instructions, the new securities and cash, if any, are to be delivered to the Custodian, its agents or its sub-custodians);

(viii) in the case of warrants, rights or similar securities, the surrender thereof in the exercise of such warrants, rights or similar securities or the surrender of interim receipts or temporary securities for definitive securities (unless otherwise directed by Proper Instructions, the new securities and cash, if any, are to be delivered to the Custodian, its agents or its sub-custodians); and/or

(ix) for any other purpose, but only upon receipt of Proper Instructions specifying the Securities to be delivered and naming the Person or Persons to whom delivery of such Securities shall be made.

3.3 Registration of Securities

Securities held by the Custodian, its agents or its sub-custodians (other than bearer securities or securities held in a Securities System) shall be registered in the name of the Company or its nominee; or, at the option of the Custodian, in the name of the Custodian or in the name of any nominee of the Custodian, or in the name of its agents or its sub-custodians or their nominees; or if directed by the Company by Proper Instruction, may be maintained in Street Name. The Custodian, its agents and its sub-custodians shall not be obliged to accept securities on behalf of the Company under the terms of this Agreement unless such Securities are in Street Name or other good deliverable form.

3.4 Bank Accounts, and Management of Cash

(a) Cash Proceeds from the Securities received by the Custodian from time to time shall be credited to the Cash Account. All amounts credited to the Cash Account shall be subject to clearance and receipt of final payment by the Custodian.

(b) 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 an Authorized Person acting on behalf of the Company. Such investments shall be subject to availability and the Custodian's then applicable transaction charges (which shall be at the Company's expense). The Custodian shall have no liability for any loss incurred on any such investment. Absent receipt of such written instruction from the Company, the Custodian shall have no obligation to invest (or otherwise pay interest on) amounts on deposit in the Cash Account. In no instance will the Custodian have any obligation to provide investment advice to the Company. Any earnings from such investment of amounts held in the Cash Account from time to time (collectively, "Reinvestment Earnings") shall be redeposited in the Cash Account (and may be reinvested at the written direction of the Company or the Management Company).

(c) In the event that the Company shall at any time request a withdrawal of amounts from the Cash Account, the Custodian shall be entitled to liquidate, and shall have no liability

for any loss incurred as a result of the liquidation of, any investment of the funds credited to such account as needed to provide necessary liquidity. Investment instructions may be in the form of standing instructions (in form Proper Instructions in form acceptable to Custodian).

(d) The Company acknowledges that cash deposited or invested with any bank (including the bank acting as Custodian) may generate a margin or banking income for which such bank shall not be required to account to the Company.

3.5 Foreign Exchange

(a) Upon the receipt of Proper Instructions, the Custodian, its agents or its sub-custodians may (but shall not be obligated to) enter into all types of contracts for foreign exchange on behalf of the Company, upon terms acceptable to the Custodian and the Company (in each case at the Company's expense), including transactions entered into with the Custodian, its sub-custodians or any affiliates of the Custodian or the sub-custodian. The Custodian shall have no liability for any losses incurred in or resulting from the rates obtained in such foreign exchange transactions; and absent specific and acceptable Proper Instructions, the Custodian shall not be deemed to have any duty to carry out any foreign exchange on behalf of the Company. The Custodian shall be entitled at all times to comply with any legal or regulatory requirements applicable to currency or foreign exchange transactions.

(b) The Company acknowledges that the Custodian, any sub-custodian or any affiliates of the Custodian or any sub-custodian, involved in any such foreign exchange transactions may make a margin or banking income from foreign exchange transactions entered into pursuant to this section for which they shall not be required to account to the Company.

3.6 Collection of Income

The Custodian, its agents or its sub-custodians shall use reasonable efforts to collect on a timely basis all income and other payments with respect to the Securities held hereunder to which the Company shall be entitled, to the extent consistent with usual custom in the securities custodian business in the United States. Such efforts shall include collection of interest income, dividends and other payments with respect to registered domestic securities if on the record date with respect to the date of payment by the issuer the Security is registered in the name of the Custodian or its nominee (or in the name of its agent or sub-custodian, or their nominee); and interest income, dividends and other payments with respect to bearer domestic securities if, on the date of payment by the issuer such securities are held by the Custodian or its sub-custodian or agent; provided, however, that in the case of Securities held in Street Name, the Custodian shall use commercially reasonable efforts only to timely collect income. In no event shall the Custodian's agreement herein to collect income be construed to obligate the Custodian to commence, undertake or prosecute any legal proceedings.

3.7 Payment of Moneys

(a) Upon receipt of Proper Instructions, which may be standing instructions, the Custodian shall pay out from the Cash Account (or remit to its agents or its sub-custodians, and direct them to pay out) moneys of the Company on deposit therein in the following cases:

(i) upon the purchase of Securities for the Company pursuant to such Proper Instruction; and such purchase may, unless and except to the extent otherwise directed by Proper Instructions, be carried out by the Custodian;

(A) in accordance with the customary or established practices and procedures in the jurisdiction or market where the transactions occur, including delivering money

to the seller thereof or to a dealer therefor (or any agent for such seller or dealer) against expectation of receiving later delivery of such securities; or

(B) in the case of a purchase effected through a Securities System, in accordance with the rules governing the operation of such Securities System;

(ii) for the purchase or sale of foreign exchange or foreign exchange agreements for the accounts of the Company, including transactions executed with or through the Custodian, its agents or its sub-custodians, as contemplated by Section 3.6 above; and

(iii) for any other purpose directed by the Company, but only upon receipt of Proper Instructions specifying the amount of such payment, and naming the Person or Persons to whom such payment is to be made.

(b) At any time or times, the Custodian shall be entitled to pay (i) itself from the Cash Account, whether or not in receipt of express direction or instruction from the Company, any amounts due and payable to it pursuant to Section 6 hereof, and (ii) as otherwise permitted by Section 3.11, 10.4 or Section 10.7 below, provided, however, that in each case all such payments shall be accounted for to the Company.

3.8 Proxies

The Custodian will, with respect to the Securities held hereunder, use reasonable efforts to cause to be promptly executed by the registered holder of such Securities proxies received by the Custodian from its agents or its sub-custodians or from issuers of the Securities being held for the Company, without indication of the manner in which such proxies are to be voted, and upon receipt of Proper Instructions shall promptly deliver such proxies, proxy soliciting materials and notices relating to such Securities. In the absence of such Proper Instructions, or in the event that such Proper Instructions are not received in a timely fashion, the Custodian shall be under no duty to act with regard to such proxies.

3.9 Communications Relating to Securities

The Custodian shall transmit promptly to the Management Company all written information (including pendency of calls and maturities of Securities and expirations of rights in connection therewith) received by the Custodian, from its agents or its sub-custodians or from issuers of the Securities being held for the Company. The Custodian shall have no obligation or duty to exercise any right or power, or otherwise to preserve rights, in or under any Securities unless and except to the extent it has received timely Proper Instruction from the Management Company in accordance with the next sentence. The Custodian will not be liable for any untimely exercise of any right or power in connection with Securities at any time held by the Custodian, its agents or sub-custodians unless

(i) the Custodian has received Proper Instructions with regard to the exercise of any such right or power; and

(ii) the Custodian, or its agents or sub-custodians are in actual possession of such Securities

, in each case, at least three (3) Business Days prior to the date on which such right or power is to be exercised. It will be the responsibility of the Management Company to notify the Custodian of the Person to whom such communications must be forwarded under this Section.

3.10 Proper Instructions

(a) The Company will give a notice to the Custodian, in the form acceptable to it, specifying the names and specimen signatures of Persons authorized to give Proper Instructions (collectively, "Authorized Persons") which notice shall be initially signed by Daniel F. Nguyen or Kevin A. Frankel and subsequently signed by any Authorized Person

previously certified to the Custodian. The Custodian shall be entitled to rely upon the identity and authority of such persons until it receives written notice from the Company to the contrary.

(b) The Custodian shall have no responsibility or liability to the Company (or any other person or entity), and shall be indemnified and held harmless by the Company in the event that a subsequent written confirmation of an oral instruction fails to conform to the oral instructions received by the Custodian. The Custodian shall have no obligation to act in accordance with purported instructions to the extent that they conflict with applicable law or regulations, local market practice or the Custodian's operating policies and practices. The Custodian shall not be liable for any loss resulting from a delay while it obtains clarification of any Proper Instructions.

3.11 Actions Permitted without Express Authority

The Custodian, may at its discretion, without express authority from the Company:

(a) make payments to itself as described in or pursuant to Section 3.7(b), or to make payments to itself or others for minor expenses of handling securities or other similar items relating to its duties under this agreement, provided that all such payments shall be accounted for to the Company;

(b) surrender Securities in temporary form for Securities in definitive form;

(c) endorse for collection cheques, drafts and other negotiable instruments; and

(d) in general attend to all nondiscretionary details in connection with the sale, exchange, substitution, purchase, transfer and other dealings with the securities and property of the Company.

3.12 Evidence of Authority

The Custodian shall be protected in acting upon any instructions, notice, request, consent, certificate instrument or paper reasonably believed by it to be genuine and to have been properly executed or otherwise given by or on behalf of the Company by an Authorized Person. The Custodian may receive and accept a certificate signed by any Authorized Person as conclusive evidence of:

(a) the authority of any person to act in accordance with such certificate; or

(b) any determination or of any action by the Company as described in such certificate,

and such certificate may be considered as in full force and effect until receipt by the Custodian of written notice to the contrary from an Authorized Person of the Company.

3.13 Receipt of Communications

Any communication received by the Custodian on a day which is not a Business Day or after 3:30 p.m. (or such other time as is agreed by the Company and the Custodian from time to time) on a Business Day will be deemed to have been received on the next Business Day (but in the case of communications so received after 3:30 p.m. on a Business Day, the Custodian will use commercially reasonable efforts to process such communications as soon as possible after receipt).

3.14 Records

The Custodian shall create and maintain complete and accurate records relating to its activities under this Agreement with respect to the Securities, cash or other property held for the Company, with particular attention to Section 31 of the 1940 Act, and Rules 31a-1 and 32a-2 thereunder. To the extent that the Custodian, in its sole opinion, is able to do so, the Custodian shall provide assistance to the Company (at the Company's reasonable request made from time to time) by providing

sub-certifications regarding certain of its services performed hereunder to the Company in connection with the Company's Sarbanes-Oxley Act of 2002 certification requirements. All such records shall be the property of the Company and shall at all times during the regular business hours of the Custodian be open for inspection by duly authorized officers, employees or agents of the Company and employees and agents of the Securities and Exchange Commission, upon reasonable request and prior notice. The Custodian shall, at the Company's request, supply the Company with a tabulation of securities owned by the Company and held by the Custodian and shall, when requested to do so by the Company and for such compensation as shall be agreed upon between the Company and the Custodian, include the certificate numbers in such tabulations, to the extent such information is available to the Custodian.

4. *REPORTING*

(a) If requested by the Company or the Management Company, the Custodian shall render to the Management Company a monthly report of (i) all deposits to and withdrawals from the Cash Account during the month, and the outstanding balance (as of the last day of the preceding monthly report and as of the last day of the subject month) and (ii) an itemized statement of the Securities held in the Securities Account as of the end of each month, as well as a list of all Securities transactions that remain unsettled at that time, and (iii) such other matters as the parties may agree from time to time.

(b) For each Business Day, the Custodian shall render to the Management Company a daily report of (i) all deposits to and withdrawals from the Cash Account for such Business Day and the outstanding balance as of the end of such Business Day, and (ii) a report of settled trades of Securities for such Business Day.

(c) The Custodian shall have no duty or obligation to undertake any market valuation of the Securities under any circumstance.

(d) The Custodian shall provide the Company with such reports as are reasonably available to it and as the Company may reasonably request from time to time, on the internal accounting controls and procedures for safeguarding securities, which are employed by the Custodian or Foreign Sub-custodian appointed pursuant to Section 9.1.

5. *[INTENTIONALLY OMITTED]*

6. *COMPENSATION OF CUSTODIAN*

(a) The Custodian shall be entitled to compensation for its services in accordance with the terms set forth in *Schedule A* attached hereto and made a part hereof.

(b) The Company agrees to pay or reimburse to the Custodian upon its request from time to time for all costs, disbursements, advances and expenses (including reasonable fees and expenses of legal counsel) incurred, and any disbursements and advances made (including any account overdraft resulting from any settlement or assumed settlement, provisional credit, reclaimed payment or claw-back, or the like), in connection with the preparation or execution of this Agreement, or in connection with the transactions contemplated hereby or the administration of this Agreement or performance by the Custodian of its duties and services under this Agreement, from time to time (including costs and expenses of any action deemed necessary by the Custodian to collect any amounts owing to it under this Agreement).

7. *APPOINTMENT OF AGENTS*

The Custodian may at any time or times in its discretion appoint (and may at any time remove) any other bank, trust company or other Person to act as an agent or sub-custodian, including a Foreign-Sub-custodian in accordance with the provisions of Section 9, to carry out such of the provisions of this Agreement as the Custodian may from time to time direct; provided, however, that

the appointment of any agent or sub-custodian shall not relieve the Custodian of its responsibilities or liabilities hereunder (except to the extent otherwise provided in Sections 8, 9 or 10 below).

8. *DEPOSIT IN U.S. SECURITIES SYSTEMS*

The Custodian may deposit and/or maintain Securities in a Securities System within the United States in accordance with applicable Federal Reserve Board and Securities and Exchange Commission rules and regulations, including Rule 17f-4 under the 1940 Act, and subject to the following provisions:

(a) The Custodian may keep domestic Securities in a U.S. Securities System provided that such Securities are represented in an account of the Custodian in the U.S. Securities System which shall not include any assets of the Custodian other than assets held by it as a fiduciary, custodian or otherwise for customers;

(b) The records of the Custodian with respect to Securities which are maintained in a U.S. Securities System shall identify by book-entry those securities belonging to the Company;

(c) If requested by the Company or Management Company, the Custodian shall provide to the Company or Management Company, as the case may be, copies of all notices received from the U.S. Securities System of transfers of Securities for the account of the Company; and

(d) Anything to the contrary in this Agreement notwithstanding, the Custodian shall not be liable to the Company or Management Company for any direct loss, damage, cost, expense, liability or claim to the Company resulting from use of any Securities System (other than to the extent resulting from the gross negligence, misfeasance or misconduct of the Custodian itself, or from failure of the Custodian to enforce effectively such rights as it may have against the U.S. Securities System).

9. *SECURITIES HELD OUTSIDE OF THE UNITED STATES*

9.1 Appointment of Foreign Sub-Custodians

The Company hereby authorizes and instructs the Custodian in its sole discretion to employ one or more Foreign Sub-custodians to act as Eligible Securities Depositories or as sub-custodians to hold the Securities and other assets of the Company maintained outside the United States. If, after the initial approval of Foreign Sub-Custodians by the board of directors of the Company in connection with this Agreement, the Custodian wishes to appoint other Foreign Sub-Custodians to hold property of the Company subject to this Agreement, it will so notify the Company and provide it with information reasonably necessary to determine any such new Foreign Sub-Custodian's eligibility under Rule 17f-5 under the Investment Company Act of 1940, including a copy of the proposed agreement with such Foreign Sub-Custodian. The Company shall at the meeting of its board of directors next following receipt of such notice and information give a written approval or disapproval of the proposed action.

9.2 Assets to be Held

The Custodian shall limit the Securities and other assets maintained in the custody of the Foreign Sub-custodians to: (a) Foreign Securities and (b) cash and cash equivalents in such amounts as the Custodian (or the Company, through Proper Instructions) may determine to be reasonably necessary to effect the Company's transactions in such investments.

9.3 Omnibus Accounts

The Custodian may hold Foreign Securities and related Proceeds with one or more Foreign Sub-custodians or Eligible Securities Depositories in each case in a single account with such Custodian or Depository that is identified as belonging to the Custodian for the benefit of its customers, *provided however* , that the records of the Custodian with respect to Securities and related Proceeds which are property of the Company maintained in such account(s) shall identify by book-entry those Securities and other property as belonging to the Company.

9.4 Reports Concerning Foreign Sub-Custodians

The Custodian will supply to the Company, upon request from time to time, statements in respect of the Securities held by Foreign Sub-custodians or Eligible Securities Depositories, including an identification of the Foreign Sub-custodians and Depositories having physical possession of the Foreign Securities.

9.5 Transactions in Foreign Custody Account

Notwithstanding any provision of this Agreement to the contrary, settlement and payment for Securities received by a Foreign Intermediary for the account of the Company may be effected in accordance with the customary established securities trading or securities processing practices and procedures in the jurisdiction or market in which the transaction occurs, including delivering securities to the purchaser thereof or to a dealer therefor (or an agent for such purchaser or dealer) against a receipt with the expectation of receiving later payment for such securities from such purchaser or dealer.

9.6 Foreign Sub-Custodians

Each contract or agreement pursuant to which the Custodian employs a Foreign Sub-Custodian shall include provisions that provide: (i) for indemnification or insurance arrangements (or any combination of the foregoing) such that the Company will be adequately protected against the risk of loss of assets held in accordance with such contract; (ii) that the Company's assets will not be subject to any right, charge, security interest, lien or claim of any kind in favor of the Sub-custodian or its creditors except a claim of payment for their safe custody or administration, in the case of cash deposits, liens or rights in favor of creditors of the Sub-custodian arising under bankruptcy, insolvency, or similar laws; (iii) that beneficial ownership for the Company's assets will be freely transferable without the payment of money or value other than for safe custody or administration; (iv) that adequate records will be maintained identifying the assets as belonging to the Company or as being held by a third party for the benefit of the Company; (v) that the Company's independent public accountants will be given access to those records or confirmation of the contents of those records; and (vi) that the Company will receive periodic reports with respect to the safekeeping of the Company's assets, including, but not limited to, notification of any transfer to or from a Company's account or a third party account containing assets held for the benefit of the Company. Such contract may contain, in lieu of any or all of the provisions specified above, such other provisions that the Custodian determines will provide, in their entirety, the same or a greater level of care and protection for Company assets as the specified provisions, in their entirety.

9.7 Custodian's Responsibility for Foreign Sub-Custodians

(a) With respect to its responsibilities under this Section 9, the Custodian agrees to exercise reasonable care, prudence and diligence such as a person having responsibility for the safekeeping of property of the Company. The Custodian further agrees that the Foreign Securities will be subject to reasonable care, based on the standards applicable to custodians in the relevant market, if maintained with each Foreign Sub-custodian, after considering all factors relevant to the safekeeping of such assets, including, without

limitation: (i) the Foreign Sub-custodian's practices, procedures, and internal controls, for certificated securities (if applicable), the method of keeping custodial records, and the security and data protection practices; (ii) whether the Foreign Sub-custodian has the requisite financial strength to provide reasonable care for Company assets; (iii) the Foreign Sub-custodian's general reputation and standing and, in the case of Eligible Securities Depository, the Eligible Securities Depository's operating history and number of participants; and (iv) whether the Company will have jurisdiction over and be able to enforce judgments against the Foreign Sub-custodian, such as by virtue of the existence of any offices of the Foreign Sub-custodian in the United States or the Sub-custodian's consent to service of process in the United States.

(b) At the end of each calendar quarter, the Custodian shall provide written reports notifying the board of directors of the Company as to of the placement of the Foreign Securities and cash of the Company with a particular Foreign Sub-custodian and of any material changes in the Company's arrangements. The Custodian shall promptly take such steps as may be required to withdraw assets of the Company from any Foreign Sub-custodian that has ceased to meet the requirements of Rule 17f-5 under the 1940 Act.

(c) The Custodian shall establish a system to monitor the appropriateness of maintaining the Company's assets with a particular Foreign Sub-custodian and the contract governing the Company's arrangements with such Foreign Sub-custodian.

(d) The Custodian's responsibility with respect to the selection or appointment of Foreign Sub-custodians shall be limited to a duty to exercise reasonable care in the selection or retention of such Foreign Intermediaries in light of prevailing settlement and securities handling practices, procedures and controls in the relevant market. With respect to any costs, expenses, damages, liabilities, or claims (including attorneys' and accountants' fees) incurred as a result of the acts or the failure to act by any Foreign Sub-custodians, the Custodian shall take reasonable action to recover such costs, expenses, damages, liabilities, or claims from such Foreign Sub-custodians, *provided* that the Custodian's sole liability in that regard shall be limited to amounts actually received by it from such Foreign Intermediaries (exclusive of related costs and expenses incurred by the Custodian). The Custodian shall have no responsibility for any act or omission (or the insolvency of) any Securities System (including an Eligible Securities Depository). In the event the Company incurs a loss due to the negligence, willful misconduct, or insolvency of a Securities System (including an Eligible Securities Depository), the Custodian shall make reasonable endeavors, in its discretion, to seek recovery from the Eligible Securities Depository.

10. *RESPONSIBILITY OF CUSTODIAN*

10.1 General Duties

The Custodian shall have no duties, obligations or responsibilities under this Agreement or with respect to the Securities or the Proceeds except for such duties as are expressly and specifically set forth in this Agreement as duties on its part to be performed or observed, and the duties and obligations of the Custodian shall be determined solely by the express provisions of this Agreement. No implied duties, obligations or responsibilities shall be read into this Agreement against, or on the part of, the Custodian.

10.2 Instructions

(a) The Custodian shall be entitled to refrain from taking any action unless it has such instruction (in the form of Proper Instructions) from the Company as the Custodian deems necessary, and shall be entitled to require that instructions to it be in writing. The

Custodian shall have no liability for any action (or forbearance from action) taken pursuant to the instruction of the Company.

(b) Whenever the Custodian is entitled or required to receive or obtain any report, opinion, notice of other information pursuant to or as contemplated by this Agreement, it shall be entitled to receive the same in writing, in form, content and medium reasonably acceptable to it; and whenever any report or other information is required to be produced or distributed by the Custodian shall be in form, content and medium reasonably acceptable to it.

10.3 General Standards of Care

Notwithstanding any terms herein contained to the contrary, the acceptance by the Custodian of its appointment hereunder is expressly subject to the following terms, which shall govern and apply to each of the terms and provisions of this Agreement (whether or not so stated therein):

(a) The Custodian shall not be responsible for the title, validity or genuineness, including good deliverable form of any property or evidence of title thereto received by it or delivered by it pursuant to this Agreement.

(b) The Custodian may rely on and shall be protected in acting or refraining from acting upon any written notice, instruction, statement, certificate, request, waiver, consent, opinion, report, receipt or other paper or document furnished to it (including any of the foregoing provided to it by telecopier or electronic means), not only as to its due execution and validity, but also as to the truth and accuracy of any information therein contained, which it in good faith believes to be genuine and signed or presented by the proper person; and the Custodian shall be entitled to presume the genuineness and due authority of any signature appearing thereon. The Custodian shall not be bound to make any independent investigation into the facts or matters stated in any such notice, instruction, statement, certificate, statement, request, waiver, consent, opinion, report, receipt or other paper or document, provided, however, that if the form thereof is specifically prescribed by the terms of this Agreement, the Custodian shall examine the same to determine whether it substantially conforms on its face to such requirements hereof.

(c) Neither the Custodian nor any of its directors, officers or employees shall be liable to anyone for any error of judgment, or for any act done or step taken or omitted to be taken by it (or any of its directors, officers of employees), or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, unless such action constitutes gross negligence, willful misconduct or bad faith on its part and in breach of the terms of this Agreement. The Custodian shall not be liable for any action taken by it in good faith and reasonably believed by it to be within powers conferred upon it, or taken by it pursuant to any direction or instruction by which it is governed hereunder, or omitted to be taken by it by reason of the lack of direction or instruction required hereby for such action. The Custodian shall not be under any obligation at any time to ascertain whether the Company is in compliance with the 1940 Act, the regulations thereunder, or the Company's investment objectives and policies then in effect.

(d) In no event shall the Custodian be liable for any indirect, special or consequential damages (including lost profits) whether or not it has been advised of the likelihood of such damages.

(e) The Custodian may consult with, and obtain advice from, legal counsel with respect to any question as to any of the provisions hereof or its duties hereunder, or any matter relating hereto, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Custodian in good faith

in accordance with the opinion and directions of such counsel; the cost of such services shall be reimbursed pursuant to paragraph 6 hereinabove.

(f) The Custodian shall not be deemed to have notice of any fact, claim or demand with respect hereto unless actually known by an officer working in its Corporate Trust Division and charged with responsibility for administering this Agreement or unless (and then only to the extent received) in writing by the Custodian at its Corporate Trust Division and specifically referencing this Agreement.

(g) No provision of this Agreement shall require the Custodian to expend or risk its own funds, or to take any action (or forbear from action) hereunder which might in its judgment involve any expense or any financial or other liability unless it shall be furnished with acceptable indemnification. Nothing herein shall be construed to obligate the Custodian to commence, prosecute or defend legal proceedings in any instance, whether on behalf of the Company on its own behalf or otherwise, with respect to any matter arising hereunder or relating to this Agreement or the services contemplated hereby.

(h) The permissive right of the Custodian to take any action hereunder shall not be construed as duty.

(i) Custodian may act or exercise its duties or powers hereunder through agents or attorneys, and the Custodian shall not be liable or responsible for the actions or omissions of any such agent or attorney appointed and maintained with reasonable due care.

(j) All indemnifications contained in this Agreement in favor of the Custodian shall survive the termination of this Agreement.

(k) All costs and risks of shipment shall be borne exclusively by the Company.

10.4 Indemnification; Custodian's Lien

(a) The Company shall and does hereby indemnify and hold harmless the Custodian, and any Foreign Sub-custodian appointed pursuant to Section 9.1 above, for and from any and all costs and expenses (including reasonable attorney's fees and expenses), and any and all losses, damages, claims and liabilities, that may arise, be brought against or incurred by the Custodian as a result of, relating to, or arising out of this Agreement, or the administration or performance of the Custodian's duties hereunder, or the relationship between the Company and the Custodian created hereby, other than such liabilities, losses, damages, claims, costs and expenses as are directly caused by the Custodian's own actions taken in bad faith or constituting gross negligence.

(b) The Custodian shall have and is hereby granted a continuing lien upon and security interest in, and right of set-off against, any property and assets it may hold from time to time under this Agreement to secure the payment when due of all amounts owing to it from time to time hereunder.

10.5 Force Majeure

Without prejudice to the generality of the foregoing, the Custodian shall be without liability to the Company for any damage or loss resulting from or caused, directly or indirectly, by:

(a) events or circumstances beyond the Custodian's reasonable control, including nationalization, expropriation, currency restrictions, the interruption, disruption or suspension of the normal procedures and practices of any securities market, power, mechanical, communications or other technological failures or interruptions, computer viruses or the like, fires, floods, earthquakes or other natural disasters, civil or military disturbances, acts of war or terrorism,

riots, revolution, acts of God, work stoppages, strikes, national disasters of any kind, or other similar events or acts;

(b) errors by the Company (including any Authorized Person) in its instructions to the Custodian;

(c) failure by the Company to adhere to the Custodian's operational policies and procedures;

(d) acts, omissions or insolvency of any Securities System;

(e) any delay or failure of any broker, agent or intermediary, central bank or other commercially prevalent payment or clearing system to deliver to the Custodian's sub-custodian or agent securities purchased or in the remittance of payment made in connection with Securities sold;

(f) any delay or failure of any company, corporation, or other body in charge of registering or transferring securities in the name of the Custodian, the Company, the Custodian's sub-custodians, nominees or agents or any consequential losses arising out of such delay or failure to transfer such securities including non-receipt of bonus, dividends and rights and other accretions or benefits; or

(g) changes in applicable law, regulation or orders.

10.6 Disputes

If any dispute or conflicting claim is made by any person with respect to securities or other property held for the Company, the Custodian shall be entitled to refuse to act until either:

(a) such dispute or conflicting claim has been finally determined by a court of competent jurisdiction or settled by agreement between conflicting parties, and the Custodian has received written evidence satisfactory to it of such determination or agreement; or

(b) the Custodian has received an indemnity, security or both satisfactory to it and sufficient to hold it harmless from and against any and all loss, liability and expense which the Custodian may incur as a result of its actions.

10.7 Advances

Under no circumstances shall the Custodian have any responsibility, duty or obligation to advance its own funds to or for the benefit of the Company. Notwithstanding the foregoing, if the Custodian (or its affiliates, subsidiaries or agents) at any time or times, pursuant to this Agreement: (i) advances cash or securities for any purpose, including advances or overdrafts relating to or resulting from securities settlements, foreign exchange contracts, assumed settlements, provisional credit or payment items, or reclaimed payments or adjustments or claw-backs, or (ii) incurs any liability to pay taxes, interest, charges, expenses, assessments, or other moneys in connection with the performance of this Agreement, except such as may arise from its own gross negligent acts or gross negligent omissions, then, any property or assets at any time held for the account of the Company shall be security therefor and shall be subject to a right of set-off thereon in favor of the Custodian for the repayment of such advances and liabilities. If the Company shall fail to promptly reimburse the Custodian in respect of the advances or liabilities described above, the Custodian may utilize available cash and dispose of Securities of the Company, in a manner, at a time and at a price which the Custodian deems proper, to the extent necessary to obtain reimbursement and make itself whole.

11. *SECURITY CODES*

If the Custodian issues to the Company, security codes, passwords or test keys in order that the Custodian may verify that certain transmissions of information, including Proper Instructions, have been originated by the Company, the Company shall, safeguard any security codes, passwords, test keys or other security devices which the Custodian shall make available.

12. *TAX LAW*

12.1 Domestic Tax Law

The Custodian shall have no responsibility or liability for any obligations now or hereafter imposed on the Company or the Custodian as custodian of the Securities or the Proceeds, by the tax law of the United States or any state or political subdivision thereof. The Custodian shall be kept indemnified by and be without liability to the Company for such obligations including taxes, (but excluding any income taxes assessable in respect of compensation paid to the Custodian pursuant to this agreement) withholding, certification and reporting requirements, claims for exemption or refund, additions for late payment interest, penalties and other expenses (including legal expenses) that may be assessed against the Company, or the Custodian as custodian of the Securities or Proceeds.

12.2 Foreign Tax Law

It shall be the responsibility of the Company to notify the Custodian of the obligations imposed on the Company, or the Custodian as custodian of any foreign Securities or related Proceeds by the tax law of foreign (e.g., non-U. S.) jurisdictions, including responsibility for withholding and other taxes, assessments or other government charges, certifications and government reporting. The sole responsibility of the Custodian with regard to such tax law shall be to use reasonable efforts to cooperate with the Company with respect to any claims for exemption or refund under the tax law of the jurisdictions for which the Company has provided such information.

13. *EFFECTIVE PERIOD, TERMINATION AND AMENDMENT*

(a) This Agreement shall become effective as of its due execution and delivery by each of the parties. This Agreement shall continue in full force and effect until terminated as hereinafter provided. This Agreement may be terminated by the Custodian or the Company pursuant to Section 13(b).

(b) This Agreement shall terminate upon the earliest of (a) occurrence of the effective date of termination specified in any written notice of termination given by either party to the other not later than 45 days prior to the effective date of termination specified therein, provided that all Securities and Proceeds shall have been delivered to the Company or as it otherwise instructs (subject to Section 13.4 below), (b) such other date of termination as may be mutually agreed upon by the parties in writing.

(c) The Custodian may at any time resign under this Agreement by giving not less than 45 days advance written notice thereof to the Company.

(d) Prior to the effective date of termination of this Agreement, or the effective date of the resignation (or removal of the Custodian), as the case may be, the Company shall give Proper Instruction to the Custodian to cause the Securities and Proceeds then held by the Custodian hereunder to be delivered to the Company, or its designee, or a successor custodian hereunder; and if the Company shall fail or be unable to do so on a timely basis, the Custodian shall be entitled (but not obligated) to petition a court of competent jurisdiction (at the Company's expense) for such instruction.

(e) Upon termination of this Agreement or resignation (or removal) of the Custodian,

(i) the company shall pay to the Custodian prior to the delivery by the Custodian to the Company (or as it may otherwise direct) the Securities and Proceeds held hereunder, such compensation as may be due as of the date of such termination or resignation (or removal) and shall likewise reimburse the Custodian for its costs, expenses and disbursements. All indemnifications in favor of the Custodian under this Agreement shall

survive the termination of this Agreement, or any resignation or removal of the Custodian.

(ii) if Securities, Proceeds or any other property remain in the possession of the Custodian, its agents or its sub-custodians after the date of termination hereof or the date of resignation (or removal) of the Custodian, as the case may be, owing to failure of the Company to give Proper Instructions to the Custodian for delivery thereof, as referred to in Section 13.4, the Custodian shall be entitled to fair compensation for its services during such period as the Custodian retains possession of such Securities, funds and other property and the provisions of this Agreement relating to the duties and obligations of the Custodian shall remain in full force and effect during such period.

14. *REPRESENTATIONS AND WARRANTIES*

(a) The Company represents and warrants to the Custodian that:

(i) it has the power and authority to enter into and perform its obligations under this Agreement, and it has duly authorized and executed this Agreement so as to constitute its valid and binding obligation; and

(ii) in giving any instructions which purport to be "Proper Instructions" under this Agreement, the Company will act in accordance with the provisions of its bylaws and articles of amendment and restatement and any applicable laws and regulations.

(b) The Custodian hereby represents and warrants to the Company that it has the qualification to act as custodian prescribed in Section 26(a)(1) of the 1940 Act and the power and authority to enter into and perform its obligations under this Agreement, and it has duly authorized and executed this Agreement so as to constitute its valid and binding obligations.

(c) The Company hereby represents and warrants to the Custodian that the Company shall not, without the prior written consent of the Custodian, permit the assets of the Account to be deemed assets of an employee benefit plan which is subject to ERISA. The Company acknowledges and agrees that the Custodian shall not grant its consent in the foregoing circumstance unless and until the Company has entered into such amendments to this Agreement and has provided such assurances and indemnities to the Custodian, as the Custodian reasonably may require to be assured that it will not be subject to the Employment Retirement Income Security Act of 1974, as amended ("ERISA") liability. If for any reason the Company breaches or otherwise fails to comply with the provisions of this Section, this Agreement may be terminated immediately by the Custodian.

15. *PARTIES IN INTEREST; NO THIRD PARTY BENEFIT*

This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. This Agreement is not intended for, and shall not be construed to be intended for, the benefit of any third parties and may not be relied upon or enforced by any third parties.

16. *NOTICES*

All notices, approvals and other communications hereunder shall be sufficient if made in writing (unless and except where and to the extent otherwise expressly provided by the terms of this Agreement) and given to the parties at the following address (or such other address as either of them may subsequently designate by notice to the other), given by (i) certified or registered mail, postage

prepaid, (ii) recognized courier or delivery service, or (iii) confirmed telecopier or telex, with a duplicate sent on the same day by first class mail, postage prepaid:

(a) if to the Company, c/o Ares Capital Management, LLC., 1999 Avenue of the Stars, Suite 1900, Los Angeles, CA 90067 (Fax: 310-201-4129), Attention: Director of Operations and Accounting; or

(b) if to the Custodian, to U.S. Bank National Association, Corporate Trust Services Structured Finance Services, One Federal Street, 3 rd Floor, Boston, MA 02110 (Fax: 503-258-5865, Attention: Anne E. Chlebnik).

17. *CHOICE OF LAW AND JURISDICTION*

This Agreement shall be construed, and the provisions thereof interpreted under and in accordance with and governed by the laws of The Commonwealth of Massachusetts for all purposes (without regard to its choice of law provisions). The parties to this Agreement hereby submit to the jurisdiction of the courts of The Commonwealth of Massachusetts, including any appellate courts thereof.

18. *ENTIRE AGREEMENT AND COUNTERPARTS*

(a) This Agreement constitutes the complete and exclusive agreement of the parties with regard to the matters addressed herein and supersedes and terminates as of the date hereof, all prior agreements, agreements or understandings, oral or written between the parties to this Agreement relating to such matters.

(b) This Agreement may be executed in any number of counterparts and all counterparts taken together shall constitute one instrument.

19. *AMENDMENT; WAIVER*

(a) This Agreement may not be amended except by an express written instrument duly executed by each of the Company and the Custodian.

(b) In no instance shall any delay or failure to act be deemed to be or effective as a waiver of any right, power or term hereunder, unless and except to the extent such waiver is set forth in an expressly written instrument signed by the party against whom it is to be charged.

20. *SUCCESSOR AND ASSIGNS*

(a) The covenants and agreements set forth herein shall be binding upon and inure to the benefit of each of the parties and their respective successors and permitted assigns. Neither party shall be permitted to assign their rights under this Agreement without the written consent of the other party (provided, however, that this shall not limit the ability of the Custodian to delegate certain duties or services to or perform them through agents or attorneys appointed with due care as expressly provided in this Agreement).

(b) Any corporation or association into which the Custodian may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Custodian shall be a party, or any corporation or association to which the Custodian transfers all or substantially all of its corporate trust business, shall be the successor of the Custodian hereunder, and shall succeed to all of the rights, powers and duties of the Custodian hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

21. *SEVERABILITY*

The terms of this Agreement are hereby declared to be severable, such that if any term hereof is determined to be invalid or unenforceable, such determination shall not affect the remaining terms.

22. *INSTRUMENT UNDER SEAL; HEADINGS*

This Agreement is intended to take effect as, and shall be deemed to be, an instrument under seal.

23. *REQUEST FOR INSTRUCTIONS*

If, in performing its duties under this Agreement, the Custodian is required to decide between alternative courses of action, the Custodian may (but shall not be obliged to) request written instructions from the Company as to the course of action desired by it. If the Custodian does not receive such instructions within two (2) days after it has requested them, the Custodian may, but shall be under no duty to, take or refrain from taking any such courses of action. The Custodian shall act in accordance with instructions received from the Company in response to such request after such two-day period except to the extent it has already taken, or committed itself to take, action inconsistent with such instructions.

24. *OTHER BUSINESS*

Nothing herein shall prevent the Custodian or any of its affiliates from engaging in other business, or from entering into any other transaction or financial or other relationship with, or receiving fees from or from rendering services of any kind to the Company or any other Person. Nothing contained in this Agreement shall constitute the Company and/or the Custodian (and/or any other Person) as members of any partnership, joint venture, association, syndicate, unincorporated business or similar assignment as a result of or by virtue of the engagement or relationship established by this Agreement.

25. *REPRODUCTION OF DOCUMENTS*

This Agreement and all schedules, exhibits, attachments and amendment hereto may be reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process. The parties hereto each agree that any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding, whether or not the original is in existence and whether or not such reproduction was made by a party in the regular course of business, and that any enlargement, facsimile or further production shall likewise be admissible in evidence.

26. *SHAREHOLDER COMMUNICATIONS*

Securities and Exchange Commission Rule 14b-2 requires banks which hold securities for the account of customers to respond to requests by issuers of securities for the names, addresses and holdings of beneficial owners of securities of that issuer held by the bank unless the beneficial owner has expressly objected to disclosure of this information. In order to comply with the rule, the Custodian needs the Company to indicate whether it authorizes the Custodian to provide the Company's name, address and share position to requesting companies whose securities are held in the Company. If the Company tells the Custodian "no", the Custodian will not provide this information to requesting companies. If the Company tells the Custodian "yes" or does not check either "yes" or "no" below, the Custodian is required by the rule to treat the Company as consenting to disclosure of this information for all securities owned by the Company or any funds or accounts established by the Company. For the Company's protection, the Rule prohibits the requesting company from using the Company's name and

address for any purpose other than corporate communications. Please indicate below whether the Company consents or objects by checking one of the alternatives below.

YES ☐ The Custodian is authorized to release the Company's name, address, and share positions.

NO ☒ The Custodian is not authorized to release the Company's name, address, and share positions.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed and delivered by a duly authorized officer, intending the same to take effect as of the day and year first written above.

ARES CAPITAL CORPORATION

By: _____

Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Custodian

By: _____

Name:
Title:

QuickLinks

Exhibit (j)

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Exhibit (k)(2)

STOCK TRANSFER AGENCY AGREEMENT

This STOCK TRANSFER AGENCY AGREEMENT (the "Agreement"), effective as of **[XXX]** (the "Effective Date"), is between Ares Capital Corporation (the "Company"), a Maryland corporation, with its principal office currently located at 1999 Avenue of the Stars, Suite 1900, Los Angeles, California 90067 and Computershare Investor Services, LLC ("Computershare"), a Delaware limited liability company, with its principal office at Two North LaSalle Street, Chicago, Illinois.

WHEREAS, the Company desires to enter into an agreement with Computershare to provide transfer agent, registrar and other administrative services as set forth in this Agreement and the Schedules and Exhibits attached hereto; and

WHEREAS, Computershare desires to provide such services to the Company;

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree as follows:

1. DEFINITIONS

(a) Whenever used in this Agreement, the following words and phrases shall have the following meanings:

(i) "Affiliate" means, with respect to any party to this Agreement, any other person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such party. As used herein, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

(ii) "Board" means the Board of Directors of the Company, and where a committee thereof is authorized to take action on behalf of the Board, it shall also mean such committee.

(iii) "Business Day" means any day other than a Saturday, a Sunday, or a day on which the New York Stock Exchange is authorized or obligated by law or executive order to close.

(iv) "Officer" means the Company's President, Senior Vice Presidents, Vice Presidents, Secretary, Assistant Secretary, Treasurer and Assistant Treasurer, or any other employee of the Company duly authorized (which authorization shall be certified by the Company's Secretary) to execute any certificate, instruction, notice or other instrument on behalf of the Company.

(v) "Out-of-Pocket Expense" means any expense reasonably incurred by Computershare pursuant to this Agreement, including but not limited to the items listed in Schedule B, attached.

(vi) "Shares" mean any or all of each class of the shares of capital stock of the Company which from time-to-time are authorized or issued by the Company and identified in a Certificate of the Secretary of the Company.

2. APPOINTMENT OF COMPUTERSHARE

(a) The Company hereby appoints Computershare to perform the services described herein and in the Schedule A attached hereto (the "Services"), and Computershare hereby accepts such appointment and agrees to perform the Services on a non-exclusive basis in accordance with the terms hereinafter set forth.

(b) The initial term of this Agreement shall commence as of the Effective Date, and shall end on the day that is one year from the Effective Date, unless otherwise terminated in accordance with this Agreement (the "Initial Term"). Following the Initial Term, this Agreement shall automatically renew for additional one-year periods (each a "Renewal Term"), unless either party provides written notice to the other party not less than 60 days prior to the expiration of such period of its election not to renew the Agreement.

(c) The Company shall pay Computershare for the Services in accordance with the fees set forth on Schedule B (the "Fees"). The Company agrees that, upon ninety days notice prior to the expiration of the Agreement, the Fees may be modified provided, however, that such Fees shall not be modified during the first year of this Agreement.

(d) The Company shall deliver promptly to Computershare the following documents, each of which shall be certified by the Company's Secretary or Assistant Secretary:

(i) A Board resolution in the form attached as Exhibit I in which the Company appoints Computershare to serve in the designated capacity;

(ii) A Corporate Information Schedule in the form attached as Exhibit II and any amendments thereof;

(iii) A copy of the Company's Articles of Incorporation, by-laws and any amendments thereto;

(iv) A list of the Officers authorized to provide instructions to Computershare, with specimen signatures of such Officers and any amendments thereto;

(v) Specimen certificate text for each Computershare Generic Certificate for each class of Shares and high resolution graphic files of the company seal and each officer's signature to appear on the stock certificate;

(vi) Any final listing application for additional amounts of listed securities;

(vii) Any registration statement relating to the Company's securities; and

(viii) Any other information reasonably requested by Computershare from time to time.

(e) Computershare shall adopt as part of its records all lists of holders of record of the Company's Shares, books, documents, and records that have been employed by any former agent of the Company for the maintenance of the ledgers for the Shares; provided, however, such ledger is certified as authentic, complete and correct by an Officer or the Company's former transfer agent. Such records shall include, among other things, a complete list of certificates upon which stop transfer orders have been placed, the name and address of each stockholder of record of such certificate, the number of shares held by each such stockholder and the date of issuance of each such certificate.

(f) The Company shall promptly notify Computershare in writing as to:

(i) the existence or termination of any restrictions on the transfer of any Shares;

(ii) the application or removal of a legend restricting the transfer of any certificate;

(iii) the substitution of a Share certificate without such legend with a Share certificate bearing a legend restricting such Share's transfer;

(iv) any authorized but unissued Shares reserved for specific purposes;

(v) outstanding shares that are exchangeable for Shares and the basis for exchange;

(vi) instructions regarding, among other things, dividends for foreign holders; and

(vii) the requirement for a stop transfer order to attach to any Shares or for any other notation or transfer restriction to attach to any Shares.

3. ISSUANCE AND TRANSFER OF SHARES

(a) Except where a stop transfer order has been entered for an account, Computershare shall transfer, pursuant to its normal operating procedures, Shares upon: (i) the presentation to Computershare of Share certificates properly endorsed for transfer if such shares are in certificate form; or (ii) upon the presentation to Computershare of stock transfer instructions properly endorsed if Shares are in uncertificated form. Such endorsed Shares and transfer instructions shall be accompanied by such documents as are reasonably necessary to evidence the authority of the person making the transfer, and bearing satisfactory evidence of the payment of applicable stock transfer taxes and subject to such additional requirements as may be reasonably required by Computershare from time to time. With respect to any transfer, Computershare will require a medallion guarantee of signature by a bank, trust company or other financial institution that is a qualified member of the Medallion Guarantee Program. Computershare may refuse to transfer Shares until it is satisfied that the requested transfer is legally authorized, and Computershare shall incur no liability for its refusal in good faith to make transfers that Computershare, in its sole judgment, deems improper, unauthorized, or not in compliance with its procedures.

(b) With respect to Shares in certificate form, certificates representing Shares that are subject to restrictions on transfer (e.g., securities acquired pursuant to an investment representation, securities held by controlling persons and securities subject to stockholders' agreements) shall be stamped with a legend describing the extent and conditions of the restrictions or referring to the source of such restrictions. With respect to any proposed transfer of securities subject to such transfer restrictions, Computershare may request a legal opinion from the Company's counsel, which legal opinion shall be reasonably satisfactory to Computershare in its sole discretion, and Computershare assumes no responsibility with respect to the transfer of restricted securities in accordance with such opinion.

(c) Computershare is hereby authorized and directed to issue and register, without notice or approval by the Company, new Share certificates to replace certificates reported lost, stolen, mutilated or destroyed, upon compliance with Computershare's policies, which includes receipt by Computershare of: (i) an affidavit of non-receipt; and (ii) an open penalty bond of indemnity in a form and substance and from a surety company satisfactory to Computershare. In each such case, the stockholder shall be solely responsible for the payment of any premium.

(d) In the event that a certificate is, for any reason, in the possession of Computershare and has not been claimed by the registered holder or cannot be delivered to the registered holder through customary channels, Computershare shall continue to hold such certificate for the registered holder subject to applicable abandoned property regulations or other laws.

(e) Computershare shall not be responsible for the payment of any original issue or other taxes, fees or imposts required to be paid by the Company or a purchaser of Shares in connection with the issuance or purchase of any Shares.

4. DIVIDENDS AND DISTRIBUTIONS

(a) In the event that the Company pays dividends to stockholders, the Company and Computershare (through its Affiliate, Computershare Trust Co., Inc.), shall proceed as follows and in accordance with Schedule A:

(i) The Company shall furnish to Computershare a copy of a Board resolution setting forth the following: (A) the date of the declaration of a dividend or distribution; (B) the date of dividend accrual

or payment; (C) the record date for the determination as of which stockholders shall be entitled to payment, or accrual; and (D) the amount per Share of such dividend or distribution.

(ii) Computershare shall not be liable (other than as a result of its negligence or willful misconduct) for any improper payment made in accordance with a certificate, resolution or instruction of the Company. Furthermore, Computershare shall in no way be responsible for the determination of the rate or form of dividends or distributions due to the stockholders.

(iii) At its sole discretion, Computershare is authorized to stop payment of any dividend payment check it issues when such check has not been presented for payment and the payee notifies Computershare that such check has not been received, has been lost, stolen or destroyed, or is unavailable to the payee for any other cause beyond his control. In such instances, Computershare is authorized to debit the Company's checking account to replace a replacement check.

5. LIMITATION OF LIABILITY/CONCERNING COMPUTERSHARE

(a) The Company agrees that Computershare shall not be liable for any action taken or omitted to be taken in connection with this Agreement, except that Computershare shall be liable for direct losses incurred by the Company arising out of Computershare's negligence or willful misconduct. Any liability of Computershare shall be limited to the amount of fees paid by the Company to Computershare in the preceding twelve months for the Services, it being understood that the Services could not be provided to the Company by Computershare at the prices set forth herein without the foregoing liability limitation. The parties hereto agree that, in light of the unique characteristics of each instance in which Services are to be performed, Computershare makes no representation or warranty that any of the Services shall be performed at any set time or under any deadline, and Computershare shall not be liable for any change in the market value of any security at any time. Under no circumstances shall either party be liable for any special, indirect, incidental, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, lost profits), even if such party has been advised of the possibility of such loss or damage.

(b) Notwithstanding anything to the contrary, Computershare shall not be liable in connection with:

(i) The legality of the issue, sale or transfer of any Shares, the sufficiency of the amount to be received in connection therewith, or the authority of the Company to request such issuance, sale or transfer;

(ii) The legality of the purchase of any Shares, the sufficiency of the amount to be paid in connection therewith, or the authority of the Company to request such purchase;

(iii) The legality of the declaration of any dividend by the Company, or the legality of the issue of any Shares in payment of any stock dividend;

(iv) The legality of any recapitalization or readjustment of the Shares;

(v) Acting upon any oral instruction, writing or document reasonably believed by Computershare to be genuine and to have been given, signed or made by an Officer; and

(vi) Processing Share certificates that it reasonably believes bear the proper manual or facsimile signatures of an Officer and the proper counter-signature of Computershare or the prior transfer agent or registrar.

(c) In providing Services under this Agreement, Computershare may rely upon any listing applications, letters, or other written instruments executed by an Officer and directed to the Exchange and upon any opinions submitted to the Exchange by counsel for the Company as though such letters,

instruments, or opinions had been addressed or submitted to Computershare itself, and with the same rights of indemnification set forth in Section 7 hereof.

(d) At any time, Computershare may apply to the Company for oral or written instructions with respect to any matter arising in connection with the provision of the Services and Computershare's duties and obligations under this Agreement. Computershare shall not be liable for any action taken or omitted to be taken by Computershare in good faith in accordance with such instructions.

(e) Computershare shall maintain: (i) a record of all Share ownership by the Company's stockholders of record; (ii) a record of all Share transactions, including all issuances of Shares, transfers, and Share replacements, performed by Computershare (iii) a record of all dividend activity; (iv) a record of restrictions on any Shares of which it has been informed; and (v) a record of all other matters relating to the services provided by Computershare hereunder. At the Company's expense, Computershare shall maintain on the Company's behalf, for safekeeping or disposition by the Company in accordance with law, such records, papers, Share certificates that have been canceled in transfer or exchange, and other documents accumulated in the execution of its duties hereunder. Computershare may, in its discretion, return canceled Share certificates to the Company and the Company shall be obligated to retain the certificates as required by law. The records maintained by Computershare pursuant to this paragraph shall be considered to be the property of the Company and shall be made available during normal business hours upon five days notice to Computershare by an Officer.

(f) Computershare shall use its reasonable efforts to safeguard the inventory of blank stock certificates maintained by Computershare and shall maintain insurance coverage protecting Computershare and its clients against foreseeable losses, costs and expenses arising out of the loss or theft of any such certificates.

(g) In the event of any Officer that shall have signed manually or whose facsimile signature shall have been affixed to blank Share certificates dies, resigns or removed prior to issuance of such Share certificates, unless otherwise instructed by the Company, Computershare may issue such Share certificates as the Share certificates of the Company notwithstanding such death, resignation or removal, and the Company shall promptly deliver to Computershare such approvals, adoptions or ratification as may be required by law.

6. TERMINATION

(a) Upon providing written notice, either party may immediately terminate this agreement upon the occurrence of any of the following: (i) any breach of any material provision of this Agreement and, where the breach is capable of remedy, failure to remedy the breach within 30 days after receiving written notice of such breach; (ii) any breach of any material provision of this agreement that is not capable of remedy; (iii) any party: (A) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it; (B) makes any assignment or general arrangement for the benefit of creditors; or (C) has a liquidator, administrator, receive, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (iv) any failure to make, when due, any payment required to be made under the Agreement if such failure is not remedied within 30 Business Days after written notice.

7. INDEMNIFICATION

(a) The Company agrees to defend, indemnify and hold harmless Computershare and its Affiliates and each of their directors, officers, employees, attorneys and agents (collectively, the "Computershare Indemnified Parties"), from and against all demands, claims, liabilities, losses, damages, settlements, awards, judgments, fines, penalties, costs or expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Computershare Losses") incurred by

Computershare as a result (directly or indirectly) of or relating to: (i) Computershare's acceptance of this Agreement or provision of Services under this Agreement; (ii) any actions taken or not taken by any former agent of the Company; and (iii) the validity of stock issued by the Company, unless finally determined by a court of competent jurisdiction that such Computershare Losses have resulted from the negligence or willful misconduct of such Computershare Indemnified Party.

(b) Computershare shall at all times act in good faith and agrees to use its reasonable best efforts to insure the accuracy of all services provided under this Agreement and further agrees to indemnify and hold harmless the Company and its Affiliates and each of their directors, officers, employees, attorneys and agents (collectively, the "Company Indemnified Parties"), from and against all demands, claims, liabilities, losses, damages, settlements, awards, judgments, fines, penalties, costs or expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Company Losses") incurred by Company as a result (directly or indirectly) of Computershare's negligence, willful misconduct or bad faith in its provision of Services under this Agreement, unless finally determined by a court of competent jurisdiction that such Company Losses have resulted from the negligence or willful misconduct of such Company Indemnified Party.

(c) This Section 7 shall survive the termination of this Agreement or the removal or resignation of Computershare hereunder.

8. REPRESENTATIONS AND WARRANTIES.

(a) The Company represents and warrants that: (i) it has full power, authority and capacity to execute and deliver this Agreement and perform its obligations hereunder, and that this Agreement constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally; and (ii) the Company is, and shall remain, in compliance with the rules and regulations of the securities exchange or market upon which its Shares are listed (the "Exchange") for the listing of additional shares sufficiently in advance to permit Computershare, upon receipt of such authorizations as may be required by the Exchange, to execute timely issuance and delivery as transfer agent and as registrar of certificates representing such additional shares.

(b) Computershare represents and warrants that: (i) it has full power, authority and capacity to execute and deliver this Agreement and perform its obligations hereunder, and that this Agreement constitutes a legal, valid and binding obligation of Computershare, enforceable against Computershare in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally; and (ii) it is a duly registered transfer agent under the Securities Exchange Act of 1934.

(c) This Section 8 shall survive the termination of this Agreement or the removal or resignation of Computershare hereunder.

9. BILLING AND PAYMENT

(a) Computershare shall bill the Company monthly in arrears for the Fees incurred during the previous month. The Company shall pay Computershare the full amount of each such invoice within thirty (30) days from the date of the invoice.

(b) In the event the Company does not make payment in full within thirty (30) days of the date of each invoice, the Company shall pay interest of 1.0% per month (12% per annum) on the outstanding balance of the Fees.

10. CONFIDENTIALITY

(a) Under this Agreement, each party shall have access to certain confidential information belonging to the other party, which information shall include all nonpublic information pertaining to the disclosing party, its parent, subsidiaries, affiliates, employees, customers, representatives and vendors (including without limitation all information furnished prior to the date of this Agreement) furnished by or on behalf of the disclosing party to the receiving party, directly or indirectly, by any means ("Confidential Information").

(b) The parties acknowledge that except as necessary for Computershare to service the account or for either party to perform its obligations under the Agreement: (i) all Confidential Information is confidential; (ii) the parties will keep all Confidential Information confidential and will not disclose the same; (iii) the parties will use Confidential Information only as required by this Agreement; (iv) the parties will not create a list or other compilation containing any Confidential Information for any purpose other than to perform under this Agreement; and (v) except as expressly provided for herein, the parties will not provide, directly or indirectly, the Confidential Information to any other party for any purpose.

(c) The parties acknowledge that this Agreement will be filed as an exhibit to certain public filings made by the Company with the United States Securities and Exchange Commission, NASDAQ, and the National Association of Securities Dealers, and, accordingly, that the contents of this Agreement will be accessible to the public.

(d) In the event that either party receives a request or becomes legally compelled to disclose any Confidential Information belonging to the other party, recipient will provide the other party with prompt notice of the request and shall disclose only that portion of the Confidential Information that recipient is legally obligated to disclose.

(e) The parties agree that all Confidential Information is proprietary to the disclosing party. Except for (i) any information initially provided by the Company to Computershare and (ii) Personal Data (as defined herein), all information or materials, including all microfiche, electronic mails, hard or soft documentation, computer or data system information, financial information, customer or vendor information, business operations, lists, files, records, source documents, and other materials provided by Computershare to the Company under this Agreement shall be the sole and exclusive property of Computershare.

(f) The Company hereby acknowledges that Computershare Trust Co., Inc., an Affiliate of Computershare that is involved in the provision of certain Services hereunder, is subject to the privacy regulations under Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq. (the "Act"). To the extent that a stockholder establishes a relationship with Computershare, Computershare is required by the Act to maintain the privacy of stockholder nonpublic personal financial information ("Personal Data"). Computershare agrees that, except as necessary to fulfill its obligations hereunder or to service the account, Computershare shall keep all Personal Data confidential and will not disclose or use such Personal Data except to the extent necessary to carry out its obligations under this Agreement. Furthermore, Computershare is required to obtain an undertaking from the Company regarding its protection and use of Personal Data received from Computershare. Therefore, the Company agrees that: (i) Personal Data received from Computershare will not be disclosed or used except to the extent necessary to carry out its obligations under this Agreement; (ii) the Company shall use such security measures necessary to protect Personal Data from intentional or accidental unauthorized disclosure or use; and (iii) the Company shall promptly notify Computershare regarding any failure of such security measures or any security breach related to the Personal Data. If a stockholder is also a "customer" (as defined in the Act) of the Company, or if the Company otherwise is entitled by law to the Personal Data, the limitations contained in this paragraph shall not apply to the portion of Personal Data to which the Company is so entitled.

(g) This Section 10 shall survive the termination of this Agreement or the removal or resignation of Computershare hereunder.

11. ADDITIONAL PROVISIONS

(a) **Force Majeure.** Neither party shall be liable to the other, or held in breach of this Agreement, if prevented, hindered, or delayed in performance or observance of any provision contained herein by reason of acts of God, riots, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar cause (including, but not limited to, mechanical, electronic or communications interruptions, disruptions or failures). Performance times under this Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.

(b) **Severability.** If any part of this Agreement, for any reason, is declared invalid, it shall be deemed restated to reflect as nearly as possible in accordance with applicable law the original intentions of the parties. The remainder of this Agreement shall continue in effect as if the Agreement had been entered into without the invalid portion.

(c) **Status of Parties.** The relationship of the parties to each other in the execution and performance of the Agreement shall be that of independent contractors. Nothing in the Agreement or with respect to the obligations or services of Computershare in connection with the Agreement shall constitute Computershare a fiduciary of the Company or any other person.

(d) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be an original hereof, and it will not be necessary in making proof of this Agreement to produce or account for more that one counterpart hereof.

(e) **Entire Agreement.** This Agreement sets forth the full understanding between the parties with respect to its subject matter and integrates all prior agreements, discussions and understandings.

(f) **Notices.** Any notice or document required or permitted to be given under this Agreement shall be given in writing and shall be deemed received (i) when personally delivered to the relevant party at such party's address as set forth below, (ii) if sent by mail (which must be certified or registered mail, postage prepaid) or overnight courier, when received or rejected by the relevant party

at such party's address indicated below, or (iii) if sent by facsimile, when confirmation of delivery is received by the sending party:

If to the Company:	Ares Capital Corporation 1999 Avenue of the Stars, Suite 1900 Los Angeles, California 90067 Attn: Kevin A. Frankel Fax: (310) 201-4197
If to Computershare:	Computershare Investor Services, LLC Two North LaSalle Street Chicago, Illinois 60602 Attn: Fred Papenmeier Fax: (312) 601-4348
	with a copy to:
	Computershare Investor Services, LLC Two North LaSalle Street Chicago, Illinois 60602 Attn: Director, Relationship Management Fax: (312) 735-4310

(g) **Modification.** This Agreement may not be amended or modified in any manner except by a written agreement duly authorized and executed by both parties. Any duly authorized Officer may amend any certificate naming Officers authorized to execute and deliver certificates, instructions, notices or other instruments, provided such amendment is certified by the Company's Secretary, and the Secretary may amend any certificate listing the shares of capital stock of the Company for which Computershare performs services hereunder.

(h) **Successors and Assigns.** This Agreement shall extend to and shall be binding upon the parties hereto and their respective successors and assigns.

(i) **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party, except that either party may, without the consent of the other party, assign the Agreement to an Affiliate of that party or a purchaser of all or substantially all of that party's assets used in connection with performing this Agreement.

(j) **Absence of Third-Party Beneficiaries.** The provisions of the Agreement are intended to benefit only Computershare and the Company, and no rights shall be granted to any other person by virtue of this Agreement.

(k) **Applicable Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois (without reference to choice of law principles), and the parties hereby consent to the exclusive jurisdiction of courts in Illinois (whether state or federal) over all matters relating to this Agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

ARES CAPITAL CORPORATION

By: _____

Name: _____

Title: _____

COMPUTERSHARE INVESTOR SERVICES, LLC

By: _____

Name: _____

Title: _____

QuickLinks

Exhibit (k)(2)

STOCK TRANSFER AGENCY AGREEMENT

QuickLinks -- Click here to rapidly navigate through this document

Exhibit (k)(4)

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT is made and entered into this day of , 2004 ("Agreement"), by and between Ares Capital Corporation, a Maryland corporation (the "Company"), and ("Indemnitee").

WHEREAS, at the request of the Company, Indemnitee currently serves as a **[director] [officer]** of the Company; and

[WHEREAS, Indemnitee also serves as an investment committee member of Ares Capital Management, LLC, a Delaware limited liability company (the "Adviser") which provides investment advisory services to the Company pursuant to an Investment Advisory and Management Agreement between the Company and the Adviser (the "Advisory Agreement"); and]

WHEREAS, Indemnitee may be subjected to claims, suits or proceedings arising as a result of his service as a **[director] [officer]** of the Company [and an investment committee member of the Adviser]; and

WHEREAS, as an inducement [(i)] to Indemnitee to continue to serve as a **[director] [officer]** of the Company[, (ii) to the Adviser to continue to serve as the Company's investment adviser and (iii) to Indemnitee to continue to serve as an investment committee member of the Adviser,] the Company has agreed to indemnify and to advance expenses and costs incurred by Indemnitee in connection with any such claims, suits or proceedings, to the fullest extent permitted by law; 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) "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 "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 Act) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Act), directly or indirectly, of securities of the Company representing 15% or more of the combined voting power of the Company's then outstanding securities without the prior approval of at least two-thirds of the members of the Board of Directors in office immediately prior to such person attaining such percentage interest; (ii) there occurs a proxy contest, or 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) during any period of two consecutive years, other than as a result of an event described in clause (a)(ii) of this Section 1, individuals who at the beginning of such period constituted the Board of Directors (including for this purpose any new director whose election or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who were directors at the beginning of such period) cease for any reason to constitute at least a majority of the Board of Directors.

(b) "Corporate Status" means the status of a person [(i)] who is or was a director, trustee, officer, employee or agent of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise for which such person is or was serving at the request of the Company [or (ii) who provides or provided investment advisory services to the Company pursuant to the Advisory Agreement in his capacity as an investment committee member of the Adviser].

(c) "Disinterested Director" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) "Effective Date" has the meaning set forth in the first paragraph of this Agreement.

(e) "Expenses" shall include all reasonable and out-of-pocket attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, or being or preparing to be a witness in a Proceeding.

(f) "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, or (ii) any other party to or witness in the Proceeding giving rise to a claim for indemnification 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. If a Change of Control has not occurred, Independent Counsel shall be selected by the Board of Directors, with the approval of Indemnitee, which approval will not be unreasonably withheld. If a Change of Control has occurred, Independent Counsel shall be selected by Indemnitee, with the approval of the Board of Directors, which approval will not be unreasonably withheld.

(g) "Proceeding" includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, administrative hearing or any other proceeding, whether civil, criminal, administrative or investigative (including on appeal), except one pending or completed on or before the Effective Date, unless otherwise specifically agreed in writing by the Company and Indemnitee.

Section 2. *Services by Indemnitee*. Indemnitee will serve as a **[director] [officer]** of the Company [and will provide investment advisory services to the Company pursuant to the Advisory Agreement in his capacity as an investment committee member of the Adviser]. However, this Agreement shall not impose any obligation on Indemnitee or on the Company [or on the Adviser, as the case may be], to continue Indemnitee's service to the Company [or the Adviser, as the case may be], beyond any period otherwise required by law or by other agreements or commitments of the parties, if any.

Section 3. *Indemnification—General.* The Company shall indemnify, and advance Expenses to, Indemnitee (a) as provided in this Agreement and (b) otherwise to the fullest extent permitted by Maryland law in effect on the date hereof 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 date hereof. 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 ("MGCL").

Section 4. *Proceedings Other Than Proceedings by or in the Right of the Company.* Indemnitee shall be entitled to the rights of indemnification provided in this Section 4 if, by reason of his

Corporate Status, he is, or is threatened to be, made a party to or a witness in any threatened, pending, or completed Proceeding, other than a Proceeding by or in the right of the Company. Pursuant to this Section 4, Indemnitee shall be indemnified against all judgments, penalties, fines and amounts paid in settlement and all Expenses actually and reasonably incurred by him or on his behalf in connection with a Proceeding by reason of his Corporate Status unless it is established that (i) the act or omission of Indemnitee 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, (ii) Indemnitee actually received an improper personal benefit in money, property or services, or (iii) in the case of any criminal Proceeding, Indemnitee had reasonable cause to believe that his conduct was unlawful.

Section 5. *Proceedings by or in the Right of the Company.* Indemnitee shall be entitled to the rights of indemnification provided in this Section 5 if, by reason of his Corporate Status, he is, or is threatened to be, made a party to or a witness in any threatened, pending or completed Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 5, Indemnitee shall be indemnified against all amounts paid in settlement and all Expenses actually and reasonably incurred by him or on his behalf in connection with such Proceeding unless it is established that (i) the act or omission of Indemnitee was material to the matter giving rise to such a Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (ii) Indemnitee actually received an improper personal benefit in money, property or services.

Section 6. *Court-Ordered Indemnification.* Notwithstanding any other provision of this Agreement, a court of appropriate jurisdiction, upon application of Indemnitee and such notice as the court shall require, may order indemnification in the following circumstances:

(a) if it determines 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 it 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 actually and reasonably incurred by him or on his behalf in connection with a Proceeding.

Section 7. *Indemnification for Expenses of a Party Who is Wholly or Partly Successful.* Notwithstanding any other provision of this Agreement, and without limiting any such provision, to the extent that Indemnitee is, by reason of his Corporate Status, made a party to and is successful, on the merits or otherwise, in the defense of any Proceeding, he shall be indemnified for all Expenses actually and reasonably incurred by him or on his 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 on his behalf in connection with each successfully resolved claim, issue or matter, allocated on a reasonable and proportionate basis. For purposes of this Section 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.* The Company shall advance all reasonable Expenses actually and reasonably incurred by or on behalf of Indemnitee in connection with any Proceeding (other than a Proceeding brought to enforce indemnification under (i) this Agreement, (ii) applicable law, (iii) the Charter or Bylaws of the Company, (iv) any agreement or (v) a resolution of (A) the stockholders

entitled to vote generally in the election of directors or (B) the Board of Directors) to which Indemnitee, by reason of his Corporate Status, is, or is threatened to be, made a party or a witness, within ten days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances 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 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 relating to claims, issues or matters in the Proceeding as to which it shall ultimately be established that the standard of conduct has not been met and which have not been successfully resolved as described in Section 7. For so long as the Company is subject to the Investment Company Act of 1940 (the "Investment Company Act"), any advancement of Expenses shall be subject to at least one of the following as a condition of the advancement: (a) Indemnitee shall provide a security for his or her undertaking, (b) the Company shall be insured against losses arising by reason of any lawful advances or (c) a majority of a quorum of the Disinterested Directors, or Independent Counsel, in a written opinion, shall determine, based on a review of readily available facts (as opposed to a full-trial-type inquiry), that there is no reason to believe that Indemnitee ultimately will be found to not be entitled to indemnification. 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. *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. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board of Directors that Indemnitee has requested indemnification.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 9(a) hereof, 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; or (ii) if a Change of Control shall not have occurred, (A) by the Board of Directors (or a duly authorized committee thereof) by a majority vote of a quorum consisting of Disinterested Directors (as herein defined), or (B) if a quorum of the Board of Directors consisting of Disinterested Directors is not obtainable or, even if obtainable, such quorum of Disinterested Directors so directs, by Independent Counsel, 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 9. Any Expenses actually and reasonably 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.

Section 10. *Presumptions and Effect of Certain Proceedings.*

(a) In making a 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 9(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 by judgment, order, settlement, conviction, a plea of *nolo contendere* or its equivalent, or an 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.

Section 11. *Remedies of Indemnitee.*

(a) If (i) a determination is made pursuant to Section 9 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 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 9(b) of this Agreement within 30 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 of this Agreement within ten days after receipt by the Company of a written request therefor, or (v) payment of indemnification 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 entitlement to such indemnification or advance of Expenses. Alternatively, Indemnitee, at his 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 such 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 11(a); provided, however, that the foregoing clause shall not apply to a proceeding brought by Indemnitee to enforce his rights under Section 7 of this Agreement.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 11 the Company shall have the burden of proving that Indemnitee is not entitled to indemnification or advance of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 9(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 11, 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, pursuant to this Section 11, seeks a judicial adjudication of or an award in arbitration to enforce his 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 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.

Section 12. *Defense of the Underlying Proceeding.*

(a) Indemnitee shall notify the Company promptly upon being served with or receiving any summons, citation, subpoena, complaint, indictment, information, notice, request or other document relating to any Proceeding which may result in the right to indemnification or the advance of Expenses hereunder; provided, however, that 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 12(b) and of Section 12(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 12(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 of a claim against Indemnitee which (i) includes an admission of fault of Indemnitee or (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. This Section 12(b) shall not apply to a Proceeding brought by Indemnitee under Section 11 above or Section 18 below.

(c) Notwithstanding the provisions of Section 12(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnitee and the Company or one of its affiliates or such other person whose defense is being assumed by the Company, and Indemnitee reasonably concludes, based upon advice of counsel, that a material conflict of interest exists between Indemnitee and the Company, its affiliate or such person whose defense is being assumed by the Company, or (ii) 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 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 shall not be unreasonably withheld, at the expense of the Company (subject to Section 11(d)), to represent Indemnitee in connection with any such matter.

Section 13. *Non-Exclusivity; Survival of Rights; Subrogation; Insurance; Investment Company Act.*

(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 (i) applicable law, (ii) the Charter or Bylaws of the Company, (iii) any agreement or (iv) a resolution of (A) the stockholders entitled to vote generally in the election of directors or (B) the Board of Directors, or otherwise. 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 Corporate Status prior to such amendment, alteration or repeal.

(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.

(c) 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 (i) Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise, or (ii) for so long as the Company is subject to the Investment Company Act, indemnification or payment or reimbursement of expenses would not be permissible under the Investment Company Act.

Section 14. *Insurance.* 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 of the Company, with the advice of counsel, covering Indemnitee or any claim made against Indemnitee for service as a director or officer of the Company and covering the Company for any indemnification or advance of Expenses made by the Company to Indemnitee for any claims made against Indemnitee for service as a director or officer of the Company. 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 reasonable Expenses actually and reasonably incurred by Indemnitee in connection with a Proceeding over the coverage of any insurance referred to in the previous sentence.

Section 15. *Indemnification for Expenses of a Witness.* Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is or may be, by reason of his Corporate Status, a witness in any Proceeding, whether instituted by the Company or any other party, and to which Indemnitee is not a party but in which the Indemnitee receives a subpoena to testify, he shall be advanced all reasonable Expenses and indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

Section 16. *Duration of Agreement; Binding Effect.*

(a) 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, trustee, officer, employee or agent of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the written request of the Company, and shall inure to the benefit of Indemnitee and his spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(b) 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.

Section 17. *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 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 (b) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section 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 18. *Exception to Right of Indemnification or Advance of Expenses.* Notwithstanding any other provision of this Agreement, Indemnitee shall not be entitled to indemnification or advance of Expenses under this Agreement with respect to any Proceeding brought by Indemnitee, unless (a) the Proceeding is brought to enforce indemnification under this Agreement, and then only to the extent in accordance with and as authorized by Sections 8 and 11 of this Agreement, or (b) expressly provided otherwise in (i) the Company's Charter or Bylaws, (ii) a resolution of (A) the stockholders entitled to vote generally in the election of directors or (B) the Board of Directors or (iii) an agreement approved by the Board of Directors to which the Company is a party.

Section 19. *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 20. *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 21. *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 22. *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 or overnight courier service and receipted for by the party to whom said notice or other communication shall have been directed, on receipt, 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:

Ares Capital Corporation
Suite 1900
1999 Avenue of the Stars
Los Angeles, California 90067
Attn: General Counsel

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

Section 23. *Governing Law.* The parties agree that 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.

Section 24. *Miscellaneous.* Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ARES CAPITAL CORPORATION

By: _____

Name:
Title:

INDEMNITEE

_____

Name:
Address:

QuickLinks

Exhibit (k)(4)

Exhibit (k)(5)

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT is made and entered into this day of , 2004 ("Agreement"), by and between Ares Capital Corporation, a Maryland corporation (the "Company"), and ("Indemnitee").

WHEREAS, Ares Capital Management LLC, a Delaware limited liability company (the "Adviser"), currently provides investment advisory services to the Company pursuant to an Investment Advisory and Management Agreement between the Company and the Adviser (the "Advisory Agreement"); and

WHEREAS, Indemnitee currently serves as an investment committee member of the Adviser and may, therefore, be subjected to claims, suits or proceedings arising as a result of his service; and

WHEREAS, as an inducement to the Adviser to continue to serve as the Company's investment adviser and to Indemnitee to continue to serve as an investment committee member of the Adviser, the Company has agreed to indemnify and to advance expenses and costs incurred by Indemnitee in connection with any such claims, suits or proceedings, to the fullest extent permitted by law; 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) "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 "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 Act) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Act), directly or indirectly, of securities of the Company representing 15% or more of the combined voting power of the Company's then outstanding securities without the prior approval of at least two-thirds of the members of the Board of Directors in office immediately prior to such person attaining such percentage interest; (ii) there occurs a proxy contest, or 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) during any period of two consecutive years, other than as a result of an event described in clause (a)(ii) of this Section 1, individuals who at the beginning of such period constituted the Board of Directors (including for this purpose any new director whose election or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who were directors at the beginning of such period) cease for any reason to constitute at least a majority of the Board of Directors.

(b) "Corporate Status" means the status of a person who provides or provided investment advisory services to the Company pursuant to the Advisory Agreement in his capacity as an investment committee member of the Adviser.

(c) "Disinterested Director" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) "Effective Date" has the meaning set forth in the first paragraph of this Agreement.

(e) "Expenses" shall include all reasonable and out-of-pocket attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, or being or preparing to be a witness in a Proceeding.

(f) "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, or (ii) any other party to or witness in the Proceeding giving rise to a claim for indemnification 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. If a Change of Control has not occurred, Independent Counsel shall be selected by the Board of Directors, with the approval of Indemnitee, which approval will not be unreasonably withheld. If a Change of Control has occurred, Independent Counsel shall be selected by Indemnitee, with the approval of the Board of Directors, which approval will not be unreasonably withheld.

(g) "Proceeding" includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, administrative hearing or any other proceeding, whether civil, criminal, administrative or investigative (including on appeal), except one pending or completed on or before the Effective Date, unless otherwise specifically agreed in writing by the Company and Indemnitee.

Section 2. *Services by Indemnitee.* Indemnitee will provide investment advisory services to the Company pursuant to the Advisory Agreement in his capacity as an investment committee member of the Adviser. However, this Agreement shall not impose any obligation on Indemnitee or the Company or the Adviser to continue Indemnitee's service to the Company or the Adviser beyond any period otherwise required by law or by other agreements or commitments of the parties, if any.

Section 3. *Indemnification—General.* The Company shall indemnify, and advance Expenses to, Indemnitee as provided in this Agreement.

Section 4. *Proceedings Other Than Proceedings by or in the Right of the Company.* Indemnitee shall be entitled to the rights of indemnification provided in this Section 4 if, by reason of his Corporate Status, he is, or is threatened to be, made a party to or a witness in any threatened, pending, or completed Proceeding, other than a Proceeding by or in the right of the Company. Pursuant to this Section 4, Indemnitee shall be indemnified against all judgments, penalties, fines and amounts paid in settlement and all Expenses actually and reasonably incurred by him or on his behalf in connection with a Proceeding by reason of his Corporate Status unless it is established that (i) the act or omission of Indemnitee 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, (ii) Indemnitee actually received an improper personal benefit in money, property or services, or (iii) in the case of any criminal Proceeding, Indemnitee had reasonable cause to believe that his conduct was unlawful.

Section 5. *Proceedings by or in the Right of the Company.* Indemnitee shall be entitled to the rights of indemnification provided in this Section 5 if, by reason of his Corporate Status, he is, or is threatened to be, made a party to or a witness in any threatened, pending or completed Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 5, Indemnitee shall be indemnified against all amounts paid in settlement and all Expenses actually and reasonably incurred by him or on his behalf in connection with such Proceeding unless it is established that (i) the act or omission of Indemnitee was material to the matter giving rise to such a

Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (ii) Indemnitee actually received an improper personal benefit in money, property or services.

Section 6. *Court-Ordered Indemnification.* Notwithstanding any other provision of this Agreement, a court of appropriate jurisdiction, upon application of Indemnitee and such notice as the court shall require, may order indemnification in the following circumstances:

(a) if it determines Indemnitee is entitled to reimbursement under Section 2-418(d)(1) of the Maryland General Corporation Law (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 it 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 actually and reasonably incurred by him or on his behalf in connection with a Proceeding.

Section 7. *Indemnification for Expenses of a Party Who is Wholly or Partly Successful.* Notwithstanding any other provision of this Agreement, and without limiting any such provision, to the extent that Indemnitee is, by reason of his Corporate Status, made a party to and is successful, on the merits or otherwise, in the defense of any Proceeding, he shall be indemnified for all Expenses actually and reasonably incurred by him or on his 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 on his behalf in connection with each successfully resolved claim, issue or matter, allocated on a reasonable and proportionate basis. For purposes of this Section 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.* The Company shall advance all reasonable Expenses actually and reasonably incurred by or on behalf of Indemnitee in connection with any Proceeding (other than a Proceeding brought to enforce indemnification under (i) this Agreement, (ii) applicable law, (iii) the Charter or Bylaws of the Company, (iv) any agreement or (v) a resolution of (A) the stockholders entitled to vote generally in the election of directors or (B) the Board of Directors) to which Indemnitee, by reason of his Corporate Status, is, or is threatened to be, made a party or a witness, within ten days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances 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 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 relating to claims, issues or matters in the Proceeding as to which it shall ultimately be established that the standard of conduct has not been met and which have not been successfully resolved as described in Section 7. For so long as the Company is subject to the Investment Company Act of 1940 (the "Investment Company Act"), any advancement of Expenses shall be subject to at least one of the following as a condition of the advancement: (a) Indemnitee shall

provide a security for his or her undertaking, (b) the Company shall be insured against losses arising by reason of any lawful advances or (c) a majority of a quorum of the Disinterested Directors, or Independent Counsel, in a written opinion, shall determine, based on a review of readily available facts (as opposed to a full-trial-type inquiry), that there is no reason to believe that Indemnitee ultimately will be found to not be entitled to indemnification. 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. *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. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board of Directors that Indemnitee has requested indemnification.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 9(a) hereof, 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; or (ii) if a Change of Control shall not have occurred, (A) by the Board of Directors (or a duly authorized committee thereof) by a majority vote of a quorum consisting of Disinterested Directors (as herein defined), or (B) if a quorum of the Board of Directors consisting of Disinterested Directors is not obtainable or, even if obtainable, such quorum of Disinterested Directors so directs, by Independent Counsel, 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 9. Any Expenses actually and reasonably 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.

Section 10. *Presumptions and Effect of Certain Proceedings.*

(a) In making a 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 9(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 by judgment, order, settlement, conviction, a plea of *nolo contendere* or its equivalent, or an 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.

Section 11. *Remedies of Indemnitee.*

(a) If (i) a determination is made pursuant to Section 9 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 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 9(b) of this Agreement within 30 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to Section 7 of this Agreement within ten days after receipt by the Company of a written request therefor, or (v) payment of indemnification 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 entitlement to such indemnification or advance of Expenses. Alternatively, Indemnitee, at his 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 such 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 11(a); provided, however, that the foregoing clause shall not apply to a proceeding brought by Indemnitee to enforce his rights under Section 7 of this Agreement.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 11 the Company shall have the burden of proving that Indemnitee is not entitled to indemnification or advance of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 9(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 11, 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, pursuant to this Section 11, seeks a judicial adjudication of or an award in arbitration to enforce his 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 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.

Section 12. *Defense of the Underlying Proceeding.*

(a) Indemnitee shall notify the Company promptly upon being served with or receiving any summons, citation, subpoena, complaint, indictment, information, notice, request or other document relating to any Proceeding which may result in the right to indemnification or the advance of Expenses hereunder; provided, however, that 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 12(b) and of Section 12(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 12(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 of a claim against Indemnitee which (i) includes an admission of fault of Indemnitee or (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. This Section 12(b) shall not apply to a Proceeding brought by Indemnitee under Section 11 above or Section 18 below.

(c) Notwithstanding the provisions of Section 12(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnitee and the Company or one of its affiliates or such other person whose defense is being assumed by the Company, and Indemnitee reasonably concludes, based upon advice of counsel, that a material conflict of interest exists between Indemnitee and the Company, its affiliate or such person whose defense is being assumed by the Company, or (ii) 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 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 shall not be unreasonably withheld, at the expense of the Company (subject to Section 11(d)), to represent Indemnitee in connection with any such matter.

Section 13. *Non-Exclusivity; Survival of Rights; Subrogation; Insurance; Investment Company Act.*

(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 (i) applicable law, (ii) the Charter or Bylaws of the Company, (iii) any agreement or (iv) a resolution of (A) the stockholders entitled to vote generally in the election of directors or (B) the Board of Directors, or otherwise. 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 Corporate Status prior to such amendment, alteration or repeal.

(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.

(c) 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 (i) Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise, or (ii) for so long as the Company is subject to the Investment Company Act, indemnification or payment or reimbursement of expenses would not be permissible under the Investment Company Act.

Section 14. *Insurance.* 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 of

the Company, with the advice of counsel, covering Indemnitee or any claim made against Indemnitee for service as a director or officer of the Company and covering the Company for any indemnification or advance of Expenses made by the Company to Indemnitee for any claims made against Indemnitee for service as a director or officer of the Company. 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 reasonable Expenses actually and reasonably incurred by Indemnitee in connection with a Proceeding over the coverage of any insurance referred to in the previous sentence.

Section 15. *Indemnification for Expenses of a Witness.* Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is or may be, by reason of his Corporate Status, a witness in any Proceeding, whether instituted by the Company or any other party, and to which Indemnitee is not a party but in which the Indemnitee receives a subpoena to testify, he shall be advanced all reasonable Expenses and indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

Section 16. *Duration of Agreement; Binding Effect.*

(a) 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, trustee, officer, employee or agent of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the written request of the Company, and shall inure to the benefit of Indemnitee and his spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(b) 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.

Section 17. *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 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 (b) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section 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 18. *Exception to Right of Indemnification or Advance of Expenses.* Notwithstanding any other provision of this Agreement, Indemnitee shall not be entitled to indemnification or advance of Expenses under this Agreement with respect to any Proceeding brought by Indemnitee, unless (a) the Proceeding is brought to enforce indemnification under this Agreement, and then only to the extent in accordance with and as authorized by Sections 8 and 11 of this Agreement, or (b) expressly provided otherwise in (i) the Company's Charter or Bylaws, (ii) a resolution of (A) the stockholders entitled to vote generally in the election of directors or (B) the Board of Directors or (iii) an agreement approved by the Board of Directors to which the Company is a party.

Section 19. *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 20. *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 21. *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 22. *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 or overnight courier service and receipted for by the party to whom said notice or other communication shall have been directed, on receipt, 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:

Ares Capital Corporation
Suite 1900
1999 Avenue of the Stars
Los Angeles, California 90067
Attn: General Counsel

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

Section 23. *Governing Law*. The parties agree that 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.

Section 24. *Miscellaneous.* Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ARES CAPITAL CORPORATION

By: _____

Name:
Title:

INDEMNITEE

_____

Name:
Address:

QuickLinks

Exhibit (k)(5)

QuickLinks -- Click here to rapidly navigate through this document

Exhibit (k)(6)

September 16, 2004

Mr. Mark Standish
Managing Director
Head of Global Financial Products
Royal Bank of Canada
One Liberty Plaza
New York, NY 10006

Re: Purchase of Loan Portfolio

Gentlemen:

All dollar amounts herein are United States dollars unless otherwise specified. This Agreement ("Agreement") will confirm that, subject to the terms and conditions herein, Royal Bank of Canada ("RBC") agrees to, and to cause its affiliates, including without limitation RBC Capital Partners (collectively with RBC, the "Seller") to, sell to, and Ares Capital Corporation (the "Buyer") or its assignee, agrees to buy, in exchange for:

(i) the Cash Payment (as defined below),

(ii) in respect of those revolving credit facilities (the "Revolving Credit Facilities") set forth on Exhibit A, the assumption of all unfunded revolver commitments including, for greater certainty, all indemnity obligations owed to an issuer of letters of credit outstanding as of the Sale Date, if any, and the assumption of all other obligations as a lender arising after the Sale Date (as defined below),

(iii) the transfer or assignment (pursuant to an agreement reasonably satisfactory to the assignor and the Seller) to the Seller by each of Michael Arougheti, Robert deVeer and Michael L. Smith of each of their rights and interests in any RBC carried interest plan, including any rights relating to realizations of carried interest plan assets occurring between the date hereof and the Sale Date, and

(iv) the assignment (pursuant to an agreement reasonably satisfactory to the assignor and the Seller) to the Seller by Carillon Capital Management, LLC (formerly known as MKM Investors, LLC) ("CCM") of all its rights and interest in the Investment Advisory Agreement made between CCM and the Seller as of May 3, 2004, (collectively (i) through (iv), the "Purchase Price"),

all of Seller's right, title, and interest ("Seller's Interest") in and to the assets set forth on Exhibit A hereto (the "Assets"), including, without limitation, all of Seller's right, title, and interest in the benefit of all representations, warranties, covenants, agreements, and indemnities of the other parties to the documentation relating thereto, all voting, board observation or representation rights (if any) of Seller set forth therein, all principal, interest, dividends and other amounts payable thereunder from and after the Sale Date, all liens and collateral securing the Assets and all proceeds of the foregoing (collectively, the "Purchased Rights"), but excluding (a) any and all rights and obligations with respect to Seller's administrative agent functions, (b) any cash interest paid prior to the Sale Date and (c) Undelivered Assets (as hereafter defined).

Other than the liabilities specifically set forth in (ii) above, Buyer is not assuming and is not liable for any obligations or liabilities of Seller arising prior to the Sale Date under the loan documents and other agreements relating to the Assets (the "Documents"), including, without limitation, any such obligations or liabilities arising from Seller's breach of any of its representations, warranties, covenants or agreements under the Documents, all of which unassumed obligations and liabilities shall remain the sole responsibility of Seller.

In addition, as consideration for the purchase rights granted to the Buyer by the Seller under this Agreement, Buyer agrees to pay to the Seller on October 1, 2004, a fee of $250,000 (two hundred fifty thousand dollars) (the "Transaction Fee").

The Buyer shall have the right at any time prior to the Expiration Time, by delivery to Seller of a written notice of exercise (the "Exercise Notice") to specify a date for closing (the "Sale Date") prior to the Expiration Time which (i) shall not be less than 5 (five) business days after delivery of the notice and (ii) shall not be earlier than September 30, 2004 unless the consummation of the BDC Offering is scheduled to close prior September 30, 2004. Seller agrees that if an Exercise Notice is given by 9:00 a.m. New York time on October 24, 2004, the Sale Date shall be October 29, 2004.

Notwithstanding the foregoing, to the extent the Exercise Notice is delivered in connection with the BDC Offering, the Sale Date shall be the date of the consummation of the BDC Offering; provided that the Sale Date shall not be later than October 29, 2004.

If no Exercise Notice is given by 9:00 a.m. New York time on Monday, October 24, 2004 (the "Expiration Time"), this Agreement will terminate in accordance with its terms.

Buyer shall not be entitled to any refund of the Transaction Fee under any termination event.

On the Sale Date, Buyer shall transfer to Seller, in immediately available funds, an amount (the "Cash Payment") equal to

(a) The sum of

(i) $148,409,000 (one hundred forty-eight million four hundred nine thousand dollars),

(ii) the aggregate amount of the increase, if any, after July 31, 2004 in Seller's funded amounts under the Revolving Credit Facilities,

(iii) the amount of any interest paid in kind rather than cash between October 1, 2004 and the Sale Date,

(iv) without duplication with (iii) above, the amount of any accrued and unpaid dividends on the preferred shares issued by York Label Holding, Inc. (the "York Preferred Shares") and the amount of accrued and unpaid interest (since the relevant dates on which the last interest payments were received) on the Assets (excluding accrued interest in respect of Revolving Credit Facilities and Senior Term Loans for which there is a third-party agent) from July 31, 2004 through the Sale Date,

(b) Less the sum of:

(i) amounts received by the Seller in respect of any Assets, other than Undelivered Assets (as defined below) prior to the Sale Date in respect of any (A) principal (other than in respect of the Revolving Credit Facilities), (B) interest payments made to the Seller in respect of amounts which had been recorded as interest paid in kind as of October 1, 2004, (C) return of capital in respect of equity investments, and (D) dividends received after the date hereof and prior to the Sale Date; *provided* that, the maximum amount of adjustment to the Cash Payment under this clause (b)(i) in respect of any particular Asset is the cash payment ascribed thereto on Exhibit A under the column entitled "Unadjusted Book Value" plus the amount ascribed to such Asset on Exhibit B under the heading "Additional Ascribed Amount" (collectively, the "Cash Adjustment Amount");

(ii) the Cash Adjustment Amount ascribed to any Asset, (A) for which any required consent to the transfer to Buyer from the issuer of the Asset, the administrative agent with respect thereto or any other person is not obtained prior to the Sale Date or (B) that has

been sold by the Seller in connection with a disposition of the company to which the Asset relates (collectively the "Undelivered Assets");

(iii) the aggregate amount of the decrease, if any, in Seller's funded amounts since July 31, 2004 under the Revolving Credit Facilities;

(iv) the Transaction Fee; and

(v) $250,000 times the percentage of which the Cash Adjustment Amount ascribed to the Undelivered Assets is of $150,658,000.

The amount of the Cash Payment equal to $148,409,000 prior to any adjustments under clauses (a)(ii)-(iv) and clauses (b)(i)-(iv) above is referred to herein as the "Unadjusted Cash Payment."

The Buyer and Seller agree to amend Exhibit A to reflect the adjustments to the Unadjusted Cash Payment required by this Agreement as of the Sale Date.

For greater certainty, with respect to (b)(ii)(A) above, Buyer shall continue to seek to obtain consent to the transfer of any Undelivered Asset for a period of 60 days following the Sale Date. Upon receipt of such consent, Buyer shall notify Seller thereof and the date upon which the sale of such Asset is to occur which shall be deemed to be the "Sale Date" in respect of such Asset. The Buyer shall pay to Seller in immediately available funds, the portion of the Purchase Price with respect thereto determined as of the new Sale Date and the Buyer and Seller shall enter into a sale agreement in respect thereof as of such date.

Buyer and Seller agree to work in good faith to determine the appropriate allocation to any particular Asset of the aggregate amounts under the heading "Additional Ascribed Amount" reflected on Exhibit B; *provided* that neither party shall be obligated to accept the other party's allocation. To the extent there is an Undelivered Asset, unless the parties otherwise agree, the Cash Payment shall be reduced by the Cash Adjustment Amount ascribed to such Asset determined on the basis of the allocation of the amounts under the heading "Additional Ascribed Amount" reflected in Exhibit B unless an agreement to the contrary is reached between the Buyer and Seller.

Additionally, with respect to either or both of the Berkline/Benchcraft and Universal Trailer Corporation assets, it is agreed that prior to the Sale Date the parties will work in good faith to adjust the Cash Adjustment Amount ascribed thereto as appropriate to reflect either (i) the anticipated proceeds from pending sales of such Assets or (ii) the termination of such pending sales. If no such agreement can be reached, such Assets shall be deemed to be Undelivered Assets and the Cash Payment shall be adjusted as per the prior paragraph.

For clarity, it is understood that accrued interest as of the Sale Date payable in respect of Revolving Credit Facilities and Senior Term Loans for which there is a third-party agent, will in accordance with the usual convention in respect of transfers of such assets, be paid or directed by the third-party agent to the Seller on the interest payment date immediately following the Sale Date.

From and after the date on which the Buyer has filed a prospectus for a BDC offering that has been revised from its initial filing on April 21, 2004, Seller and Buyer shall (i) use commercially reasonable efforts to obtain, and shall cooperate with Buyer in any efforts it makes to obtain, all such consents and acknowledgment letters as promptly as practicable, (ii) enter into an agreement or series of agreements, as required by the documents governing each security and customary for transactions of this nature and size. The form of agreement used will be dictated by the documents governing each security, and if not required to be in said form, will be substantially in a form customary for transactions of this nature prepared by Buyer and reasonably acceptable to Seller. Such agreements or series of agreements shall be executed and delivered on or before the Sale Date and pursuant thereto, Seller shall, effective as of the Sale Date, sell and assign to Buyer all of Seller's Interest in the Purchased Rights.

From and after the execution of this Agreement until the Expiration Time, Seller shall (i) enter into no agreement, arrangement or understanding with respect to any of the Assets or the Purchased Rights without Buyer's consent which may not be unreasonably withheld, (provided that nothing herein shall in any way restrict the Seller's ability to sell or otherwise dispose of any Asset in connection with a realization or recapitalization event led by the relevant equity sponsor; and, provided further that, if the Buyer does not provide its consent, the Seller may deem such Asset as an Undelivered Asset and the Cash Amount shall be adjusted as set out in this Agreement), (iii) immediately notify Buyer of any notice or inquiry it receives with respect to any of the Assets or the Purchased Rights, (iv) on reasonable notice and at reasonable times, afford Buyer and each and all of its officers, directors, employees, investment bankers, financial advisors, lenders, consultants and representatives full and free access to its personnel, properties, contracts, books and records, and all other documents and data relating to the Assets and the Purchased Rights, and (v) perform such further acts and execute such further documents and instruments as may be reasonably requested by Buyer in order to effectuate the transactions contemplated hereby.

Seller acknowledges that Buyer will make disclosure of information as required by applicable law in connection with the BDC Offering and agrees (without in any way limiting the Seller's rights under the Buyer's indemnity provided for on page 7 hereof) (i) that such disclosure shall in no way violate or be deemed to violate any provision of this Agreement and, accordingly, (ii) to take no action or otherwise make any claim against Buyer for making such disclosure.

Except as set out in the forgoing paragraph, Buyer agrees that until the time that Buyer becomes the holder of record for an Asset, Buyer shall keep confidential all information regarding such Asset and shall not disclose any such information to any other person, unless (i) Buyer complies with the confidentiality provisions contained in the credit agreement or other agreements between the investee company and the Seller relating to such Asset which have been delivered to the Buyer as of the date hereof, (ii) Buyer has obtained the prior written consent from the investee company under such Asset to the disclosure, or (iii) Buyer is compelled by a court of competent jurisdiction to make such disclosures.

After the Sale Date, Buyer agrees to make available to the Seller information relating to the performance record of the Assets arising after the Sale Date ("Post Sale Information") provided that:

(i) Buyer shall not be required to make available Post Sale Information if doing so would be contrary to applicable laws, rule, regulation or orders or would require Buyer to make public disclosure thereof under custom and practice in the industry or applicable securities laws;

(ii) Seller will keep Post Sale Information confidential except for disclosures that are both (A) made in accordance with applicable securities laws and in a manner that would not require Buyer to make public disclosure thereof under custom and practice in the industry or applicable securities laws; and (B) made on a confidential basis to recipients that agree not to use the information for any purpose other than to evaluate an investment in Seller or one of its affiliates or a fund managed by it;

(iii) Buyer may require certification from the Seller that Post Sale Information was used in accordance with the proviso in the preceding sentence; and

(iv) Buyer shall not have any responsibility for any data, records, reports or other information comprising the performance record of the Assets.

Seller hereby represents and warrants to Buyer that:

(a) Seller has good title to and is the sole owner of the Purchased Rights, free and clear of all liens, charges, interests, options, security interests, encumbrances, claims, or defects;

(b) None of the Purchased Rights are subject to any prior assignment, conveyance, transfer or participation or agreement to assign, convey, transfer or participate, in whole or in part, except pursuant to this Agreement;

(c) Seller has all requisite power and authority to execute and deliver, and to perform all of its obligations under, this Agreement and such execution, delivery and performance do not (i) violate any law, rule, regulation, order, writ or judgment or any of Seller's charter documents, (ii) require any authorizations, consents, or approvals from, registrations with, or notices to, any court, governmental agency or any other person, or (iii) result in the creation of any lien, charge, interest, option, security interest, encumbrance, claim, or defect upon the Purchased Rights;

(d) Seller is not in breach or default of any of its obligations under the Documents;

(e) To the Seller's knowledge, no other party is in breach or default of any of its obligations under the Documents, provided that, in this Agreement, "knowledge" shall mean the actual knowledge without due inquiry of the employees of RBC Capital Partners, a division of RBC;

(f) Seller has not engaged in any acts or omissions that would result in any portion of the Purchased Rights being subordinated, void, avoided, disallowed, reduced, expunged, or subject to setoff, recoupment, counterclaim, or any other defense, or that would result in Buyer receiving, in the aggregate, a proportionately smaller distribution, later distribution, or less favorable treatment in respect of the Purchased Rights than the distributions or treatment received by any other participant in the Assets;

(g) To the Seller's knowledge, the Seller is not an "insider," as that term is defined in Section 101 of the United States Bankruptcy Code, with respect to any of the issuers who have issued loans that make up a portion of the Assets;

(h) This Agreement is legal, valid and binding upon Seller in accordance with its terms; and

(i) Seller is a sophisticated institutional investor that is an "accredited investor" within the meaning of Rule 501 under the U.S. Securities Act of 1933, as amended.

Seller otherwise makes no other representations or warranties including any implied representations or warranties.

The Buyer acknowledges that it has conducted, to the extent it deemed necessary, an independent investigation of such matters, and has had the opportunity to receive such information and documents as, in its judgment, are necessary for it to make an informed investment decision, and has not relied upon the Seller for any investigation or assessment to evaluate the transaction contemplated hereby.

Buyer hereby represents and warrants to Seller that:

(a) As of the date hereof, Buyer intends to diligently and in good faith seek to complete its BDC Offering.

(b) Buyer has all requisite power and authority to execute and deliver, and to perform all of its obligations under, this Agreement and such execution, delivery and performance do not (i) violate any law, rule, regulation, order, writ or judgment or any of Buyer's charter documents or (ii) require any authorizations, consents, or approvals from, registrations with, or notices to, any court, governmental agency or any other person;

(c) This Agreement is legal, valid and binding upon Buyer in accordance with its terms; and

(d) As of the Sale Date, Buyer will be a sophisticated institutional investor that is an "accredited investor" within the meaning of Rule 501 under the U.S. Securities Act of 1933, as amended.

Buyer otherwise makes no other representations or warranties including any implied representations or warranties.

Buyer shall indemnify Seller from and against all actual losses, liabilities, damages, judgments, settlements and expenses incurred by Seller that arise out of any action, claim, suit or proceeding by any of the issuers of the Assets alleging a breach by Seller of its obligations to such issuer as a result of Buyer's disclosure of confidential information in the BDC Offering.

Seller shall give Buyer prompt notice of any third-party claim that may give rise to any indemnification obligation under this Agreement, together with the estimated amount of such claim, and Buyer shall have the right to assume the defense (at Buyer's expense) of any such claim through counsel of Buyer's own choosing by so notifying Seller within 30 days of the receipt by Buyer of such notice from Seller. If Buyer assumes such defense, Seller shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by Buyer, it being understood that Buyer shall control such defense. If Buyer chooses to defend or prosecute a third-party claim, Seller shall (i) cooperate in the defense or prosecution thereof, which cooperation shall include, to the extent reasonably requested by Buyer, the retention, and the provision to Buyer, of records and information reasonably relevant to such third-party claim, and making employees of Seller available on a mutually convenient basis to provide additional information and explanation of any materials provided hereunder and (ii) agree to any settlement, compromise or discharge of such third-party claim that Buyer may recommend and that, by its terms, discharges Seller from the full amount of liability in connection with such third-party claim. None of Seller nor any of its affiliates may settle or otherwise dispose of any claim for which Buyer may have a liability under this Agreement without the prior written consent of Buyer, which consent may be withheld in the sole discretion of Buyer. Buyer shall not be liable under this Agreement for any settlement, compromise or discharge effected without its consent in respect of any claim for which indemnity may be sought hereunder. Seller shall not take nor permit any of its affiliates to take any action the purpose or effect of which is to prejudice the defense of any claim subject to indemnification hereunder or to induce a third party to assert a claim subject to indemnification hereunder.

Each party shall execute and deliver all further documents or instruments reasonably requested by the other party in order to effectuate the terms of this Agreement. Without limiting the foregoing, if Buyer purchases the Purchased Assets and Seller receives any payments, distributions, proceeds, or other amounts or items in respect of the Purchased Assets on or after the Sale Date to which Buyer is entitled, including cash, securities, obligations, or other property, Seller shall (i) accept and hold such payments, distributions, or proceeds on behalf of, for the sole benefit of, and in trust for Buyer and (ii) pay or deliver the same forthwith to Buyer in the same form received and, when necessary or appropriate, with the endorsement of Seller.

This Agreement will be governed by and construed under the laws of the State of New York. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may be brought against any of the parties in the courts of the State of New York, or, if it has or can acquire jurisdiction, in the United States District Court for New York, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world.

Each of Seller and Buyer agrees that damages for any breach of this Agreement would be difficult to quantify and that, in addition to any and all other remedies at law or in equity, the non-breaching party shall be entitled to an injunction requiring specific enforcement of this Agreement and each of its terms without necessity of proving actual damages or posting a bond.

The Buyer shall pay any assignment fees required under the documents by which the Assets are governed. Buyer and the Seller shall each pay 50% all transfer taxes, stamping fees and similar

amounts (collectively "Transfer Amounts") which become due upon the sale of the Seller's Interest in the Assets to the Buyer (which, for greater certainty, shall not include income taxes payable by the Seller). However, if the aggregate Transfer Amounts exceed $200,000, either the Buyer or the Seller may, unless the other party agrees to pay the Transfer Amounts in excess of $200,000, elect to treat such Assets as Undelivered Assets but only to the extent necessary to reduce the aggregate Transfer Amounts below $200,000. The Assets to be selected as Undelivered Assets shall be subject to the agreement of the Seller and the Buyer failing which, the Asset with the highest amount of Transfer Amounts will be selected first and thereafter additional Assets will be selected in a descending order based on the amount of Transfer Amounts. The Cash Payment will be adjusted for such Undelivered Assets as set out in this Agreement.

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.

This Agreement may not be modified, waived, discharged, or terminated orally, but only by an instrument in writing signed by the parties hereto.

Buyer may assign, in its sole discretion, any or all of its rights and interests hereunder to any direct or indirect affiliate of Buyer; provided, however that Buyer shall remain subject to the obligations hereunder in the event such affiliate fails to perform. Seller's obligations are not assignable without Buyer's consent, which may not be unreasonably withheld.

If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, but this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

Your signature below shall signify your agreement with the foregoing. Please sign two copies of this Agreement, retaining one for your files and returning the other copy to Ares Capital Corporation at the address indicated above.

Very truly yours,

ARES CAPITAL CORPORATION

By: /s/ MICHAEL AROUGHETI

Name: Michael Arougheti
Title: President

Duly executed and agreed on September 16, 2004.

ROYAL BANK OF CANADA,
on behalf of itself and each of its affiliates,
including without limitation RBC Capital Partners

By: /s/ MARK STANDISH

Name: Mark Standish
Title: Managing Director—Head, Global Financial Products

By: /s/ ALAN R. HIBBEN

Name: Alan R. Hibben
Title: Chief Executive Officer—RBC Capital Partners

QuickLinks

Exhibit (k)(6)

Exhibit (k)(7)

September , 2004

Ares Capital Management LLC
1999 Avenue of the Stars
Suite 1900
Los Angeles, California 90067

Re: Repayment of Sales Load Advance

Gentlemen:

In connection with your agreement to pay an additional 1.5% sales load to the underwriters on our behalf in connection with the initial public offering (the "IPO") of Ares Capital Corporation ("ARCC"), we hereby agree as follows:

1. The amount paid by you (ranging from $3,825,000 to $4,398,750 depending on whether the underwriters exercise their over-allotment option in full) (the "Advanced Amount") shall bear interest on the basis of actual days elapsed in a 360-day year of twelve 30-day months, at a rate of interest equal to London interbank offered rate ("LIBOR") for U.S. dollar deposits for three months plus 2.00% per annum, compounded quarterly, until the Advanced Amount, together with accrued and unpaid interest (the "Final Amount"), is repaid in full. For purposes of calculating interest hereunder, LIBOR for any interest accrual period shall equal the rate, as determined by the Adviser, for U.S. dollar deposits for three months which appears on the Telerate Page 3750 (as defined in the 1987 Interest Rate and Currency Exchange Definitions published by the International Swap Dealers Association, Inc., or such other page as may replace such Telerate Page 3750) as of 11:00 a.m. (London time) on the applicable LIBOR Determination Date, as reported by Bloomberg Financial Markets Commodities News. "LIBOR Determination Date" means, with respect to any Interest Accrual Period, the second business day prior to the first day of such Interest Accrual Period. "Interest Accrual Period" means the period commencing on the date you receive the Advanced Amount (or the date of the next successive Interest Accrual Period) and ending on the date that is three months thereafter.

2. No later than two business days after a Payment Event (defined below) has been determined to have occurred, we will pay you the Final Amount. In the event of any liquidation, dissolution or winding up of ARCC, the Final Amount will be paid to you prior to the distribution of any assets to the holders of ARCC's common stock. All payments in respect of the Final Amount shall be made to you in U.S. dollars, by cash or by wire transfer of immediately available funds.

3. A Payment Event means the occurrence of one or more of the following events:

   (a) if during any four calendar quarter period ending on or after the one year anniversary of the date of the closing of the IPO, the sum of (i) ARCC's aggregate distributions to its stockholders and (ii) ARCC's change in net assets (defined as total assets less indebtedness) equals or exceeds 7.0% of ARCC's net assets at the beginning of such period (as adjusted for any share issuances or repurchases) or

   (b) upon any liquidation, dissolution or winding up of ARCC.

4. The rights and obligations of ARCC hereunder shall be binding upon ARCC and its successors in interest and shall inure to the benefit of you and your successors, assigns, and transferees. Neither party may assign this letter agreement without the consent of the other party hereto.

5. This Agreement will be governed by and construed under the laws of the State of New York. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this

Agreement may be brought against any of the parties in the courts of the State of New York, or, if it has or can acquire jurisdiction, in the United States District Court for New York, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world.

6. This letter agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this letter agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

7. This letter agreement may not be modified, waived, discharged, or terminated orally, but only by an instrument in writing signed by the parties hereto.

8. If any provision of this letter agreement shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, but this letter agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

Your signature below shall signify your agreement with the foregoing. Please sign two copies of this Agreement, retaining one for your files and returning the other copy to Ares Capital Corporation.

Very truly yours,

ARES CAPITAL CORPORATION

By: _____

Name:
Title:

Duly executed and agreed on September , 2004.

ARES CAPITAL MANAGEMENT, LLC

By: _____

Name:
Title:

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Exhibit (k)(7)

Exhibit (l)

[LETTERHEAD OF VENABLE LLP]

September 28, 2004

Ares Capital Corporation
Suite 1900
1999 Avenue of the Stars
Los Angeles, California 90067

Re: Registration Statement on Form N-2:
File No.: 333-114656

Ladies and Gentlemen:

We have served as special Maryland counsel to Ares Capital Corporation, a Maryland corporation (the "Company"), and a business development company under the Investment Company Act of 1940, as amended (the "1940 Act"), in connection with certain matters of Maryland law arising out of the registration of shares (the "Shares") of common stock, $.001 par value per share (the "Common Stock"), of the Company to be issued in an underwritten initial public offering, covered by the above-referenced Registration Statement, and all amendments thereto (the "Registration Statement"), filed by the Company with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "1933 Act"). Unless otherwise defined herein, capitalized terms used herein shall have the meanings assigned to them in the Registration Statement.

In connection with our representation of the Company, and as a basis for the opinion hereinafter set forth, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents (hereinafter collectively referred to as the "Documents"):

1. The Registration Statement and the form of prospectus included therein, substantially in the form transmitted to the Commission under the 1933 Act;

2. The charter of the Company, certified as of a recent date by the State Department of Assessments and Taxation of Maryland (the "SDAT");

3. The form of Articles of Amendment and Restatement of the Company to be filed with the SDAT prior to the issuance of the Shares (the "New Charter"), certified as of the date hereof by an officer of the Company;

4. The Bylaws of the Company, certified as of the date hereof by an officer of the Company;

5. A certificate of the SDAT as to the good standing of the Company, dated as of a recent date;

6. Resolutions adopted by the Board of Directors of the Company (the "Resolutions") relating to the authorization of the sale and issuance of the Shares, certified as of the date hereof by an officer of the Company;

7. A certificate executed by an officer of the Company, dated as of the date hereof; and

8. Such other documents and matters as we have deemed necessary or appropriate to express the opinion set forth below, subject to the assumptions, limitations and qualifications stated herein.

In expressing the opinion set forth below, we have assumed the following:

1. Each individual executing any of the Documents, whether on behalf of such individual or any other person, is legally competent to do so.

2. Each individual executing any of the Documents on behalf of a party (other than the Company) is duly authorized to do so.

3. Each of the parties (other than the Company) executing any of the Documents has duly and validly executed and delivered each of the Documents to which such party is a signatory, and such

party's obligations set forth therein are legal, valid and binding and are enforceable in accordance with all stated terms.

4. All Documents submitted to us as originals are authentic. The form and content of all Documents submitted to us as unexecuted drafts do not differ in any respect relevant to this opinion from the form and content of such Documents as executed and delivered. All Documents submitted to us as certified or photostatic copies conform to the original documents. All signatures on all such Documents are genuine. All public records reviewed or relied upon by us or on our behalf are true and complete. All representations, warranties, statements and information contained in the Documents are true and complete. There has been no oral or written modification of or amendment to any of the Documents, and there has been no waiver of any provision of any of the Documents, by action or omission of the parties or otherwise.

5. Prior to the issuance of the Shares, (a) the New Charter will have been filed with, and accepted for record by, the SDAT and (b) the Board of Directors, or a duly authorized committee thereof, will determine the number, and certain terms of issuance, of such Shares (the "Corporate Proceedings").

Based upon the foregoing, and subject to the assumptions, limitations and qualifications stated herein, it is our opinion that:

1. The Company is a corporation duly incorporated and existing under and by virtue of the laws of the State of Maryland and is in good standing with the SDAT.

2. Upon completion of the Corporate Proceedings, the issuance of the Shares will have been duly authorized and, when and if delivered against payment therefor in accordance with the New Charter, the Registration Statement, the Resolutions and the Corporate Proceedings, the Shares will be (assuming that, upon any issuance of the Shares, the total number of shares of Common Stock issued and outstanding will not exceed the total number of shares of Common Stock that the Company is then authorized to issue under the New Charter) validly issued, fully paid and nonassessable.

The foregoing opinion is limited to the substantive laws of the State of Maryland and we do not express any opinion herein concerning any other law. We express no opinion as to compliance with federal or state securities laws, including the securities laws of the State of Maryland, or the 1940 Act.

The opinion expressed herein is limited to the matters specifically set forth herein and no other opinion shall be inferred beyond the matters expressly stated. We assume no obligation to supplement this opinion if any applicable law changes after the date hereof or if we become aware of any fact that might change the opinion expressed herein after the date hereof.

This opinion is being furnished to you for submission to the Commission as an exhibit to the Registration Statement. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the 1933 Act.

Very truly yours,

/s/ VENABLE LLP

QuickLinks

Exhibit (l)

Exhibit (r)

CODE OF ETHICS
OF
ARES CAPITAL CORPORATION
AND
ARES CAPITAL MANAGEMENT LLC

(As Adopted and Effective September 27, 2004)

SECTION I. STATEMENT OF PURPOSE AND APPLICABILITY

Ares Capital Corporation (the "Company") is regulated as a business development company under the Investment Company Act of 1940 (the "Act") and subject to Rule 17j-1 under the Act (the "Rule"). The Rule makes it unlawful for any Affiliated Person of the Company or its investment adviser, Ares Capital Management LLC (the "Adviser"), in connection the purchase or sale, directly or indirectly, by such Affiliated 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 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;

(3) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit on the Company; or

(4) To engage in any manipulative practice with respect to the Company.

In accordance with the Rule, the Company and the Adviser have adopted this Code of Ethics containing provisions they deem reasonably necessary to prevent those of their Affiliated Persons who are Access Persons from engaging in any of such prohibited acts.

SECTION II. DEFINITIONS

(A) " *Access Person* " means any director, officer, member or Advisory Person of the Company or the Adviser.

(B) " *Advisory Person of the Company or the Adviser* " means:

(i) any employee of the Company or the Adviser (or of any company in a Control relationship to the Company or the Adviser), who in connection with his or her regular functions or duties makes, participates in, or obtains information regarding the purchase or sale of Covered Securities 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 the Adviser who obtains information concerning recommendations made to the Company with regard to the purchase or sale of any Covered Security by the Company.

(C) " *Affiliated Person* " of another person means:

(i) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person;

(ii) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with 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 officer, director, partner, copartner, or employee of such other person;

(v) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof; and

(vi) if such other person is an unincorporated investment company not having a board of directors, the depositor thereof.

(D) " *Beneficial Ownership* " means beneficial ownership determined pursuant to Rule 16a-1(a)(2) under the Securities Exchange Act of 1934 (the "1934 Act").

(E) " *Control* " means the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control such company. Any person who does not so own more than 25% of the voting securities of any company shall be presumed not to control such company. A natural person shall be presumed not to be a controlled person. Any such presumption may be rebutted by evidence in accordance with Section 2(a)(9) of the Act.

(F) " *Covered Security* " means a Security, except that such term does not include:

(i) direct obligations of the Government of the United States;

(ii) bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements; or

(iii) shares issued by open-end investment companies registered under the Act.

(G) " *Designated Officer* " means the officer of the Company designated from time to time by its Board of Directors to be responsible for overseeing compliance with this Code of Ethics: *provided* , that the President of the Company may from time to time designate another officer of the Company to act on behalf of the Designated Officer during periods when the Designated Officer is absent or disabled, and during such periods the term "Designated Officer" shall mean such other officer.

(H) " *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 Act.

(I) " *employee of the Company or the Adviser* " means:

(i) any employee of the Company or the Adviser; and

(ii) any employee of Ares Technical Administration LLC who provides services to the Company or the Adviser similar to those that would be provided by an employee described in clause (i) above.

(J) " *Initial Public Offering* " means an offering of securities registered under the Securities Act of 1933 (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.

(K) " *Investment Personnel* " means:

(i) any employee of the Company or the Adviser (or of any company in a Control relationship to the Company or the 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; and

(ii) any natural person who Controls the Company or the Adviser and obtains information concerning recommendations made to the Company with regard to the purchase or sale of securities by the Company.

(L) " *Limited Offering* " means an offering that is exempt from registration under the 1933 Act pursuant to Section 4(2) or Section 4(6) thereof or pursuant to Rule 504, Rule 505, or Rule 506 thereunder.

(M) " *purchase or sale of a Covered Security* " includes, among other things, the writing of an option to purchase or sell a Covered Security.

(N) " *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, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

(O) " *Security Held or to be Acquired by the Company* " means:

(i) any Covered Security which, within the most recent 15 days: (A) is or has been held by the Company; or (B) is being or has been considered by the Company or the Adviser for purchase by the Company; and

(ii) any option to purchase or sell, and any security convertible into or exchangeable for, a Covered Security described in clause (i) above.

(P) " *Third Party Account* " means an account in which a Covered Security is held for the benefit of any individual or entity other than the Company with respect to which an Access Person exercises investment discretion or provides investment advice.

SECTION III. STANDARDS OF CONDUCT

(A) *General Standards* .

(1) No Access Person shall, in breach of any fiduciary duty he or she owes to the Company and its stockholders:

(a) engage, directly or indirectly, in any business investment in a manner detrimental to the Company; or

(b) use confidential information gained by reason of his or her employment by or affiliation with the Company in a manner detrimental to the Company.

(2) At the time that an Access Person recommends or authorizes the purchase or sale of a Covered Security by the Company, he or she shall disclose to the Designated Officer:

(a) any Beneficial Ownership in such Covered Security that he or she has or proposes to acquire;

(b) any interest he or she has or proposes to acquire in any Third Party Account in which such Covered Security is held; and

(c) any interest in or relationship with the issuer of such Covered Security that he or she has or proposes to acquire.

(3) Each Access Person must conduct his or her personal securities transactions in a manner that is consistent with this Code of Ethics and that will avoid an abuse of the Access Person's position of trust and responsibility within the Company or the Adviser.

(B) *Prohibited Transactions* .

(1) *General Prohibition* . Unless an Access Person shall have obtained prior approval from the Designated Officer, no Access Person shall purchase or sell (or otherwise acquire or dispose of) direct or indirect Beneficial Ownership of any Covered Security if, at the time of such

transaction, such Access Person knows or should have known such Covered Security is a Security Held or to be Acquired by the Company.

If an Access Person becomes aware that the Company is considering the purchase or sale of a Covered Security, the Access Person must promptly notify the Designated Officer of:

(a) any interest that he or she has in any outstanding Covered Security of the same issuer; and

(b) any other interest in or relationship with the issuer that he or she has or proposes to acquire.

(2) *Gifts* . No Access Person may accept any gift, favor, or service from any person with whom he or she transacts business on behalf of the Company, if to do so would conflict with the Company's best interests or would impair the ability of such Access Person to be completely disinterested when required, in the course of business, to make judgments and/or recommendations on behalf of the Company.

(3) *Initial Public Offerings and Limited Offerings* . Investment Personnel must obtain approval from the Company or the Adviser before directly or indirectly acquiring Beneficial Ownership in any Securities in an Initial Public Offering or Limited Offering. Such approval may be obtained from the Designated Officer, or, if the Designated Officer is the person whose acquisition requires such approval, from the President of the Company or the Adviser.

SECTION IV: PROCEDURES TO IMPLEMENT CODE OF ETHICS

The following reporting, review and record keeping procedures have been established to assist in the avoidance of a violation of this Code of Ethics and to assist the Company in preventing, detecting, and imposing sanctions for violations of this Code of Ethics. Questions regarding these procedures should be directed to the Designated Officer.

(A) *Reports to be Filed by Access Persons*

(1) Except as set forth in Section IV(B) below, each Access Person of the Company or Adviser must complete, sign and file with the Designated Officer:

(a) *Initial Holdings Report* . Not later than 10 days after he or she becomes an Access Person of the Company or the Adviser: an Initial Report of Covered Security Holdings in the form of Schedule I hereto.

(b) *Quarterly Transaction Reports* . Not later than 10 days after the end of each calendar quarter: a Quarterly Report of Covered Security Transactions in the form of Schedule II hereto.

(c) *Annual Holdings Reports* . Not later than 30 days after the end of each fiscal year of the Company: an Annual Report of Covered Security Holdings in the form of Schedule III hereto.

(2) *Confirmations and Account Statements* . Each Access Person (other than Disinterested Directors) must direct each broker, dealer, or bank at which he or she maintains an account in which securities are or were held for the direct or indirect benefit of such Access Person, to provide to the Designated Officer duplicate trade confirmations of all transactions and copies of accurate statements for each such account.

(3) *Disclaimer of Beneficial Ownership* . Any Access Person may at any time or from time to time deliver to the Designated Officer a statement that his or her filing of any report hereunder or the delivery on his or her behalf of any duplicate trade confirmation or account statement required hereunder shall not be construed as an admission by such Access Person that he or she has any direct or indirect Beneficial Ownership in the Covered Security to which such report or such duplicate trade confirmation or account statement relates.

(4) *Review of Reports* . The Designated Officer shall review the reports filed, and duplicate trade confirmations and account statements delivered, under this Code of Ethics to determine whether any transactions disclosed therein constitute a violation of this Code of Ethics. Before making any determination that a violation has been committed by any Access Person, the Designated Officer shall afford the Access Person an opportunity to supply additional explanatory material.

(B) *Exceptions From Reporting Requirements*

(1) A person need not make a report under Section IV(A) with respect to a Covered Security held in, or transactions effected for, 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 of the Company need not make:

(a) an initial holding report pursuant to Section IV(A)(1)(a) or any annual holdings reports pursuant to Section IV(A)(1)(c), and

(b) a quarterly transaction report pursuant to Section IV(A)(1)(b) unless he or she knew or, in the ordinary course of fulfilling his or her duties as a director, should have known that during the 15 day period immediately before or after the director's transaction in a Covered Security, the Company purchased or sold, or the Company or the Adviser considered purchasing or selling, the Covered Security.

(3) An Access Person the Adviser need not make a quarterly transaction report if all the information in the report would duplicate information required to be recorded under Rules 204-2(a)(12) or (13) under the Investment Advisers Act.

(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 Designated Officer in the time period required, if all of the information required is contained in the broker trade confirmations or account statements, or in the records of the Company or the Adviser.

(C) *Obligation to Report Violations* . Every Access Person who becomes aware of a violation of this Code of Ethics must report it to the Designated Officer, who shall report it to appropriate management personnel of the Company and the Adviser. The management personnel to whom a violation is reported will take such disciplinary action that they consider appropriate under the circumstances. The Board of Directors of the Company must be notified, in a timely manner, of remedial action taken with respect to violations of the Code of Ethics.

(D) *Company Reports* . No less often than annually, the Company and the Adviser must furnish to the Company's Board of Directors, and the Board of Directors must consider, a written report that:

(1) describes any issues arising under this Code of Ethics or the related procedures since the last report to the Board of Directors, including but not limited to, information about material violations of this Code of Ethics or related procedures and sanctions imposed in response to the material violations; and

(2) certifies that the Company and the Advisor have each adopted procedures reasonably necessary to prevent Access Persons from violating this Code of Ethics.

(E) *Records* . The Company shall maintain records with respect to this Code of Ethics in the manner and to the extent set forth below, which records may be maintained on microfilm under the conditions described in Rule 31a-2(f)(1) under the Act, and shall be available for examination by the Securities and Exchange Commission (the "SEC") or any representative of the SEC at any time and from time to time for reasonable periodic, special, or other examination.

(1) A copy of this Code of Ethics 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 of Ethics, and of any action taken as a result of such violation shall be preserved in an easily accessible place for at least five years after the end of the fiscal year in which the violation occurs.

(3) A copy of each report made by an Access Person as required by the Rule or pursuant to this Code of Ethics, including any information provided in lieu of the reports under paragraph (d)(2)(v) of the Rule, shall be maintained for at least five years after 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 within the past five years who are or were required to make reports pursuant to paragraph (d) of the Rule or this Code of Ethics, or who are or were responsible for reviewing those reports, shall be maintained in an easily accessible place.

(5) A record of any decision, and the reasons supporting the decision, to approve the acquisition by investment personnel of securities in an Initial Public Offering or in a Limited Offering shall be maintained for at least five years after the end of the fiscal year in which such acquisition is approved.

(G) *Confidentiality* . All reports, duplicate trade confirmations, account statements and other information filed or delivered to the Designated Officer or furnished to any other person pursuant to this Code of Ethics shall be treated as confidential, but are subject to review as provided herein and by representatives of the SEC.

SECTION V. SANCTIONS

Upon determination that a violation of this Code of Ethics has occurred, the appropriate management personnel of the Company or the Adviser may impose such sanctions as they deem appropriate, including, among other things, a letter of censure or suspension or termination of the employment of the violator. Violations of this Code of Ethics and any sanctions imposed with respect thereto shall be reported in a timely manner to the Board of Directors of the Company.

SECTION VI. ACKNOWLEDGEMENT OF RECEIPT AND ANNUAL CERTIFICATION OF COMPLIANCE

Upon becoming an Access Person and annually thereafter, each Access Person shall sign and deliver to the Designated Officer an acknowledgement of receipt and certification of compliance with this Code of Ethics in the form attached hereto as Exhibit A.

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