

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the fiscal year ended December 31, 2016**

**OR**

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from        to**

**Commission file number: 814-00939**

**HMS Income Fund, Inc.**

*(Exact Name of Registrant as Specified in Its Charter)*

**Maryland**

*(State or Other Jurisdiction of Incorporation or Organization)*

**45-3999996**

*(I.R.S. Employer Identification No.)*

**2800 Post Oak Boulevard Suite 5000 Houston, Texas**

*(Address of Principal Executive Offices)*

**77056-6118**

*(Zip Code)*

**(888) 220-6121**

*(Registrant's telephone number, including area code)*

**Securities registered pursuant to Section 12(b) of the Act: None.**

**Securities registered pursuant to Section 12(g) of the Act: Common Stock, par value \$.001**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405) is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐

Accelerated filer ☐

Non-accelerated filer ☒  
(Do not check if a smaller reporting company)

Smaller reporting Company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

There is no established market for the Registrant's shares of common stock. The Registrant is currently conducting an ongoing public offering of its shares of common stock pursuant to a registration statement on Form N-2 (File No. 333-204659) (the "Registration Statement"), which shares are currently being offered and sold at a price of \$9.30 per share, with discounts available for certain categories of purchasers, or at a price necessary to ensure that shares are not sold at a price, after deduction of selling commissions and dealer manager fees, that is below net asset value ("NAV") per share.

As of March 3, 2017, there were 75,593,520 shares of the Registrant's common stock outstanding.

#### **DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the Registrant's definitive Proxy Statement relating to the Registrant's 2017 Annual Meeting of Stockholders, to be filed with the Securities and Exchange Commission (the "SEC") pursuant to Regulation 14A within 120 days following the end of the Registrant's fiscal year ended December 31, 2016, are incorporated by reference into Part III of this annual report on Form 10-K as indicated herein.

## TABLE OF CONTENTS

| <b>PART I</b>     |   |     |
|-------------------|---|-----|
| <b>Item 1.</b>    | Business.   | 5   |
| <b>Item 1A.</b>   | Risk Factors.   | 18  |
| <b>Item 1B.</b>   | Unresolved Staff Comments.  | 37  |
| <b>Item 2.</b>    | Properties.   | 37  |
| <b>Item 3.</b>    | Legal Proceedings.  | 37  |
| <b>Item 4.</b>    | Mine Safety Disclosures.  | 37  |
| <b>PART II</b>    |   |     |
| <b>Item 5.</b>    | Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities. | 38  |
| <b>Item 6.</b>    | Selected Financial Data.  | 40  |
| <b>Item 7.</b>    | Management's Discussion and Analysis of Financial Condition and Results of Operations.                        | 42  |
| <b>Item 7A.</b>   | Quantitative and Qualitative Disclosures About Market Risk.   | 60  |
| <b>Item 8.</b>    | Financial Statements and Supplementary Data.  | 61  |
| <b>Item 9.</b>    | Changes in and Disagreements With Accountants on Accounting and Financial Disclosure.                         | 116 |
| <b>Item 9A.</b>   | Controls and Procedures.  | 116 |
| <b>Item 9B.</b>   | Other Information.  | 117 |
| <b>PART III</b>   |   |     |
| <b>Item 10.</b>   | Directors, Executive Officers and Corporate Governance.   | 118 |
| <b>Item 11.</b>   | Executive Compensation.   | 118 |
| <b>Item 12.</b>   | Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.               | 118 |
| <b>Item 13.</b>   | Certain Relationships and Related Transactions, and Director Independence.                                    | 118 |
| <b>Item 14.</b>   | Principal Accounting Fees and Services.   | 118 |
| <b>PART IV</b>    |   |     |
| <b>Item 15.</b>   | Exhibits, Financial Statement Schedules.  | 119 |
| <b>Signatures</b> |   | 123 |

## PART I

### Special Note Regarding Forward-Looking Statements

*Statements in this Annual Report on Form 10-K (this “Form 10-K”) that are not historical facts (including any statements concerning investment objectives, economic updates, other plans and objectives of management for future operations or economic performance, or assumptions or forecasts related thereto) are forward-looking statements. These statements are only predictions. We caution that forward-looking statements are not guarantees. Actual events or our investments and results of operations could differ materially from those expressed or implied in the forward-looking statements. Forward-looking statements are typically identified by the use of terms such as “may,” “should,” “expect,” “could,” “intend,” “plan,” “anticipate,” “estimate,” “believe,” “continue,” “predict,” “potential” or the negative of such terms and other comparable terminology.*

*The forward-looking statements in this Form 10-K are based on our current expectations, plans, estimates, assumptions and beliefs that involve numerous risks and uncertainties. Assumptions relating to the foregoing involve judgments with respect to, among other things, future economic, competitive and market conditions and future business decisions, all of which are difficult or impossible to predict accurately and many of which are beyond our control. Any of the assumptions underlying forward-looking statements could be inaccurate. To the extent that our assumptions differ from actual results, our ability to meet such forward-looking statements, including our ability to generate positive cash flow from operations, provide distributions to our stockholders and maintain the value of the investments in which we hold an interest, may be significantly hindered.*

*Our stockholders are cautioned not to place undue reliance on any forward-looking statement in this Form 10-K. All forward-looking statements are made as of the date of this Form 10-K, and the risk that actual results will differ materially from the expectations expressed in this Form 10-K may increase with the passage of time. In light of the significant uncertainties inherent in the forward-looking statements in this Form 10-K, the inclusion of such forward-looking statements should not be regarded as a representation by us or any other person that the objectives and plans set forth in this Form 10-K will be achieved. We expressly disclaim any responsibility to update forward-looking statements, whether a result of new information, future events or otherwise, except as required by law. The forward-looking statements and projections contained in this Form 10-K are excluded from the safe harbor protection provided by Section 27A of the Securities Act of 1933, as amended (the “Securities Act”). Please see “Item 1A. Risk Factors” for a discussion of some of the risks and uncertainties that could cause actual results to differ materially from those presented in certain forward-looking statements.*

### Forward-Looking Statements

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

- our future operating results;
- our business prospects and the prospects of our current and prospective portfolio companies;
- the impact of the investments that we expect to make;
- the ability of our portfolio companies to achieve their objectives;
- our expected financings and investments;
- the adequacy of our cash resources and working capital;
- the timing of cash flows, if any, from the operations of our portfolio companies;
- changes in political, economic or industry conditions, the interest rate environment or conditions affecting the financial and capital markets, which could result in changes to the value of our assets;
- the impact of increased competition;
- our contractual arrangements and relationships with third parties;
- the dependence of our future success on the general economy, including general economic trends, and its impact on the industries in which we invest;
- the relative and absolute performance of our investment adviser, including in identifying suitable investments for us;
- our ability to make distributions to our stockholders;
- the effects of applicable legislation and regulations and changes thereto; and
- the impact of future acquisitions and divestitures.

Our actual results could differ materially from those implied or expressed in the forward-looking statements for any reason, including the factors set forth in “Item 1A. Risk Factors” and elsewhere in this Report. Other factors that could cause actual results to differ materially include:



- changes in the economic and political conditions;
- risks associated with possible disruption in our operations or the economy generally
- future changes in laws or regulations and conditions in our operating areas.

You are advised to consult any additional disclosures that we may make directly to you or through reports that we in the future may file with the SEC, including annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K. The forward-looking statements and projections contained in this Report are excluded from the safe harbor protection provided by Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

## **Item 1. Business**

### ***Organization***

HMS Income Fund, Inc. (the “Company”) was formed as a Maryland corporation on November 28, 2011 under the General Corporation Law of the State of Maryland. The Company is an externally managed, non-diversified closed-end investment company that has elected to be treated as a business development company (“BDC”) under the Investment Company Act of 1940, as amended (the “1940 Act”). The Company has elected to be treated for U.S. federal income tax purposes as a regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended (the “Code”).

Our primary investment objective is to generate current income through debt and equity investments. A secondary objective is to generate long-term capital appreciation through equity and equity related investments including warrants, convertible securities and other rights to acquire equity securities. Our portfolio strategy is to invest primarily in illiquid debt and equity securities issued by lower middle market (“LMM”) companies, which generally have annual revenues between \$10 million and \$150 million, and middle market (“Middle Market”) companies that are generally larger in size than the LMM companies. Our Middle Market investments are made in businesses that are generally larger in size than our LMM portfolio companies, with annual revenues typically between \$10 million and \$3 billion. Our LMM and Middle Market portfolio investments generally range in size from \$1 million to \$15 million. The Company categorizes some of its investments in LMM companies and Middle Market companies as private loan (“Private Loan”) portfolio investments. Private Loan investments, often referred to in the debt markets as “club deals,” are investments, generally in debt instruments, that we originate on a collaborative basis with other investment funds. Private Loan investments are typically similar in size, structure, terms and conditions to investments we hold in our LMM portfolio and Middle Market portfolio. Our portfolio also includes other portfolio (“Other Portfolio”) investments primarily consisting of investments managed by third parties, which differ from the typical profiles for our LMM, Middle Market, or Private Loan investments.

We previously registered for sale up to 150,000,000 shares of common stock pursuant to a registration statement on Form N-2 (File No. 333-178548) which was initially declared effective by the SEC on June 4, 2012 (the “Initial Offering”). The Initial Offering terminated on December 1, 2015. We raised approximately \$601.2 million under the Initial Offering, including proceeds from the distribution reinvestment plan of approximately \$22.0 million. We also registered for sale up to 1,500,000,000 worth of shares of common stock (the “Offering”) pursuant to the Registration Statement, as amended, most recently declared effective on October 6, 2016. As of December 31, 2016, we had raised approximately \$105.4 million in the Offering, including proceeds from the distribution reinvestment plan of approximately \$24.8 million.

On February 22, 2017, the board of directors, after determining that it would be in the best interests of us and our stockholders, decided to continue our Offering until September 30, 2017 and authorized the closing of our Offering to new investors (the “Closing”) to occur on or about such date. The board of directors previously authorized the Closing to occur on or about March 31, 2017, subject to the board of directors’ final approval. The board of directors retained its right to provide final approval on the specific terms of the Closing, including its right to accelerate the Closing or to further continue our Offering if the board of directors determines that it is in the best interests of us and our stockholders to do so.

Our wholly owned subsidiaries, HMS Funding I LLC (“HMS Funding”) and HMS Equity Holding, LLC (“HMS Equity Holding”), were both organized as Delaware limited liability companies in 2014. Our wholly owned subsidiary, HMS Equity Holding II, Inc., (“HMS Equity Holding II”) was organized as a Delaware corporation in 2016. HMS Funding was created pursuant to the Capital One Credit Facility (as defined below) in order to function as a “Structured Subsidiary,” which is permitted to incur debt outside of the Capital One Credit Facility since it is not a guarantor under the Capital One Credit Facility. HMS Equity Holding, which has elected to be a taxable entity, primarily holds equity investments in portfolio companies which are “pass through” entities for tax purposes. HMS Equity Holding II, which has elected to be a taxable entity, holds an equity investment in a portfolio company which is a “pass through” entity for tax purposes.

The business of the Company is managed by HMS Adviser LP (the “Adviser”), a Texas limited partnership and affiliate of Hines Interests Limited Partnership (“Hines”), under an Investment Advisory and Administrative Services Agreement dated May 31, 2012, as amended (the “Investment Advisory Agreement”). Under the Investment Advisory Agreement, the Adviser does not earn any profit under its provision of administrative services to the Company. The Company and the Adviser have retained MSC Adviser I, LLC (the “Sub-Adviser”), a wholly owned subsidiary of Main Street Capital Corporation (“Main Street”), a New York Stock Exchange listed-BDC, as the Company’s investment sub-adviser under an Investment Sub-Advisory Agreement (the “Sub-Advisory Agreement”) to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by the Adviser, monitor the Company’s investment portfolio and provide certain ongoing administrative services to the Adviser. The Adviser and Sub-Adviser are collectively referred to as the “Advisers,” and each is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the “Advisers Act”). Upon the execution of the Sub-Advisory Agreement, Main Street became an affiliate of the Company. The Company has engaged Hines Securities, Inc. (the “Dealer Manager”), an affiliate of the Adviser, to serve as the Dealer Manager for the Offering. The Dealer Manager is responsible for marketing the Company’s common stock.

We refer to HMS Income Fund, Inc. as the “Company,” and the use of “we,” “our,” “us” or similar pronouns in this Form 10-K refers to HMS Income Fund, Inc. or the Company as required by the context in which such pronoun is used.

### ***Employees***

We do not have any direct employees, and our day-to-day investment operations are managed by our Adviser, which is also our administrator. Our executive officers consist of a president and chief executive officer, a chief financial officer and secretary and a chief accounting officer and treasurer, all of whom are employees of Hines.

### ***Corporate Information***

Our executive offices are located at 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118, and our telephone number is 1-888-220-6121. We make available all of our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to such reports free of charge on our internet website at [www.hinessecurities.com/bdcs/hms-income-fund/](http://www.hinessecurities.com/bdcs/hms-income-fund/) as soon as reasonably practical after such material is electronically filed with or furnished to the SEC. These reports are also available on the SEC’s internet website at [www.sec.gov](http://www.sec.gov). The public may also read and copy paper filings that we have made with the SEC at the SEC’s Public Reference Room, located at 100 F Street, NE, Washington, D.C. 20549. Information on the operation of the Public Reference Room may be obtained by calling (800) SEC-0330. Information contained on our website is not incorporated by reference into this Form 10-K and stockholders should not consider information contained on our website to be part of this Form 10-K.

### ***Overview of our Business***

As of December 31, 2016, we had 75 debt investments in 71 Middle Market portfolio companies with an aggregate fair value of approximately \$638.4 million and a total cost basis of approximately \$658.8 million, and five equity investments in four Middle Market portfolio companies with an aggregate fair value of approximately \$5.1 million and a total cost basis of approximately \$4.7 million. As of December 31, 2016, 82.0% of our Middle Market debt investments were secured by first priority liens. Our Middle Market portfolio investments have an average investment size of \$8.0 million and have a weighted average annual effective yield of approximately 8.8%. The Middle Market debt investments generally have floating interest rates at a London Interbank Offered Rate (“LIBOR”) plus a premium, subject to LIBOR floors, and have an average term of three to seven years.

As of December 31, 2016, we had 29 debt investments in 22 LMM portfolio companies with an aggregate fair value of approximately \$78.4 million, and a total cost basis of approximately \$78.0 million, and 28 equity investments in 22 LMM portfolio companies with an aggregate fair value of approximately \$37.6 million, and a total cost basis of approximately \$31.2 million. Our LMM debt investments generally have terms of five to seven years, with limited required amortization prior to maturity, and provide for monthly or quarterly payment of interest. We typically structure our LMM debt investments with the maximum seniority and collateral that we can reasonably obtain while seeking to achieve our total return target. In most cases, our LMM debt investment will be collateralized by a first priority lien on substantially all the assets of the portfolio company. As of December 31, 2016, our LMM debt investments had a weighted average annual effective yield of approximately 12.4%, and 95.1% of such investments were secured by first priority liens on the assets of the LMM portfolio companies. The LMM equity investments consist of equity ownership interests in the LMM portfolio companies and warrants to acquire equity interests in the LMM portfolio companies.

As of December 31, 2016, we had 29 debt investments in 28 Private Loan portfolio companies with an aggregate fair value of approximately \$205.0 million and a cost basis of approximately \$206.0 million, and nine equity investments in six Private Loan portfolio companies with an aggregate fair value of approximately \$6.3 million and a cost basis of approximately \$5.2 million.

The Private Loan debt investments had a weighted average annual effective yield of approximately 9.2%, and 94.3% of the Private Loan debt investments were secured by first priority liens.

As of December 31, 2016, we had three Other Portfolio investments with an aggregate fair value of approximately \$18.4 million and a cost basis of approximately \$18.6 million, which comprised 1.9% of our investment portfolio at fair value.

The value of our investment portfolio will fluctuate with changes in market pricing of our underlying investments. During the fourth quarter of 2014 through the first quarter of 2016, our portfolio experienced significant unrealized losses that were largely related to the impact of broad price declines in the high yield bond and leveraged loan markets and the effect of the declining oil prices on our investments in the oil and gas sector. In 2016, we recognized realized losses on investments in our portfolio, primarily driven by the restructuring of certain investments in the oil and gas sector. Although we have seen a recovery in the leveraged loan markets in the second half of 2016, it has not been sufficient to reverse these unrealized and realized losses.

We will continue investing in, and intend to have a significant portion of our assets invested in, customized direct secured and unsecured loans to, and equity securities of, LMM companies. In most cases, companies that issue customized LMM securities to us will be privately held at the time we invest in them. Typically, our investment in LMM companies will require us to co-invest with Main Street and/or its affiliates. These types of co-investments required us to obtain an exemptive order from the SEC as discussed below. While the structure of our investments in customized LMM securities is likely to vary, we may invest in senior secured debt, senior unsecured debt, subordinated secured debt, subordinated unsecured debt, mezzanine debt, convertible debt, convertible preferred equity, preferred equity, common equity, warrants and other instruments, many of which generate current yields. We will make other investments as allowed by the 1940 Act and consistent with our continued qualification as a RIC. For a discussion of the risks inherent in our portfolio investments, see “Item 1A. Risk Factors — Risks Relating to our Business and Structure.”

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

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

The Adviser is registered as an investment adviser under the Advisers Act. Our Adviser oversees the management of our activities and is responsible for making investment decisions with respect to, and providing day-to-day management and administration of our investment portfolio. Our Adviser is wholly-owned by Hines. We and our Adviser have engaged our Sub-Adviser to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by our Adviser, monitor our investment portfolio and provide certain ongoing administrative services to our Adviser.

As a BDC, we are subject to certain regulatory restrictions in making our investments, including limitations on our ability to co-invest with certain affiliates. However, we have received exemptive relief from the SEC that permits us, subject to certain conditions, to co-invest with Main Street in certain transactions originated by Main Street and/or our Advisers. The exemptive relief permits us, and certain of our directly or indirectly wholly owned subsidiaries on the one hand, and Main Street and/or certain of its affiliates on the other hand, to co-invest in the same investment opportunities where such investment would otherwise be prohibited under Section 57(a)(4) of the 1940 Act. Under the co-investment program, we expect that co-investment between us and Main Street will be the norm rather than the exception, as substantially all potential co-investments that are appropriate investments for us should also be appropriate investments for Main Street, and vice versa. Limited exceptions to co-investing will be based on available capital, diversification and other relevant factors. Accordingly, our Sub-Adviser treats every potential investment in customized LMM securities evaluated by Main Street as a potential investment opportunity for us, determines the appropriateness of each potential investment for co-investment by us, provides to our Adviser, in advance, information about each potential investment that it deems appropriate for us and proposes an allocation according to an investment allocation policy reviewed periodically by our board of directors between us and Main Street. If our Adviser deems such potential co-investment transaction and proposed allocation appropriate for us, our Adviser presents the transaction and the proposed allocation to the members of our board of directors who are (1) not interested persons of us or Main Street, and (2) who do not have a financial interest in the proposed transaction or the proposed portfolio company, which directors are referred to as “Eligible Directors,” and our Sub-

Adviser presents the transaction and the proposed allocation for Main Street to the Eligible Directors of the Main Street board of directors. Each board of directors, including a majority of the Eligible Directors of each board of directors, must approve each proposed co-investment transaction and the associated allocations therewith prior to the consummation of any co-investment transaction. No independent director on our board of directors or Main Street's board of directors may have any direct or indirect financial interest in any co-investment transaction or any interest in any related portfolio company, other than through an interest (if any) in our or Main Street's securities, as applicable. Additional information regarding the operation of the co-investment program is set forth in the order granting our exemptive relief, which may be reviewed on the SEC's website at [www.sec.gov](http://www.sec.gov).

In addition to the co-investment program described in the Form 10-K and in the exemptive relief, we may continue to co-invest in syndicated deals and secondary loan market purchases in accordance with applicable regulatory guidance or interpretations.

We expect that the debt in which we invest will generally have stated terms of three to seven years. However, we are in no way limited with regard to the maturity or duration of any debt investment we may make, and we do not have a policy in place with respect to stated maturities of debt investments.

We have employed, and in the future intend to employ, leverage as market conditions permit and at the discretion of our Adviser, but in no event will leverage employed exceed 50% of the value of our assets, as required by the 1940 Act.

### ***Business Strategy***

Our primary investment objective is to generate current income through debt and equity investments in LMM companies based in the United States and secured debt investments of Middle Market companies generally headquartered in the United States. A secondary objective is to generate long-term capital appreciation through equity and equity-related investments including warrants, convertible securities, and other rights to acquire equity securities. We have adopted the following business strategy to achieve our investment objective:

- ***Utilize the experience and expertise of the principals of our Advisers.*** The investment professionals employed by our Sub-Adviser are also the investment professionals responsible for investing and managing Main Street's securities portfolio. Main Street is a BDC whose shares are listed on the New York Stock Exchange. Main Street's primary investment focus is providing customized debt and equity financing to LMM companies and debt capital to Middle Market companies that operate in diverse industry sectors. At December 31, 2016, Main Street had debt and equity investments with an aggregate fair value of approximately \$1.8 billion in over 200 portfolio companies. Our Adviser's senior management team, through affiliates of Hines, has participated in the management of three publicly offered and non-traded real estate investment trusts and has extensive experience in evaluating and underwriting the credit of tenants, many of which are LMM companies, of its commercial real estate properties. The principals of our Adviser, including Sherri W. Schugart, the Chairman of our board of directors, our President and Chief Executive Officer, and Ryan T. Sims, our Chief Financial Officer and Secretary, have access to a broad network of relationships with financial sponsors, commercial and investment banks, LMM companies and leaders within a number of industries that we believe produce significant investment opportunities.
- ***Focus on Middle Market and LMM companies with stable cash flow.*** We believe that there are relatively few finance companies focused on transactions involving Middle Market and LMM companies, and this is one factor that allows us to negotiate favorable investment terms. Such favorable terms include higher debt yields and lower leverage levels, more significant covenant protection and greater equity participation than typical of transactions involving larger companies. We generally invest in established companies with positive cash flow. We believe that established companies possess better risk-adjusted return profiles than newer companies that are building management or in early stages of building a revenue base. These companies represent a significant portion of the U.S. economy and often require substantial capital investment to grow their businesses.
- ***Emphasize discipline in our underwriting policies and rigor in our portfolio management.*** We employ an underwriting process that includes a review of the prospects, competitive position, financial performance and industry dynamics of each potential portfolio company. In addition, we perform due diligence on potential investments and seek to invest with management teams and/or private equity sponsors who have proven capabilities in building value. Through our Advisers, we offer managerial assistance to our portfolio companies, giving them access to our investment experience, direct industry expertise and contacts, and allowing us to continually monitor their progress. As part of the monitoring process, our Advisers analyze monthly and quarterly financial statements versus the previous periods and year, review financial projections, meet with management, attend board meetings and review all compliance certificates and covenants.
- ***Focus on long-term credit performance and principal protection.*** We will structure our customized loan investments on a conservative basis with high cash yields, first and/or second lien security interests where possible, cash origination fees, and lower relative leverage levels. We will seek strong deal protections for our customized debt investments, including default

penalties, information rights, board observation rights, and affirmative, negative and financial covenants, such as lien protection and prohibitions against change of control. We believe these protections will reduce our risk of capital loss.

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

### ***Deal Origination***

Over the years, we believe the management team of Main Street, who controls our Sub-Adviser, and the affiliates of Hines have developed and maintained a strong reputation as principal investors and an extensive network of relationships. Main Street sources investments of the type we expect to make on a day-to-day basis as part of operating a New York Stock Exchange-listed BDC. Main Street has business development professionals dedicated to sourcing investments through relationships with numerous loan syndication and trading desks, investment banks, private equity sponsors, business brokers, merger and acquisition advisors, finance companies, commercial banks, law firms and accountants. Moreover, through its over 60 years of experience in leasing commercial real estate on a global basis, Hines has developed relationships with a large number of Middle Market companies that are a potential source of Middle Market investment opportunities. Our Adviser also has continuous access to Main Street's professional team due to its relationship with our Sub-Adviser.

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

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

### ***Investment Selection***

Our investment philosophy and portfolio construction involves:

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

The foundation of our investment philosophy is intensive credit investment analysis based on fundamental value-oriented research and diversification. Our selection process is based on:

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

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

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



- *Companies with exit alternative/refinancing.* We generally exit from most debt investments through the portfolio company's repayment of the debt to us or a successful refinancing with another debt provider. We may exit our equity positions by selling the equity back to the portfolio company or to another party if the company undergoes a transaction such as a merger or an acquisition. We typically assist our portfolio companies in developing and planning refinancing or exit opportunities, including any sale or merger of our portfolio companies. We may also assist in the structure, timing, execution and transition of the exit strategy or refinancing.

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

### ***Intensive Credit Analysis / Due Diligence***

The process through which our Advisers make an investment decision with respect to a customized financing transaction in the LMM involves extensive research into the target company, its industry, its growth prospects and its ability to withstand adverse conditions. If the senior investment professional responsible for the transaction determines that an investment opportunity should be pursued, we will engage in an intensive due diligence process. Though each transaction involves a somewhat different approach, the regular due diligence steps generally to be undertaken include:

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

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

### ***Portfolio Monitoring***

Our Advisers employ several methods of evaluating and monitoring the performance and value of our investments, which include the following:

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

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

## ***Competition***

Our primary competition in providing financing to Middle Market, including LMM, companies includes other BDCs, specialty finance companies, investment companies, opportunity funds, private equity funds and institutional investors, public and private buyout and other private equity funds, commercial and investment banks, commercial financing companies, and, to the extent they provide an alternative form of financing, hedge funds. Many of our competitors are substantially larger and have considerably greater financial, technical, and marketing resources than we do. For example, some competitors may have a lower cost of funds as well as access to funding sources that are not available to us. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more relationships than us. Furthermore, many of our competitors are not subject to the regulatory restrictions that the 1940 Act imposes on us as a BDC or the source-of-income, asset diversification and distribution requirements we must satisfy to maintain our qualification as a BDC. We use the industry information of our investment professionals to assess investment risks and determine appropriate pricing for our investments in portfolio companies. In addition, we believe that our relationships enable us to discover, and compete effectively for, financing opportunities with attractive Middle Market, including LMM, companies in the industries in which we seek to invest. See “Item 1A. Risk Factors — Risks Relating to Our Business and Structure — *We may continue to face increasing competition for investment opportunities, which could delay deployment of our capital, reduce returns and result in losses.*”

## ***Exit Strategies/Refinancing***

While we generally exit most investments through the refinancing or repayment of our debt, our Advisers typically assist our LMM portfolio companies in developing and planning exit opportunities, including any sale or merger of our portfolio companies. The Advisers may also assist in the structure, timing, execution and transition of the exit strategy. The refinancing or repayment of Middle Market debt investments typically does not require our assistance due to the additional resources available to these larger, Middle Market companies.

## ***Determination of NAV***

The value of our assets is determined quarterly and at such other times that an event occurs that materially affects the valuation. The valuation is made pursuant to Section 2(a)(41) of the 1940 Act, which requires that we value our assets as follows: (i) the market price for those securities for which a market quotation is readily available, and (ii) for all other securities and assets, fair value, as determined in good faith by our board of directors. As a BDC, Section 2(a)(41) of the 1940 Act requires the board of directors to determine in good faith the fair value of portfolio securities for which a market price is not available, and it does so in conjunction with the application of our valuation procedures by our Advisers.

There is no single standard for determining fair value in good faith. As a result, determining fair value requires that judgment be applied to the specific facts and circumstances of each asset while employing a valuation process that is consistently followed. Determinations of fair value involve subjective judgments and estimates. Accordingly, the notes to our consolidated financial statements refer to the uncertainty with respect to the possible effect of such valuations, and any change in such valuations in our consolidated financial statements. See “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies — *Valuation of Portfolio Investments.*”

## ***Determinations in Connection With Offerings***

From our initial closing under the Initial Offering through January 14, 2015, we sold our shares of common stock on a continuous basis at an offering price of \$10.00 per share. To the extent that our NAV per share increases, we will sell our shares of common stock pursuant to the Offering at a price necessary to ensure that shares of common stock are not sold at a price per share, after deduction of selling commissions and Dealer Manager fees, that is below our NAV per share as determined within 48 hours prior to the date of each closing. In the event of a material decline in our NAV per share which we deem to be non-temporary, and that results in a 2.5% or higher decrease of our NAV per share below our then-current net offering price, and subject to certain conditions, we will reduce our offering price accordingly.

The following table summarizes adjustments we have made to our per share public offering price through March 3, 2017 and the closing date on which such adjustments were effective.

| First Effective Closing Date | Per Share Public Offering Price |
|------------------------------|---------------------------------|
| June 4, 2012                 | \$ 10.00                        |
| January 15, 2015             | \$ 9.75                         |
| May 7, 2015                  | \$ 9.90                         |
| October 8, 2015              | \$ 9.70                         |
| November 12, 2015            | \$ 9.55                         |
| January 1, 2016              | \$ 9.00                         |
| January 21, 2016             | \$ 8.80                         |
| February 4, 2016             | \$ 8.60                         |
| February 18, 2016            | \$ 8.50                         |
| March 24, 2016               | \$ 8.60                         |
| April 21, 2016               | \$ 8.70                         |
| May 5, 2016                  | \$ 8.80                         |
| July 28, 2016                | \$ 8.90                         |
| October 20, 2016             | \$ 9.00                         |
| November 25, 2016            | \$ 9.05                         |
| December 15, 2016            | \$ 9.10                         |
| January 12, 2017             | \$ 9.15                         |
| January 19, 2017             | \$ 9.30                         |

## REGULATION

### ***Regulation as a BDC***

We have elected to be regulated as a BDC under the 1940 Act. The 1940 Act contains prohibitions and restrictions relating to transactions between BDCs and their affiliates, principal underwriters and affiliates of those affiliates or underwriters. The 1940 Act requires that a majority of our directors be persons other than “interested persons,” as that term is defined in the 1940 Act. In addition, the 1940 Act provides that we may not change the nature of our business so as to cease to be, or to withdraw our election as, a BDC unless approved by the lesser of (i) 67% or more of the voting securities present at a meeting if the holders of more than 50% of our outstanding voting securities are present or represented by proxy or (ii) 50% of our voting securities.

We are generally not permitted to sell our common stock at a price below NAV per share. See “Item 1A. Risk Factors — Risks Related to BDCs — *Regulations governing our operation as a BDC and RIC will affect our ability to raise, and the way in which we raise, additional capital or borrow for investment purposes, which may have a negative effect on our growth.*” We may, however, sell our common stock, or warrants, options or rights to acquire our common stock, at a price below the then-current NAV of our common stock if our board of directors determines that such sale is in our best interests and the best interests of our stockholders, and our stockholders approve such sale. In addition, we may generally issue new shares of our common stock at a price below NAV in rights offerings to existing stockholders, in payment of dividends and in certain other limited circumstances.

### ***Qualifying Assets***

Under the 1940 Act, a BDC may not acquire any asset other than assets of the type listed in Section 55(a) of the 1940 Act, which are referred to as qualifying assets, unless, at the time the acquisition is made, qualifying assets represent at least 70% of the company’s total assets. The principal categories of qualifying assets relevant to our business are any of the following:

1. Securities purchased in transactions not involving any public offering from the issuer of such securities, which issuer (subject to certain limited exceptions) is an eligible portfolio company, or from any person who is, or has been during the preceding 13 months, an affiliated person of an eligible portfolio company, or from any other person, subject to such rules as may be prescribed by the SEC. An eligible portfolio company is defined in the 1940 Act as any issuer which:
  - a. is organized under the laws of, and has its principal place of business in, the U.S.;
  - b. is not an investment company (other than a small business investment company wholly owned by the BDC) or a company that would be an investment company but for certain exclusions under the 1940 Act; and
  - c. satisfies any of the following:
    - i. does not have any class of securities that is traded on a national securities exchange;



- ii. has a class of securities listed on a national securities exchange, but has an aggregate market value of outstanding voting and non-voting common equity of less than \$250 million;
  - iii. is controlled by a BDC or a group of companies including a BDC and the BDC has an affiliated person who is a director of the eligible portfolio company; or
  - iv. is a small and solvent company having total assets of not more than \$4.0 million and capital and surplus of not less than \$2.0 million
2. Securities of any eligible portfolio company that we control.
  3. Securities purchased in a private transaction from a U.S. issuer that is not an investment company or from an affiliated person of the issuer, or in transactions incident thereto, if the issuer is in bankruptcy and subject to reorganization or if the issuer, immediately prior to the purchase of its securities was unable to meet its obligations as they came due without material assistance other than conventional lending or financing arrangements.
  4. Securities of an eligible portfolio company purchased from any person in a private transaction if there is no ready market for such securities and we already own 60% of the outstanding equity of the eligible portfolio company.
  5. Securities received in exchange for or distributed on or with respect to securities described in (1) through (4) above, or pursuant to the exercise of warrants or rights relating to such securities.
  6. Cash, cash equivalents, U.S. government securities or high-quality debt securities maturing in one year or less from the time of investment.

In addition, a BDC must have been organized and have its principal place of business in the U.S. and must be operated for the purpose of making investments in the types of securities described in (1), (2) or (3) above.

### ***Managerial Assistance to Portfolio Companies***

In order to count portfolio securities as qualifying assets for the purpose of the 70% test, we must either control the issuer of the securities or must offer to make available to the issuer of the securities (other than small and solvent companies described above) significant managerial assistance. However, when we purchase such securities in conjunction with one or more other persons acting together, one of the other persons in the group may make available such managerial assistance. Making available managerial assistance means any arrangement whereby the BDC, through its directors, officers or employees, offers to provide, and, if accepted, does so provide, significant guidance and counsel concerning the management, operations or business objectives and policies of a portfolio company.

### ***Temporary Investments***

Pending investment in other types of “qualifying assets,” as described above, our investments may consist of cash, cash equivalents, U.S. government securities or high-quality debt securities maturing in one year or less from the time of investment, which we refer to, collectively, as temporary investments, so that 70% of our assets are qualifying assets.

### ***Senior Securities***

We are permitted, under specified conditions, to issue multiple classes of debt and one class of stock senior to our common stock if our asset coverage, as defined in the 1940 Act, is at least equal to 200% immediately after each such issuance. In addition, while any senior securities remain outstanding, we must make provisions to prohibit any distribution to our stockholders or the repurchase of such securities or shares unless we meet the applicable asset coverage ratios at the time of the distribution or repurchase. We may also borrow amounts up to 5% of the value of our total assets for temporary or emergency purposes without regard to asset coverage. For a discussion of the risks associated with leverage, see “Item 1A. Risk Factors — Risks Related to BDCs — *Regulations governing our operation as a BDC and RIC will affect our ability to raise, and the way in which we raise, additional capital or borrow for investment purposes, which may have a negative effect on our growth.*”

### ***Code of Ethics***

We, our Advisers and our Dealer Manager have each adopted a code of ethics under Rule 17j-1 of the 1940 Act that establishes procedures for personal investments and restricts certain personal securities transactions. Personnel subject to each code may invest in securities for their personal investment accounts, including securities that may be purchased or held by us, so long as such investments are made in accordance with the code’s requirements. We have included these codes of ethics as exhibits to the Registration Statement. You may also read and copy, after paying a duplication fee, the codes of ethics at the SEC’s Public Reference Room located at 100 F Street, N.E., Washington, D.C. 20549, or by making an electronic request to the following email address: [publicinfo@sec.gov](mailto:publicinfo@sec.gov). You may obtain information on the operation of the Public Reference Room by calling the SEC at (202) 942-8090. In addition, the code of ethics is available on the EDGAR Database on the SEC’s Internet site at <http://www.sec.gov>.

## ***Compliance Policies and Procedures***

We and our Adviser have adopted and implemented written policies and procedures reasonably designed to prevent violation of the federal securities laws, and our board of directors is required to review these compliance policies and procedures annually to assess their adequacy and the effectiveness of their implementation. Our board of directors has designated Jason Maxwell as our Chief Compliance Officer.

### **Introduction**

As an investment adviser registered under the Advisers Act, our Adviser has a fiduciary duty to act solely in the best interests of its clients. As part of this duty, it recognizes that it must vote client securities in a timely manner free of conflicts of interest and in the best interests of its clients.

These policies and procedures for voting proxies for the investment advisory clients of our Adviser are intended to comply with Section 206 of, and Rule 206(4)-6 under, the Advisers Act.

### **Proxy Policies**

Our Adviser will vote proxies relating to our securities in the best interest of our stockholders. It will review on a case-by-case basis each proposal submitted for a stockholder vote to determine its impact on our portfolio securities. Although our Adviser will generally vote against proposals that may have a negative impact on our portfolio securities, it may vote for such a proposal if there exist compelling long-term reasons to do so.

It is unlikely that our portfolio investments will solicit proxies for stockholder votes on a regular basis. To the extent we receive proxy statements, however, we have delegated our proxy voting responsibility to our Adviser. The proxy voting policies and procedures of our Adviser are set forth below. The guidelines are reviewed periodically by our Adviser and our independent directors, and, accordingly, are subject to change.

The proxy voting decisions of our Adviser are made by the senior officers who are responsible for monitoring each of its clients' investments. To ensure that its vote is not the product of a conflict of interest, it will require that: (a) anyone involved in the decision-making process disclose to its Chief Compliance Officer any potential conflict that he or she is aware of and any contact that he or she has had with any interested party regarding a proxy vote; and (b) employees involved in the decision making process or vote administration are prohibited from revealing how our Adviser intends to vote on a proposal in order to reduce any attempted influence from interested parties.

### **Proxy Voting Records**

You may obtain information, without charge, regarding how we voted proxies with respect to our portfolio securities by making a written request for proxy voting information to: Chief Financial Officer, 2800 Post Oak Boulevard, Suite 5000, Houston, Texas 77056-6118, or by collect calling the Company at (888) 220-6121. Also, the SEC maintains a website at [www.sec.gov](http://www.sec.gov) that contains such information.

### ***Other***

As a BDC, we are subject to periodic examinations by the SEC for compliance with the 1940 Act. We are required to obtain and maintain a bond issued by a reputable fidelity insurance company to protect us against larceny and embezzlement. Furthermore, as a BDC, we are prohibited from protecting any director or officer against any liability to us or our stockholders arising from misconduct, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of such person's office.

### ***Securities Exchange Act and Sarbanes-Oxley Act Compliance***

We are subject to the reporting and disclosure requirements of the Exchange Act including the filing of quarterly, annual and current reports, proxy statements and other required items. In addition, we are subject to the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), which imposes a wide variety of regulatory requirements on publicly held companies and their insiders. Many of these requirements will affect us. For example:

- pursuant to Rule 13a-14 under the Exchange Act, our Chief Executive Officer and Chief Financial Officer are required to certify the accuracy of the financial statements contained in our periodic reports;

- pursuant to Item 307 of Regulation S-K under the Exchange Act, our periodic reports are required to disclose our conclusions about the effectiveness of our disclosure controls and procedures; and
- pursuant to Rule 13a-15 under the Exchange Act, our management is required to prepare a report regarding its assessment of our internal control over financial reporting.

The Sarbanes-Oxley Act requires us to review our current policies and procedures to determine whether we comply with the Sarbanes-Oxley Act and the regulations promulgated thereunder. We monitor our compliance with all regulations that are adopted under the Sarbanes-Oxley Act and have taken actions necessary to ensure that we comply with that law.

### ***Investment Adviser Regulations***

Our Advisers are subject to regulation under the Advisers Act. The Advisers Act establishes, among other things, record keeping and reporting requirements, disclosure requirements, limitations on transactions between the adviser's account and an advisory client's account, limitations on transactions between the accounts of advisory clients, and general anti-fraud prohibitions. We and our Advisers may also be examined by the SEC from time to time for compliance with the Advisers Act.

### ***Taxation as a RIC***

We have elected to be treated for federal income tax purposes as a RIC under Subchapter M of the Code. As a RIC, we generally will not be subject to corporate-level federal income taxes on any income that we distribute to our stockholders from our tax earnings and profits. To qualify as a RIC, we must, among other things, meet certain source-of-income and asset diversification requirements (as described below). In addition, in order to obtain RIC tax treatment, we must distribute dividends to our stockholders, in respect of each taxable year, of an amount generally at least equal to 90% of our "investment company taxable income," which is generally our taxable net investment income plus the excess, if any, of realized net short-term capital gain over realized net long-term capital loss, determined without regard to any deduction for dividends paid (the "Annual Distribution Requirement"). Depending on the amount of taxable income we generate in a taxable year, we may choose to spill-over taxable income in excess of current taxable year distributions into the next taxable year and incur a 4% nondeductible U.S. federal excise tax on such taxable income. Any such spill-over taxable income must be distributed through a distribution declared prior to the earlier of eight-and-one-half months after the close of the taxable year in which such taxable income was generated or the timely filing of the tax return related to the taxable year in which such taxable income was generated. Even if we qualify as a RIC, we could be subject to U.S. federal, state, local and foreign income, excise, withholding or other taxes.

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

We will be subject to a 4% nondeductible U.S. federal excise tax on certain undistributed income unless we distribute in a timely manner in respect of a calendar year dividends of an amount at least equal to the sum of (1) 98% of our ordinary income (taking into account certain deferrals and elections) for the calendar year, (2) 98.2% of our capital gain net income (adjusted for certain ordinary losses) for the one-year period ending October 31 in that calendar year (or, if we so elect, for the calendar year) and (3) any net ordinary income and capital gain net income for preceding years that was not distributed with respect to such years and on which the Company incurred no U.S. federal income tax (the "Excise Tax Avoidance Requirement"). Distributions declared and paid by us in a taxable year will generally differ from taxable income for that taxable year as such distributions may include the distribution of current taxable year's taxable income, exclude amounts carried over into the following taxable year, and include the distribution of prior taxable year taxable income carried over into and distributed in the current taxable year.

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

- continue to qualify as a BDC under the 1940 Act at all times during each taxable year;
- meet the Annual Distribution Requirement;
- derive in each taxable year at least 90% of our gross income from dividends, interest, payments with respect to certain securities, loans, gains from the sale or other disposition of stock or other securities or foreign currencies or other income derived with respect to our business of investing in such stock, securities or currencies and net income derived from an interest in a "qualified publicly traded partnership" (as defined in the Code) (the "90% Income Test"); and
- diversify our holdings so that at the end of each quarter of the taxable year to satisfy the RIC requirements:
  - a. at least 50% of the value of our assets consists of cash, cash equivalents, U.S. government securities, securities of other RICs, and other securities if such other securities of any one issuer do not represent more than 5% of the value of our assets or more than 10% of the outstanding voting securities of the issuer; and

- b. no more than 25% of the value of our assets can be invested in the securities, other than U.S. government securities or securities of other RICs, (i) of one issuer, (ii) of two or more issuers that are controlled, as determined under applicable tax rules, by us and that are engaged in the same or similar or related trades or businesses or (iii) of one or more “qualified publicly traded partnerships” (collectively, the “Diversification Tests”).

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

Certain of our investment practices are subject to special and complex U.S. federal income tax provisions that may, among other things, (i) convert dividends that would otherwise constitute qualified dividend income into ordinary income, (ii) treat dividends that would otherwise be eligible for deductions available to certain U.S. corporations under the Code as ineligible for such treatment, (iii) disallow, suspend or otherwise limit the allowance of certain losses or deductions, (iv) convert long-term capital gains into short-term capital gains or ordinary income, (v) convert short-term capital losses into long-term capital losses, (vi) convert an ordinary loss or deduction into a capital loss (the deductibility of which is more limited), (vii) cause us to recognize income or gain without a corresponding receipt of cash, (viii) adversely alter the characterization of certain complex financial transactions, and (ix) produce gross income that will not constitute qualifying gross income for purposes of the gross income requirement that applies to RICs. These rules also could affect the amount, timing and character of distributions to stockholders. We intend to monitor our transactions and may make certain tax elections to mitigate the effect of these provisions on our ability to be subject to tax as a RIC.

Some of the income that we might otherwise earn, such as fees for providing managerial assistance, certain fees earned with respect to our investments, income recognized in a work-out or restructuring of a portfolio investment, or income recognized from an equity investment in an operating partnership, may not satisfy the 90% Income Test. To manage the risk that such income might disqualify us as a RIC for failure to satisfy the 90% Income Test, we may establish one or more special purpose entities treated as corporations for U.S. federal income tax purposes (any such corporation, a “Taxable Subsidiary”) to hold assets from which we do not anticipate earning qualifying income under the 90% Income Test. Any investments held through a Taxable Subsidiary generally will be subject to U.S. federal income and other taxes, and therefore we can expect to achieve a reduced after-tax yield on such investments.

We may be required to recognize taxable income in circumstances in which we do not receive a corresponding payment in cash. For example, if we hold debt obligations that are treated under applicable tax rules as having original issue discount (such as debt instruments issued with payment-in-kind interest (“PIK”), or in certain cases, increasing interest rates or issued with warrants), we must include in our taxable income each taxable year a portion of the original issue discount that accrues over the life of the obligation, regardless of whether cash representing such income is received by us in the same taxable year. We may also have to include in our taxable income other amounts that we have not yet received in cash, such as deferred loan origination fees that are paid after origination of the loan or are paid in non-cash compensation such as warrants or stock. Consequently, we may be required to make a distribution to our stockholders in order to satisfy the Annual Distribution Requirement or the Excise Tax Avoidance Requirement, even though we have not received the corresponding cash amount.

Because any original issue discount or other amounts accrued will be included in our investment company taxable income for the taxable year of accrual, we may be required to make a distribution to our stockholders in order to satisfy the Annual Distribution Requirement or the Excise Tax Avoidance Requirement, even though we will not have received any corresponding cash amount. Furthermore, a portfolio company in which we invest may face financial difficulty that requires us to work-out, modify or otherwise restructure our investment in the portfolio company. Any such restructuring may result in unusable capital losses and future non-cash income. As a result, we may have difficulty meeting the Annual Distribution Requirement or the Excise Tax Avoidance Requirement. We may have to sell some of our investments at times and/or at prices we would not consider advantageous, raise additional debt or equity capital or forgo new investment opportunities for this purpose. If we are not able to obtain cash from other sources, we may fail to qualify for RIC tax treatment and thus become subject to corporate-level U.S. federal income tax. Any restructuring may also result in our recognition of a substantial amount of non-qualifying income for purposes of the 90% Income Test.

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

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

If we were unable to qualify for treatment as a RIC, we would be subject to tax on all of our taxable income at regular corporate rates, regardless of whether we make any distributions to our stockholders. Distributions would not be required, and any distributions would generally be taxable to our stockholders as ordinary dividend income to the extent of our current and accumulated earnings and profits. Subject to certain additional limitations in the Code, such distributions would be eligible for the preferential maximum federal income tax rate applicable to individual shareholders with respect to certain qualified dividend income. Subject to certain limitations under the Code, certain corporate distributees would be eligible for the dividends received deduction. Distributions in excess of our current and accumulated earnings and profits would be treated first as a return of capital to the extent of the shareholder’s tax basis, and any remaining distributions would be treated as a capital gain. Moreover, if we fail to qualify as a RIC in any taxable year, to qualify again to be subject to tax as a RIC in a subsequent taxable year, we would be required to distribute our earnings and profits attributable to any of our non-RIC taxable years as dividends to our stockholders. In addition, if we fail to qualify as a RIC for a period greater than two consecutive taxable years, to qualify as a RIC in a subsequent taxable year we may be subject to regular corporate tax on any net built-in gains with respect to certain of our assets (that is, the excess of the aggregate gains, including items of income, over aggregate losses that would have been realized with respect to such assets if we had sold the property at fair market value (“FMV”) at the end of the taxable year) that we elect to recognize on requalification or when recognized over the next five taxable years.

## **Item 1A. Risk Factors**

*Investing in shares of our common stock involves a number of significant risks. You should carefully consider these risk factors, together with all of the other information included in this Form 10-K and the other reports and documents filed by us with the SEC. The risks set out below are not the only risks we face, and additional risks and uncertainties not presently known to us or not presently deemed material by us may also impair our operations and performance. If any of the following events occur, our business, financial condition and results of operations could be materially and adversely affected. In such case, our NAV could decline, and you may lose all or part of your investment.*

### **Risks Relating to Our Business and Structure**

***Future disruptions or instability in capital markets could negatively impact our ability to raise capital and have a material adverse effect on our business, financial condition and results of operations.***

From time to time, the global capital markets may experience periods of disruption and instability, which could materially and adversely impact the broader financial and credit markets and reduce the availability to us of debt and equity capital. For example, between 2008 and 2009, instability in the global capital markets resulted in disruptions in liquidity in the debt capital markets, significant write-offs in the financial services sector, the repricing of credit risk in the broadly syndicated credit market and the failure of major domestic and international financial institutions. In particular, the financial services sector was negatively impacted by significant write-offs as the value of the assets held by financial firms declined, impairing their capital positions and abilities to lend and invest. We believe that such value declines were exacerbated by widespread forced liquidations as leveraged holders of financial assets, faced with declining prices, were compelled to sell to meet margin requirements and maintain compliance with applicable capital standards. Such forced liquidations also impaired or eliminated many investors and investment vehicles, leading to a decline in the supply of capital for investment and depressed pricing levels for many assets. Also, in June 2016, the United Kingdom held a referendum in which voters approved an exit from the European Union, and the implications of the United Kingdom's pending withdrawal from the European Union are unclear at present. In November 2016, voters in the United States elected a new president and the implications of a new presidential administration are unclear at present. These events caused, or may in the future cause, significantly diminished overall confidence in the debt and equity markets, unprecedented declines in the values of certain assets, extreme economic uncertainty and significantly reduced availability of debt and equity capital for the market as a whole and financial services firms in particular. While market conditions have experienced relative stability in recent years, there have been continuing periods of volatility and there can be no assurance that adverse market conditions will not repeat themselves in the future.

Future volatility and dislocation in the capital markets could create a challenging environment in which to raise or access capital. For example, the re-appearance of market conditions similar to those experienced from 2008 through 2009 for any substantial length of time could make it difficult to extend the maturity of or refinance our existing indebtedness or obtain new indebtedness with similar terms. Significant changes or volatility in the capital markets may also have a negative effect on the valuations of our investments. While most of our investments are not publicly traded, applicable accounting standards require us to assume as part of our valuation process that our investments are sold in a principal market to market participants (even if we plan on holding an investment through its maturity) and impairments of the market values or FMV of our investments, even if unrealized, must be reflected in our financial statements for the applicable period, which could result in significant reductions to our NAV for the period. Significant changes in the capital markets may also affect the pace of our investment activity and the potential for liquidity events involving our investments. Thus, the illiquidity of our investments may make it difficult for us to sell such investments to access capital if required, and as a result, we could realize significantly less than the value at which we have recorded our investments if we were required to sell them for liquidity purposes.

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

Any distributions we make to our stockholders will be paid out of assets legally available for distribution. We may fund our cash distributions from any sources of funds legally available. We cannot assure you that we will achieve investment results that will allow us to make a targeted level of distributions or year-to-year increases in distributions. Our ability to pay distributions might be adversely affected by, among other things, the impact of one or more of the risk factors described in this Form 10-K. In addition, the inability to satisfy the asset coverage test applicable to us as a BDC can limit our ability to pay distributions. All distributions will be paid at the discretion of our board of directors and will depend on our earnings, our financial condition, maintenance of our ability to be subject to tax as a RIC, compliance with applicable BDC regulations and such other factors as our board of directors may deem relevant from time to time. We cannot assure you that we will pay distributions to our stockholders in the future.



To the extent that we pay any distributions from the proceeds of sales of common stock or from borrowings in anticipation of future cash flow, all or a portion of such distributions may constitute a return of your capital and may lower your tax basis in your shares. Distributions from any stock offering proceeds or from borrowings also could reduce the amount of capital we ultimately invest in debt and equity interests of portfolio companies. We have not established any limit on the extent to which we may use borrowings, if any, or stock offering proceeds to fund distributions (which may reduce the amount of capital we ultimately invest in assets). We may, for the foreseeable future, pay a portion of our distributions from sources other than net realized income from operations, which may include stock offering proceeds, borrowings, fee and expense waivers from our Advisers and support payments from the Adviser.

***Price declines in the leveraged loan market may adversely affect the fair value of our syndicated loan portfolio, reducing our NAV through increased net unrealized depreciation.***

Retail loan funds, collateralized loan obligations (a type of leveraged investment vehicle holding corporate loans), hedge funds and other highly leveraged investment vehicles comprise a substantial portion of the market for purchasing and holding first and second lien secured loans. As the secondary market pricing of the loans underlying these portfolios deteriorated during the second half of 2015 and into the first quarter of 2016, it is our understanding that many investors, as a result of their generally high degrees of leverage, were forced to raise cash by selling their interests in performing loans in order to satisfy margin requirements or the equivalent of margin requirements imposed by their lenders. This resulted in a forced deleveraging cycle of price declines, compulsory sales and further price declines, with widespread redemption requests and other constraints generating further selling pressure. This pervasive forced selling resulted in price declines in our portfolio, negatively impacting our NAV. In addition to the deterioration of the secondary market pricing, we may experience compressed spreads between the rates at which we can borrow and the rates at which we can lend.

Conditions in the leveraged loan market may continue to experience similar disruptions or deterioration, which may cause pricing levels to continue to decline or remain volatile. As a result, we may continue to suffer unrealized depreciation and could incur realized losses in connection with the sale of our syndicated loans, which could have a material adverse impact on our NAV and reduce our stock price below our NAV per share. As a BDC, we are generally not able to issue additional shares of our common stock at a price less than our NAV without first obtaining approval for such issuance from our stockholders and our independent directors. Additionally, a lower portfolio value may negatively impact our ability to borrow additional funds under the Credit Facilities (as defined below) because our NAV is reduced for purposes of the asset coverage ratio. All of these conditions could have a material adverse impact on our business, financial condition and results of operations.

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

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

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

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

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

We compete for investments with other BDCs and investment funds, as well as traditional financial services companies such as commercial banks and other sources of funding. Moreover, alternative investment vehicles, such as hedge funds, private equity funds and mezzanine funds, also make investments in Middle Market private U.S. companies. As a result, competition for investment opportunities in private U.S. companies may continue to intensify, particularly as these entities continue to raise large amounts of capital. Many of our competitors are substantially larger and have considerably greater financial, technical and marketing resources than we do. For example, some competitors may have a lower cost of capital and access to funding sources that are not available to us. In addition, some of our competitors may have higher risk tolerances or different risk assessments than we have. These characteristics could allow our competitors to consider a wider variety of investments, establish more relationships and offer better pricing and more flexible structuring than we are able to do. We may lose investment opportunities if we do not match our competitors' pricing, terms and structure. If we are forced to match our competitors' pricing, terms and structure, we may not be able to achieve acceptable returns on our investments or may bear substantial risk of capital loss. A significant increase in the number and/or the size of our competitors in this target market could force us to accept less attractive investment terms. Furthermore, many of our competitors may have greater experience operating under, or are not subject to, the regulatory restrictions under the 1940 Act that are imposed on us as a BDC.

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

Under the 1940 Act, we are required to carry our portfolio investments at market value or, if there is no readily available market value, at fair value, as determined in good faith by our board of directors. The majority of our investments are not publicly traded or actively traded on a secondary market and, instead, are traded on a privately negotiated over-the-counter secondary market for institutional investors. As a result, we value these securities at fair value as determined in good faith by our board of directors.

The determination of fair value, and thus the amount of unrealized gains and losses we may incur in any year, is subjective, and our Advisers may have a conflict of interest in making the determination. We value these securities no less than quarterly at fair value as determined in good faith by our board of directors based on input from our Advisers, any third-party independent valuation firm retained by our board of directors and our audit committee. Certain factors that may be considered in determining the fair value of our investments include dealer quotes for securities traded on the secondary market for institutional investors, the nature and realizable value of any collateral, the portfolio company's earnings and its ability to make payments on its indebtedness, the markets in which the portfolio company does business, comparison to comparable publicly-traded companies, discounted cash flow and other relevant factors. Because such valuations, and particularly valuations of private securities and private companies, are inherently uncertain, may fluctuate over short periods of time and may be based on estimates, our determinations of fair value may differ materially from the values that would have been used if a ready market for these securities existed. Due to this uncertainty, our fair value determinations may cause our NAV per share on a given date to materially understate or overstate the value that we may ultimately realize upon the sale of one or more of our investments. Additionally, any volatility in the credit markets may affect the ability of our Advisers and board of directors to value our portfolio.

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

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

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

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



Additionally, any changes to the laws and regulations governing our operations relating to permitted investments may cause us to alter our investment strategy to avail ourselves of new or different opportunities, or increase our leverage. Such changes could result in material differences to the strategies and plans set forth in this Form 10-K and may result in our investment focus shifting from the areas of expertise of our Advisers to other types of investments in which our Advisers may have less expertise or little or no experience. Thus, any such changes, if they occur, and uncertainty regarding the status of current laws and regulations could have a material adverse effect on our business, financial condition and results of operations and the value of your investment.

***The impact of financial reform legislation on us is uncertain.***

The Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended (the “Dodd-Frank Act”), instituted a wide range of reforms that are affecting all U.S. financial institutions. Many of the requirements called for in the Dodd-Frank Act have been implemented over time and are subject to implementing regulations which have gradually taken effect over the course of several years. The full impact such requirements will have on our business, results of operations or financial condition is unclear. The changes resulting from the Dodd-Frank Act require us to invest significant management attention and resources to evaluate and make substantial changes in order to comply with new statutory and regulatory requirements. Failure to comply with any such laws, regulations or principles, or changes thereto, may negatively impact our business, results of operations and financial condition. We cannot predict the ultimate effect on us changes in the laws or regulations would have as a result of the Dodd-Frank Act or whether and to the extent to which the Dodd-Frank Act may remain in its current form.

***The lack of experience of our Adviser in operating under the constraints imposed on us as a BDC and RIC may hinder the achievement of our investment objectives.***

The 1940 Act and the Code impose numerous constraints on the operations of BDCs and RICs that do not apply to other investment vehicles managed by our Adviser and its affiliates. BDCs are required, for example, to invest at least 70% of their total assets in certain qualifying assets, including U.S. private or thinly-traded public companies, cash, cash equivalents, U.S. government securities and other high-quality debt instruments that mature in one year or less from the date of investment. Moreover, qualification for taxation as a RIC requires satisfaction of source-of-income, asset diversification and distribution requirements. Neither we nor our Adviser has long term experience operating under these constraints, which may hinder our ability to take advantage of attractive investment opportunities and to achieve our investment objective. As a result, we cannot assure you that our Adviser will be able to operate our business under these constraints. Any failure to do so could subject us to enforcement action by the SEC, cause us to fail to satisfy the requirements associated with RIC status and subject us to entity-level corporate income taxation, cause us to fail the 70% test described above or otherwise have a material adverse effect on our business, financial condition or results of operations.

***We may not replicate the historical results achieved by other entities managed by our Advisers.***

Our primary focus in making investments may differ from that of many of the investment funds, accounts or other investment vehicles that are or have been managed by our Advisers. We cannot assure you that we will replicate the historical results achieved by other investment funds managed by our Advisers, and we caution you that our investment returns could be substantially lower than the returns achieved by them in prior periods. Additionally, all or a portion of the prior results may have been achieved in particular market conditions which may never be repeated. Moreover, current or future market volatility and regulatory uncertainty may have an adverse impact on our future performance.

***Our Advisers or their affiliates may, from time to time, possess material non-public information, limiting our investment discretion.***

Principals of our Advisers and their affiliates, and members of their investment committee, may serve as directors of, or in a similar capacity with, companies in which we invest. If we obtain material non-public information with respect to such companies, or we become subject to trading restrictions under the internal trading policies of those companies or as a result of applicable law or regulations, we could be prohibited for a period of time from purchasing or selling the securities of such companies, and this prohibition may have an adverse effect on us.

***We are a non-diversified investment company within the meaning of the 1940 Act, and therefore we are not limited with respect to the proportion of our assets that may be invested in securities of a single issuer.***

We are classified as a non-diversified investment company within the meaning of the 1940 Act, which means that we are not limited by the 1940 Act with respect to the proportion of our assets that we may invest in securities of a single issuer. Under the 1940 Act, a “diversified” investment company is required to invest at least 75% of the value of its total assets in cash and cash items, government securities, securities of other investment companies and other securities limited in respect of any one issuer to

an amount not greater than 5% of the value of the total assets of such company and no more than 10% of the outstanding voting securities of such issuer. As a non-diversified investment company, we are not subject to this requirement. To the extent that we assume large positions in the securities of a small number of issuers, our NAV may fluctuate to a greater extent than that of a diversified investment company as a result of changes in the financial condition or the market's assessment of the issuer. We may also be more susceptible to any single economic or regulatory occurrence than a diversified investment company or to a general downturn in the economy. However, we are subject to the diversification requirements applicable to RICs under Subchapter M of the Code.

***We are highly dependent on information systems.***

We are highly dependent on the communications and information systems of our Advisers, their affiliates and certain third-party service providers, and any failure or interruption in these systems could cause disruptions in our activities. In addition, these systems are subject to potential attacks, including through adverse events that threaten the confidentiality, integrity or availability of our information resources. These attacks, which may include cyber incidents, may involve a third party gaining unauthorized access to our communications or information systems for purposes of misappropriating assets, stealing confidential information, corrupting data or causing operational disruption. Any such attack could result in disruption to our business, misstated or unreliable financial data, liability for stolen assets or information, increased cybersecurity protection and insurance costs, litigation and damage to our business relationships, any of which could have a material adverse effect on our business, financial condition and results of operations and our ability to pay distributions to our stockholders.

**Risks Related to our Advisers and their Affiliates**

***Our Advisers have conflicts of interest, including the potential to earn base management fees or incentive fees under the Investment Advisory Agreement and the Sub-Advisory Agreement, that may create an incentive for the Advisers to enter into investments that are riskier or more speculative than would otherwise be the case, and our Advisers may have an incentive to increase portfolio leverage in order to earn higher management fees.***

Our Advisers and their respective affiliates, including our officers and certain of our directors, may have conflicts of interest as a result of compensation arrangements, time constraints and competition for investments, which they will attempt to resolve in a fair and equitable manner, but which may result in actions that are not in your best interests. Our Advisers and their affiliates receive substantial fees from us in return for their services, and these fees could influence the advice provided to us. Among other matters, the compensation arrangements could affect their judgment with respect to public offerings of equity by us, which allow our Dealer Manager to earn additional Dealer Manager fees and our Advisers to earn increased management fees.

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

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

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

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

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

Certain investment professionals utilized by our Sub-Adviser currently manage Main Street and other investment entities. In addition, neither our Adviser nor our Sub-Adviser is prohibited from raising money for and managing future investment entities that make the same types of investments as those we target. Additionally, the investment professionals employed by our Adviser are employees of Hines and its affiliates, and they may hold similar positions in numerous other entities and from time to time may allocate a material amount of their time to the management of other funds or assets unrelated to our business.

As a result, the time and resources that our Advisers devote to us may be diverted, and during times of intense activity in other programs, they may devote less time and resources to our business than is necessary or appropriate. In addition, we may compete with such investment entities for the same investors and investment opportunities.

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

The investment professionals utilized by our Sub-Adviser are also the investment professionals responsible for investing and managing Main Street's securities portfolio. These professionals are responsible for allocating investment opportunities between us and Main Street. Our exemptive relief imposes on our Sub-Adviser the obligation to evaluate whether each investment opportunity its investment professionals review for Main Street is also appropriate for us and to propose an allocation of such opportunity to us if it deems such opportunity to be appropriate. If our Sub-Adviser determines that certain investment opportunities are appropriate for Main Street but not appropriate for us, or if our Sub-Adviser proposes an allocation of an investment opportunity to us that is disproportionately small relative to the proposed allocation to Main Street and our ability to fund the investment, our operating results could be adversely affected.

***The structure of our management fees creates potential conflicts of interest that could impact our investment returns.***

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

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

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

***Our Advisers' liability is limited under the Investment Advisory Agreement and Sub-Advisory Agreement, as applicable, and we have agreed to indemnify our Advisers against certain liabilities, which may lead our Advisers to act in a riskier manner on our behalf than they would when acting for their own account.***

Under the Investment Advisory Agreement and Sub-Advisory Agreement, as applicable, our Advisers, their respective officers, directors, managers, partners, shareholders, members, agents, employees, controlling persons and any other person or entity affiliated with them are not be liable to us for acts or omissions performed our Advisers in accordance with and pursuant to the Investment Advisory Agreement or Sub-Advisory Agreement, as applicable, except those resulting from acts constituting negligence, willful misfeasance, bad faith or misconduct. In addition, we have agreed to indemnify our Advisers and their respective officers, directors, managers, partners, shareholders, members, agents, employees, controlling persons and any other person or entity affiliated with them from and against any claims or liabilities, including reasonable legal fees, arising out of or in connection with any action taken or omitted on our behalf pursuant to authority granted by the Investment Advisory Agreement or Sub-Advisory Agreement, as applicable, except where attributable to gross negligence, willful misfeasance, bad faith or misconduct.

These protections may lead our Advisers to act in a riskier manner when acting on our behalf than they would when acting for their own account.

***Our Advisers can resign on 120 days' notice, and we may not be able to find a suitable replacement within that time, resulting in a disruption in our operations that could adversely affect our financial condition, business and results of operations.***

Our Adviser has the right, under the Investment Advisory Agreement, to resign at any time upon not less than 120 days' written notice, and the Sub-Adviser has the right, under the Sub-Advisory Agreement, to resign at any time upon not less than 120 days' written notice, whether we have found a replacement or not. If our Adviser resigns, all affiliates of the Adviser, including our Dealer Manager, may terminate their respective relationship with us and cease providing services to us. Additionally, if our Adviser or the Sub-Adviser resigns, we may not be able to find a replacement or hire internal management with similar expertise and ability to provide the same or equivalent services on acceptable terms within 120 days or at all. If we are unable to do so quickly, our operations are likely to experience a disruption, our financial condition, business and results of operations as well as our ability to pay distributions are likely to be adversely affected and the market price of our shares may decline. Even if we are able to retain comparable management, whether internal or external, the integration of such management and their lack of familiarity with our investment objective may result in additional costs and time delays that may adversely affect our business, financial condition, results of operations and cash flows.

***The Investment Advisory Agreement and the Sub-Advisory Agreement were not negotiated on an arm's length basis and may not be as favorable to us as if they had been negotiated with an unaffiliated third party.***

The Investment Advisory Agreement and the Sub-Advisory Agreement were not negotiated on an arm's length basis. Consequently, their terms may not be as favorable to us as if they had been negotiated with an unaffiliated third party. In addition, we may choose not to enforce, or to enforce less vigorously, our rights and remedies under these agreements because of our desire to maintain our ongoing relationship with our Advisers. Any such decision, however, would breach our fiduciary obligations to our stockholders. Our ability to enter into transactions with our affiliates is restricted, which may limit the scope of investments available to us.

## **Risks Related to BDCs**

***Our failure to invest a sufficient portion of our assets in qualifying assets could result in our failure to maintain our status as a BDC.***

As a BDC, we may not acquire any assets other than "qualifying assets" unless, at the time of and after giving effect to such acquisition, at least 70% of our total assets are qualifying assets. See "Item 1. Business — Regulation." Therefore, we may be precluded from investing in what we believe are attractive investments if such investments are not qualifying assets. Similarly, these rules could prevent us from making additional investments in existing portfolio companies, which could result in the dilution of our position, or could require us to dispose of investments at an inopportune time to comply with the 1940 Act. If we were forced to sell non-qualifying investments in the portfolio for compliance purposes, the proceeds from such sale could be significantly less than the current value of such investments.

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

We expect to continue to utilize leverage to fund new investments. As such, we may need to access the capital markets to refinance existing debt obligations to the extent maturing obligations are not repaid with cash flows from operations. In order to maintain RIC tax treatment we must distribute dividends to our stockholders each tax year on a timely basis generally of an amount at least equal to 90% of the sum of our net taxable ordinary income and realized net short-term capital gains in excess of realized net long-term capital losses, or investment company taxable income, determined without regard to any deduction for dividends paid, and the amounts of such distributions will therefore not be available to fund investment originations or to repay maturing debt. We may issue "senior securities," including borrowing money from banks or other financial institutions, only in amounts such that our asset coverage, as defined in the 1940 Act, equals at least 200% after such incurrence or issuance. Our ability to issue different types of securities is also limited. Compliance with these requirements may unfavorably limit our investment opportunities and reduce our ability in comparison to other companies to profit from favorable spreads between the rates at which we can borrow and the rates at which we can lend.

If the value of our assets declines, we may be unable to satisfy the asset coverage test under the 1940 Act, which could prevent us from paying distributions and could prevent us from being eligible to be subject to tax as a RIC. If we cannot satisfy the asset

coverage test, we may be required to sell a portion of our investments and, depending on the nature of our debt financing, repay a portion of our indebtedness at a time when such sales and repayments may be disadvantageous.

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

***Our ability to enter into and exit transactions with our affiliates is restricted.***

We are prohibited under the 1940 Act from participating in certain transactions with certain of our affiliates without the prior approval of a majority of the independent members of our board of directors and, in some cases, the SEC. Any person that owns, directly or indirectly, 5% or more of our outstanding voting securities is considered our affiliate for purposes of the 1940 Act and we are generally prohibited from buying or selling any securities from or to such affiliate, absent prior approval of our board of directors. The 1940 Act also prohibits certain “joint” transactions with certain of our affiliates, which could include investments in the same portfolio company (whether at the same or different times), without prior approval of our board of directors and, in some cases, the SEC. If a person acquires more than 25% of our voting securities, we would be prohibited from buying or selling any security from or to such person or certain of that person’s affiliates, or entering into prohibited joint transactions with such persons, absent the prior approval of the SEC. Similar restrictions limit our ability to transact business with our officers or directors or their affiliates. We have, however, received an exemptive order from the SEC that permits us, notwithstanding the prohibitions contained in the 1940 Act to co-invest with Main Street under the conditions set forth in the exemptive relief in certain transactions originated by Main Street and/or our Advisers.

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

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

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

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

**Risks Related to Our Investments**

***Our investments in prospective portfolio companies, which include senior secured loans, second lien loans, and mezzanine debt, may be risky, and we could lose all or part of our investment.***

We pursue a strategy focused on investing primarily in senior secured loans, second lien loans and mezzanine debt issued by Middle Market companies. Most loans in which we invest will not be rated, or would be if they were rated by a rating agency, as “below investment grade,” or “junk,” quality. Indebtedness of below investment grade quality is regarded as having predominantly speculative characteristics with respect to the issuer’s capacity to pay interest and repay principal. We expect to hold debt and preferred equity instruments in our investment portfolio that contain PIK interest and cumulative dividend provisions. The PIK interest, computed at the contractual rate specified in each debt agreement, is periodically added to the principal balance of the debt and is accrued as interest income. Thus, the actual collection of this interest may be deferred until the time of debt principal repayment. If the debt principal is not repaid in full, then PIK interest will likewise be partially or wholly uncollectible.

*Senior Secured Loans and Second Lien Loans.* When we make senior secured term loans and second lien loans, we will generally take a security interest in the available assets of these portfolio companies, including the equity interests of their subsidiaries. We

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

*Mezzanine Debt.* Our mezzanine debt investments will generally be subordinated to senior loans and will generally be unsecured. This may result in a heightened level of risk and volatility or a loss of principal which could lead to the loss of the entire investment. These investments may involve additional risks that could adversely affect our investment returns.

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

We pursue a strategy focused on investing primarily in senior secured loans, second lien loans and mezzanine debt issued by Middle Market companies. Our portfolio companies may have, or may be permitted to incur, other debt that ranks equally with, or senior to, the debt in which we invest. By their terms, such debt instruments may entitle the holders to receive payment of interest or principal on or before the dates on which we are entitled to receive payments with respect to the debt instruments in which we invest. Also, in the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of a portfolio company, holders of debt instruments ranking senior to our investment in that portfolio company would typically be entitled to receive payment in full before we receive any distribution. After repaying such senior creditors, such portfolio company may not have any remaining assets to use for repaying its obligation to us. In the case of debt ranking equally with debt instruments in which we invest, we would have to share on an equal basis any distributions with other creditors holding such debt in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant portfolio company.

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

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

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

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

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

such actions, even if our rights are adversely affected. Additionally, the exercise of any rights may involve delay during which the value of collateral may decline.

***We generally will not control our portfolio companies.***

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

***We will be subject to financial market risks, including changes in interest rates, which may have a substantial negative impact on our investments, cost of capital and/or net investment income.***

We are subject to financial market risks, including changes in interest rates. While the majority of our investments are floating rate debt instruments, to the extent that we invest in fixed-rate securities or loans, general interest rate fluctuations may have a substantial negative impact on our investments and investment opportunities and, accordingly have a material adverse effect on our business and our rate of return on invested capital.

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

You should also be aware that a rise in the general level of interest rates can be expected to lead to higher interest rates applicable to our debt investments. Accordingly, an increase in interest rates may result in a substantial increase in the amount of incentive fees payable to our Advisers. In addition, a decline in the prices of the debt due to rising market interest rates not reflected in such debt investments we own could adversely affect our NAV.

***Our portfolio companies may experience financial distress, and our investments in such portfolio companies may be restructured.***

Our portfolio companies may experience financial distress from time to time. The debt investments of these companies may not produce income, may require us to bear certain expenses to protect our investment and may subject us to uncertainty as to when, in what manner and for what value such distressed debt will eventually be satisfied, including through liquidation, reorganization or bankruptcy. If an exchange offer is made or plan of reorganization is adopted with respect to the debt securities we currently hold, there can be no assurance that the securities or other assets received by us in connection with such exchange offer or plan of reorganization will have a value or income potential similar to what we anticipated when our original investment was made or even at the time of restructuring. In addition, we may receive equity securities in exchange for the debt investment that we currently hold, which may require significantly more of our management's time and attention or carry restrictions on their disposition.

***Our portfolio companies may be unable to repay or refinance outstanding principal on their loans at or prior to maturity, and rising interest rates may make it more difficult for portfolio companies to make periodic payments on their loans.***

Our portfolio companies may be unable to repay or refinance outstanding principal on their loans at or prior to maturity. This risk and the risk of default is increased to the extent that the loan documents do not require the portfolio companies to pay down the outstanding principal of such debt prior to maturity. In addition, if general interest rates rise, there is a risk that our portfolio companies will be unable to pay escalating interest amounts, which could result in a default under their loan documents with us. Rising interest rates could also cause portfolio companies to shift cash from other productive uses to the payment of interest, which may have a material adverse effect on their business and operations and could, over time, lead to increased defaults. Any



failure of one or more portfolio companies to repay or refinance its debt at or prior to maturity or the inability of one or more portfolio companies to make ongoing payments following an increase in contractual interest rates could have a material adverse effect on our business, financial condition, results of operations and cash flows.

***Our portfolio companies may prepay loans, which prepayment may reduce our yields if capital returned cannot be invested in transactions with equal or greater expected yields.***

The loans in our investment portfolio generally are prepayable at any time, sometimes at no premium to par. Whether a loan is prepaid may depend on the performance of the portfolio company and the existence of favorable financing market conditions that allow such company the ability to replace existing financing with less expensive capital. In the case of some of these loans, having the loan prepaid may reduce the achievable yield for us if the capital returned cannot be invested in transactions with equal or greater expected yields, which could have a material adverse effect on our business, financial condition and results of operations.

***The disposition of our investments may result in contingent liabilities.***

We currently expect that a significant portion of our investments will involve private securities. In connection with the disposition of an investment in private securities, we may be required to make representations about the business and financial affairs of the portfolio company typical of those made in connection with the sale of a business. We may also be required to indemnify the purchasers of such investment to the extent that any such representations turn out to be inaccurate or with respect to certain potential liabilities. These arrangements may result in contingent liabilities that ultimately yield funding obligations that must be satisfied through our return of certain distributions previously made to us.

***Defaults by our portfolio companies will harm our operating results.***

A portfolio company's failure to satisfy financial or operating covenants imposed by us or other lenders could lead to defaults and, potentially, termination of its loans and foreclosure on its secured assets, which could trigger cross-defaults under other agreements and jeopardize a portfolio company's ability to meet its obligations under the debt or equity securities that we hold (and we may invest in portfolio companies that are highly leveraged themselves). We may incur expenses to the extent necessary to seek recovery upon default or to negotiate new terms, which may include the waiver of certain financial covenants, with a defaulting portfolio company. We may also record unrealized depreciation on any investment in a portfolio company upon default, which would reduce our NAV. Additionally, our investments with a deferred interest feature such as original issue discount could represent a higher credit risk than investments that must be paid in full in cash on a regular basis. Lastly, if a portfolio company defaults on a loan that is structured to provide accrued interest, it is possible that accrued interest previously used in the calculation of the incentive fee will become uncollectible.

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

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

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

Our investments are primarily in debt and equity securities of Middle Market companies, including privately held companies. Investing in privately held companies presents certain challenges, including that such companies:



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

These companies and their financial information will generally not be subject to the Sarbanes-Oxley Act and other rules that govern public companies. If we are unable to uncover all material information about these companies, we may not make a fully informed investment decision, and we may lose money on our investments. As a result, the relative lack of liquidity and the potential diminished capital resources of our target portfolio companies may affect our investment returns.

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

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

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

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

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

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

***We are subject to risks associated with our investments in energy and power companies.***

A prolonged continuation of depressed oil and natural gas prices would adversely affect the credit quality and performance of certain of our debt and equity investments in energy and power companies. A decrease in credit quality and performance would, in turn, negatively affect the fair value of these investments, which would consequently negatively affect our NAV. Should a period of depressed oil and natural gas prices continue, the ability of certain of our portfolio companies in the energy industry to satisfy financial or operating covenants imposed by us or other lenders may be adversely affected, which could, in turn, negatively impact

their financial condition and their ability to satisfy their debt service and other obligations. Likewise, should a period of depressed oil and natural gas prices occur, it is possible that the cash flow and profit generating capacity of these portfolio companies could also be adversely affected thereby negatively impacting their ability to pay us dividends or distributions on our investments, which could have a material adverse effect on our business, financial condition and results of operations. Also, energy and power companies are subject to supply and demand fluctuations in the markets in which they operate, which are impacted by numerous factors, including weather, use of renewable fuel sources, natural disasters, governmental regulation and general economic conditions, in addition to the effects of increasing regulation and general operational risks, any of which could have a material adverse effect on the performance and value of our investments in energy and power companies as well as our cash flows from such investments.

***Certain of our portfolio companies are concentrated in certain geographic regions of the country. In such instance, we will be subject to the risks associated with those geographic regions of the country, including their economic conditions and growth prospects.***

We may make investments in portfolio companies that are concentrated in certain geographic regions of the country. As a result, our investments in those portfolio companies will be subject to the risks of those geographic regions. These risks may include the risks associated with the economics and growth prospects of those geographic regions. An economic downturn or a negative change in growth prospects for those geographic regions could result in an inability of those portfolio companies to meet their obligations to us pursuant to our debt investments in them, or a decrease in the intrinsic value of our equity investments in them. In either instance, as a result of our exposure to the risks associated with those geographic regions, our expected earnings from these portfolio companies may be less than expected and as a result, your investment in us may be adversely affected.

### **Risks Relating to Debt Financing**

***We may have limited ability to fund new investments if we are unable to expand, extend or refinance our Capital One Credit Facility or the Deutsche Bank Credit Facility (combined, the “Credit Facilities”).***

On March 11, 2014, we entered into a \$70.0 million senior secured credit facility (as amended from time to time, the “Capital One Credit Facility”) with Capital One, National Association (“Capital One”), as administrative agent, and other banks as participants (together with Capital One, the “Lenders”) in the facility. The Capital One Credit Facility has subsequently been amended on multiple occasions, and as of December 31, 2016, the Capital One Credit Facility had commitments of \$125.0 million, with an accordion provision allowing increases in borrowing of up to \$150.0 million, subject to certain conditions. As of December 31, 2016, the maturity date of the Capital One Credit Facility was March 11, 2017, subsequent to which we had two, one-year extension options, subject to approval of the Lenders. On March 6, 2017, the Capital One Credit Facility was amended and restated to, among other things, extend the maturity date to March 6, 2020, reduce revolver commitments to \$95.0 million, and assign Capital One’s role as administrative agent to EverBank Commercial Finance, Inc. (“EverBank”).

On June 2, 2014, HMS Funding entered into a credit agreement (the “Deutsche Bank Credit Facility”) among HMS Funding, the Company, as equityholder and servicer, Deutsche Bank AG, New York Branch (“Deutsche Bank”), the financial institutions party thereto as lenders and U.S. Bank National Association as collateral agent and collateral custodian. The Deutsche Bank Credit Facility provided for an initial borrowing capacity of \$50.0 million, subject to certain limitations, including limitations with respect to HMS Funding’s investments, as more fully described in the Deutsche Bank Credit Facility. The Deutsche Bank Credit Facility was amended and restated on May 18, 2015 and subsequently has been amended on multiple occasions, most recently on February 9, 2016, increasing the revolver commitments to \$385.0 million. The Deutsche Bank Credit Facility matures on June 16, 2020.

There can be no guarantee that we will be able to expand, extend or replace the Credit Facilities on terms that are favorable to us, if at all. Our ability to expand the Credit Facilities, and to obtain replacement financing at the time of maturity, will be constrained by then-current economic conditions affecting the credit markets.

As a BDC, we generally are required to meet a coverage ratio of total assets to total borrowings and other senior securities, which include all of our borrowings and any preferred stock that we may issue in the future, of at least 200%. Stated differently, the amount of our total borrowings and other senior securities as a percentage of our total assets cannot exceed 50%. If this ratio declines below 200%, we cannot incur additional debt and could be required to sell a portion of our investments to repay some debt when it is disadvantageous to do so.

In March of 2013, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (the “Agencies”) jointly issued final guidance on leveraged lending transactions conducted by regulated financial institutions (the “Leveraged Lending Guidance”). In November of 2014, the Agencies issued “Frequently

Asked Questions (“FAQ”) for Implementing March 2013 Interagency Guidance on Leveraged Lending” that were designed to foster industry and examiner understanding of the Leveraged Lending Guidance. The Leveraged Lending Guidance outlines for Agency-supervised institutions high-level principles related to safe-and-sound leveraged lending and contains the Agencies’ minimum expectations for a risk management framework that financial institutions should have in place. With regard to BDCs, the FAQ for example states that the risk management and reporting aspects of the Leveraged Lending Guidance should be applied to underlying loans in structured transactions if an institution originates or retains credit risk in the individual loans. If the financial institution originates or participates in a loan to a BDC that holds leveraged loans, then the loan to the BDC constitutes indirect exposure that should be measured and reported as a leveraged loan. The full impact of the Leveraged Lending Guidance and the FAQ is still uncertain, but it is possible that financing may become more expensive for us and banks or other financial institutions may be less willing to engage in leveraged lending, making it more difficult for us to obtain financing.

***In addition to regulatory limitations on our ability to raise capital, the Credit Facilities contain various covenants, which, if not complied with, could accelerate our repayment obligations under the Credit Facilities, thereby materially and adversely affecting our liquidity, financial condition, results of operations and ability to pay distributions.***

We will have a continuing need for capital to finance our operations. As of December 31, 2016, the Capital One Credit Facility contained affirmative and negative covenants usual and customary for leveraged financings, including:

- maintaining an interest coverage ratio of at least 2.0 to 1.0;
- maintaining an asset coverage ratio of at least 2.25 to 1.0; and
- maintaining a minimum consolidated tangible net worth, excluding Structured Subsidiaries, of at least \$50.0 million.

Additionally, the Capital One Credit Facility requires us to obtain written approval from the administrative agent prior to entering into any material amendment, waiver or other modification of any provision of the Investment Advisory Agreement. The Capital One Credit Facility permits us to fund additional loans and investments as long as we are within the conditions set out in the agreement.

The Deutsche Bank Credit Facility contains affirmative and negative covenants usual and customary for leveraged financings, including maintaining a positive tangible net worth and limitations on industry concentration. Further, the Credit Facilities contain usual and customary default provisions including:

- a default in the payment of interest and principal;
- insolvency or bankruptcy of the Company;
- a material adverse change in the Company’s business; or
- breach of any covenant, representation or warranty in the loan agreement or other credit documents and failure to cure such breach within defined periods.

Our continued compliance with the covenants contained in the Credit Facilities depends on many factors, some of which are beyond our control. There are no assurances that we will continue to comply with these covenants. Any failure to satisfy these covenants could result in foreclosure by our lenders, which would accelerate our repayment obligations under one or both of the Credit Facilities and thereby have a material adverse effect on our business, liquidity, financial condition, results of operations and ability to pay distributions to our stockholders.

***Because we borrow money, the potential for gain or loss on amounts invested in us is magnified and may increase the risk of investing in us.***

Borrowings, also known as leverage, magnify the potential for gain or loss on invested equity capital. As we use leverage to partially finance our investments, you will experience increased risks associated with investing in our securities. We may borrow from banks and other lenders, including under the Credit Facilities, and may issue debt securities or enter into other types of borrowing arrangements in the future. If the value of our assets decreases, leveraging would cause NAV per share to decline more sharply than it otherwise would have had we not leveraged and such a decline could affect our ability to make distributions. Similarly, any decrease in our income would cause our net investment income to decline more sharply than it would have had we not borrowed. Such a decline could negatively affect our ability to make distributions to our stockholders. Leverage is generally considered a speculative investment technique.

The following table illustrates the effect of leverage on returns from an investment in our common stock assuming various annual returns, net of expenses. The calculations in the table below are hypothetical and actual returns may be higher or lower than those appearing in the table below. The calculation assumes (i) we borrow funds equal to 40% of our total assets, (ii) we sell \$200.0 million of common stock, (iii) our net offering proceeds from such sales equal \$177.0 million, (iv) the resulting average total

assets are approximately \$1.1 billion during the twelve-month period commencing January 1, 2017 and (v) a weighted average cost of funds of 3.63%. There can be no assurance that we will sell an aggregate \$200.0 million worth of our common stock during the following twelve months. In order to compute the “Corresponding return to stockholders,” the “Assumed Return on Our Portfolio (net of expenses)” is multiplied by the assumed total assets to obtain an assumed return to us. From this amount, the interest expense is calculated by multiplying the assumed weighted average cost of funds times the assumed debt outstanding, and the product is subtracted from the assumed return to us in order to determine the return available to stockholders. The return available to stockholders is then divided by our stockholders’ equity to determine the “Corresponding return to stockholders.” Actual interest payments may be different.

| <b>Assumed Return on Our Portfolio (net of expenses)</b> | <b>(10)%</b> | <b>(5)%</b> | <b>0%</b> | <b>5%</b> | <b>10%</b> |
|--|--------------|-------------|-----------|-----------|------------|
| Corresponding return to stockholders                     | (19.09)%     | (10.75)%    | (2.42)%   | 5.91%     | 14.24%     |

Under the same assumptions, our assets would need to yield an annual return (net of expenses) of approximately 1.45% in order to cover the annual interest payments on our outstanding debt.

***We are a holding company and depend on payments from our subsidiaries in order to make payments on any debt securities that we may issue as well as to pay distributions on our common stock. Any debt securities that we issue will be structurally subordinated to the obligations of our subsidiaries.***

We are a holding company and fund a majority of our investments through wholly owned subsidiaries. We depend upon the cash flow from our subsidiaries and the receipt of funds from them, any of which may be subject to restriction or limitations based on the organizational documents of the subsidiaries and the agreements governing the debt of any such subsidiary. In addition, because we are a holding company, any debt securities that we issue will be structurally subordinated to the obligations of our subsidiaries. In the event that one of our subsidiaries becomes insolvent, liquidates, reorganizes, dissolves or otherwise winds up, its assets will be used first to satisfy the claims of its creditors. Consequently, any claim by us or our creditors against any subsidiary will be structurally subordinated to all of the claims of the creditors of such subsidiary. We cannot assure security holders that they will receive any payments required to be made under the terms of any debt securities that we may issue or other distributions.

## **Risks Relating to Our Common Stock**

***If we are unable to raise substantial funds in our ongoing, continuous “best efforts offering,” we will be limited in the number and type of investments we may make, and the value of your investment in us may be reduced in the event our assets underperform.***

We are offering our common stock on a continuous, best efforts basis, whereby our Dealer Manager and broker-dealers participating in the Offering are only required to use their best efforts to sell our shares of common stock and have no firm commitment or obligation to purchase any of the shares of common stock. In addition, selling brokers have more than one BDC offering to emphasize to prospective purchasers, a choice that may make success in conducting the Offering more difficult. Furthermore, the board of directors has authorized the Closing, although it has retained its right to provide final approval on the specific terms of the Closing, including its right to accelerate the Closing or to continue our continuous public offering of common stock if the board of directors determines that it is in the best interest of us or our stockholders to do so. To the extent that less than the maximum number of shares of common stock is subscribed for, or if the Closing occurs on or about September 30, 2017, the opportunity for diversification of our investments may be decreased and the returns achieved on those investments may be reduced as a result of allocating all of our expenses over a smaller capital base.

***Our shares of common stock are not listed on an exchange or quoted through a quotation system, will not be listed for the foreseeable future, if ever, and we are not obligated to effectuate a liquidity event by a specified date. Therefore, you will have limited liquidity and may not receive a full return of your invested capital if you sell your shares of common stock.***

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



shares of common stock on a national securities exchange or (3) a merger or another transaction approved by our board of directors in which our stockholders will receive cash or shares of a publicly traded company.

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

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

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

We have a share repurchase program allowing us to repurchase approximately 10% of our weighted average number of outstanding shares in any 12-month period. Unless our board of directors elects to suspend our share repurchase program, we will limit the number of shares to be repurchased (i) during any calendar year to the number of shares we can repurchase with the proceeds we receive from the issuance of shares of our common stock under our distribution reinvestment plan during the trailing four quarters and (ii) in any calendar quarter to 2.5% of the weighted average number of shares of common stock outstanding during the trailing four quarters. This program allows you to sell back your shares of common stock to us on a quarterly basis at a price equal to the NAV per share, as determined within 48 hours of the repurchase date. The share repurchase program includes numerous restrictions that will limit your ability to sell your shares. At the discretion of our board of directors, we may also use cash on hand, cash available from borrowings and cash from the sale of our investments as of the end of the applicable period to repurchase shares. To the extent that the number of shares put to us for repurchase exceeds the number of shares that we are able to purchase, we will repurchase shares on a pro rata basis, not on a first-come, first-served basis. Further, we will have no obligation to repurchase shares if the repurchase would violate the restrictions on distributions under federal law or Maryland law, which prohibits distributions that would cause a corporation to fail to meet statutory tests of solvency. These limits may prevent us from accommodating all repurchase requests made in any year. In addition, our board of directors may suspend or terminate the share repurchase program and therefore should not be relied upon as a method to sell shares promptly and at a desired price.

***Our repurchase offers pursuant to our share repurchase program may be at prices lower than the price paid by our stockholders to purchase our common stock.***

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

***We may be unable to invest a significant portion of the net stock offering proceeds on acceptable terms in an acceptable time frame.***

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

Before making investments, we will invest any net stock offering proceeds primarily in cash, cash equivalents, U.S. government securities, repurchase agreements and high-quality debt instruments maturing in one year or less from the time of investment, which may produce returns that are significantly lower than the returns which we expect to achieve when our portfolio is fully

invested in securities meeting our investment objective. As a result, any distributions that we pay while our portfolio is not fully invested in securities meeting our investment objective may be lower than the distributions that we may be able to pay when our portfolio is fully invested in securities meeting our investment objective.

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

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

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

Our investors do not have preemptive rights to any shares we issue in the future. Our Charter authorizes us to issue 450,000,000 shares of common stock. Pursuant to our Charter, a majority of our entire board of directors may amend our Charter from time to time to increase or decrease the aggregate number of authorized shares of stock or the number of authorized shares of stock of any class or series without stockholder approval. After your purchase in the Offering, our board of directors may elect to sell additional shares in this or future public offerings, issue equity interests in private offerings or issue share-based awards to our independent directors or employees of our Advisers. To the extent we issue additional equity interests after your purchase in the Offering, your percentage ownership interest in us will be diluted. In addition, depending upon the terms and pricing of any additional offerings and the value of our investments, you may also experience dilution in the book value and fair value of your shares of common stock.

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

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

Under the MGCL, certain statutory provisions permit a corporation that is subject to the Exchange Act and that has at least three independent directors to be subject to certain corporate governance provisions notwithstanding any contrary provision in the corporation’s charter and bylaws. Among other provisions, a board of directors may classify itself without the vote of stockholders. Further, the board of directors, by electing into certain statutory provisions and notwithstanding any contrary provision in the charter or bylaws, may (i) provide that a stockholder-requested special meeting of stockholders will be called only at the request

of stockholders entitled to cast at least a majority of the votes entitled to be cast at the meeting, (ii) reserve for itself the right to fix the number of directors, and (iii) retain for itself the exclusive power to fill vacancies created by the death, removal or resignation of a director, which is permitted under our Charter. A corporation may be prohibited by its charter or by resolution of its board of directors from electing to be subject to any of the provisions of the statute. We are not prohibited from implementing any or all of the statute.

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

***Investing in shares of our common stock may involve an above average degree of risk.***

The investments we make in accordance with our investment objective may result in a higher amount of risk than alternative investment options and a higher risk of volatility or loss of principal. Our investments in portfolio companies involve higher levels of risk, and therefore, an investment in our shares may not be suitable for someone with lower risk tolerance.

***Our stockholders could experience dilution in their ownership percentage if they do not participate in our distribution reinvestment plan.***

All distributions declared to stockholders that have “opted in” to our distribution reinvestment plan are automatically reinvested in shares of our common stock. As a result, our stockholders that do not participate in our distribution reinvestment plan could experience dilution in their ownership percentage of our common stock over time if we issue additional shares of our common stock.

**Federal Income Tax Risks**

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

To qualify for and maintain RIC tax treatment under the Code, we must meet the Annual Distribution Requirement, the 90% Income Test and the Diversification Tests in each of our tax years. Additionally, in order to avoid the imposition of a 4% nondeductible U.S. federal excise tax, we need to satisfy the Excise Tax Avoidance Requirement. See “Item 1. Business — Regulation — *Taxation as a RIC.*”

We must satisfy these tests on an ongoing basis in order to maintain RIC tax treatment, and may be required to make distributions to stockholders at times when it would be more advantageous to reinvest cash in existing or other investments, or when we do not have funds readily available for distribution. Compliance with the RIC tax requirements may hinder our ability to operate solely on the basis of maximizing profits and the value of our stockholders’ investments. If we fail to qualify for or maintain RIC tax treatment for any reason and are subject to corporate income tax, the resulting corporate taxes could substantially reduce our net assets, the amount of income available for distribution and the amount of our distributions.

If we fail to satisfy the 90% Income Test or any of the Diversification Tests in any tax year, we may nevertheless continue to qualify as a RIC for such tax year if certain relief provisions are applicable (which may subject us to certain corporate-level U.S. federal, state and local income taxes, as well as dispose of certain assets).

If we fail to qualify for, or to maintain, RIC tax treatment for any reason or do not qualify to cure the disqualification, the resulting corporate-level U.S. federal, state and local income taxes could substantially reduce our net assets, the amount of income available for distribution and the amount of our distributions. See “Item 1. Business — Regulation — *Taxation as a RIC.*”

***Some of our equity investments may be subject to corporate level tax.***

We may invest in certain debt and equity investments through HMS Equity Holding and HMS Equity Holding II as well as other taxable subsidiaries and the net taxable income of HMS Equity Holding and HMS Equity Holding II as well as those other taxable subsidiaries will be subject to federal and state corporate income taxes. In addition, we may invest in certain foreign debt and equity investments which could be subject to foreign taxes (such as income tax, withholding, and value added taxes).

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

For federal income tax purposes, we may be required to recognize taxable income in circumstances in which we do not receive a corresponding payment in cash. For example, if we hold debt instruments that are treated under applicable tax rules as having original issue discount (such as debt instruments with PIK interest or, in certain cases, increasing interest rates or debt instruments that were issued with warrants), we must include a portion of the original issue discount that accrues over the life of the obligation in determining our investment company taxable income for any tax year, regardless of whether cash representing such income is received by us in the same tax year. We may also have to include in income other amounts that we have not yet received in cash, such as deferred loan origination fees that are paid after origination of the loan or are paid in non-cash compensation such as warrants or stock. We anticipate that a portion of our income may be comprised of original issue discount or other income required to be included in our investment company taxable income prior to receipt of cash. Further, we have elected to amortize market discount on all debt instruments with market discount acquired by us, and have included the amount of such market discount currently in our investment company taxable income over the remaining term of all such instruments acquired with market discount, instead of upon disposition or receipt of other principal payments on such debt instruments, as failing to make such an election could limit our ability to deduct interest expense for tax purposes.

Because any original issue discount or other amounts accrued will be included in our investment company taxable income for the tax year of the accrual, we may be required to make a distribution to our stockholders in order to satisfy the Annual Distribution Requirement or the Excise Tax Avoidance Requirement, even though we will not have received any corresponding cash amount. As a result, we may have difficulty meeting the Annual Distribution Requirement or the Excise Tax Avoidance Requirement. We may have to sell some of our investments at times and/or at prices we would not consider advantageous, raise additional debt or equity capital or forgo new investment opportunities for this purpose. If we are not able to obtain cash from other sources, we may fail to qualify for RIC tax treatment and thus become subject to corporate-level income tax. For additional discussion regarding the tax implications of a RIC, see “Item 1. Business — Regulation — *Taxation as a RIC.*”

Furthermore, we may invest in the equity securities of non-U.S. corporations (or other non-U.S. entities classified as corporations for U.S. federal income tax purposes) that could be treated under the Code and U.S. Treasury regulations as passive foreign investment companies and/or controlled foreign corporations. The rules relating to investment in these types of non-U.S. entities are designed to ensure that U.S. taxpayers are either, in effect, taxed currently (or on an accelerated basis with respect to corporate level events) or taxed at increased tax rates at distribution or disposition. In certain circumstances, these rules also could require us to recognize taxable income or gains where we do not receive a corresponding payment in cash.

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

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

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

A “publicly offered regulated investment company” is a RIC whose shares are either (i) continuously offered pursuant to a public offering, (ii) regularly traded on an established securities market or (iii) held by at least 500 persons at all times during the tax year. If we are not a publicly offered RIC for any period, a noncorporate stockholder’s allocable portion of our affected expenses, including our management fees, will be treated as an additional distribution to the stockholder and will be deductible by such stockholder only to the extent permitted under the limitations described below. For noncorporate stockholders, including individuals, trusts, and estates, significant limitations generally apply to the deductibility of certain expenses of a non-publicly offered RIC, including management fees. In particular, these expenses, referred to as miscellaneous itemized deductions, are deductible to an individual only to the extent they exceed 2% of such a stockholder’s adjusted gross income, are not deductible for alternative minimum tax purposes and are subject to the overall limitation on itemized deductions imposed by the Code. Because shares of our common stock currently are continuously offered pursuant to a public offering, we believe that we are currently considered a publicly offered regulated investment company. There can be no assurance, however, that shares of our common stock will continue to be continuously offered pursuant to a public offering or that we will otherwise be considered a publicly offered regulated investment company in the future.



***Our portfolio investments may present special tax issues.***

Investments in below-investment grade debt instruments and certain equity securities may present special tax issues for us. U.S. federal income tax rules are not entirely clear about issues such as when we may cease to accrue interest, original issue discount or market discount, when and to what extent deductions may be taken for bad debts or worthless debt in equity securities, how payments received on obligations in default should be allocated between principal and interest income, as well as whether exchanges of debt instruments in a bankruptcy or workout context are taxable. Such matters could cause us to recognize taxable income for U.S. federal income tax purposes, even in the absence of cash or economic gain, and require us to make taxable distributions to our stockholders to maintain our RIC status or preclude the imposition of either U.S. federal corporate income or excise taxation. Additionally, because such taxable income may not be matched by corresponding cash received by us, we may be required to borrow money or dispose of other investments to be able to make distributions to our stockholders. These and other issues will be considered by us, to the extent determined necessary, in order that we minimize the level of any U.S. federal income or excise tax that we would otherwise incur.

***Legislative or regulatory tax changes could adversely affect you.***

At any time, the federal income tax laws governing RICs or the administrative interpretations of those laws or regulations may be amended. Any of those new laws, regulations or interpretations may take effect retroactively and could adversely affect the taxation of us or of you as a stockholder. Therefore, changes in tax laws, regulations or administrative interpretations or any amendments thereto could diminish the value of an investment in our shares or the value or the resale potential of our investments.

***Item 1B. Unresolved Staff Comments***

Not applicable.

***Item 2. Properties***

We do not own any real estate or other physical properties materially important to our operation. Currently, the Adviser leases office space in Houston, Texas for its corporate headquarters. We believe that the office facilities of the Adviser are suitable and adequate for our business as it is contemplated to be conducted.

***Item 3. Legal Proceedings***

We are not currently subject to any material legal proceedings, nor, to our knowledge, is any material legal proceeding threatened against us. From time to time, we may be a party to certain legal proceedings, including proceedings relating to the enforcement of our rights under contracts with our portfolio companies. While the outcome of these legal proceedings cannot be predicted with certainty, we do not expect that these proceedings will have a material effect upon our financial condition or results of operations.

***Item 4. Mine Safety Disclosures***

Not applicable.

## PART II

### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

#### Market Information

There is currently no market for our common stock, and we do not expect one to develop. Therefore, there is a risk that a stockholder may not be able to sell our stock at a time or price acceptable to the stockholder, or at all. None of our common stock has been authorized for issuance under any equity compensation plans.

We are offering shares of our common stock on a continuous basis at a current offering price of \$9.30 per share; however, to the extent that our NAV per share increases, we will sell shares of our common stock at a price necessary to ensure that shares of our common stock are not sold at a price per share, after deduction of selling commissions and Dealer Manager fees, that is below NAV per share. In connection with each weekly closing on the sale of shares of our common stock pursuant to our prospectus, as amended or supplemented, which relates to the Offering, our board of directors or a committee thereof is required, within 48 hours of the time that each closing and sale is made, to make the determination that we are not selling shares of our common stock at a price per share which, after deducting selling commissions and Dealer Manager fees, is below our then current NAV per share.

In the event of a material decline in our NAV per share, which we consider to be a non-temporary 2.5% or more decrease below our then-current net offering price, and subject to certain conditions, we will reduce our offering price accordingly. Therefore, persons who subscribe for shares in the Offering must submit subscriptions for a fixed dollar amount rather than a number of shares and, as a result, may receive fractional shares of our common stock. Promptly following any such adjustment to the offering price per share, we will file a prospectus supplement with the SEC disclosing the adjusted offering price, and we will post the updated information on our Dealer Manager's website at [www.HinesSecurities.com](http://www.HinesSecurities.com).

Set forth below is a chart describing the classes of our securities outstanding as of March 3, 2017:

| (1)                                       | (2)               | (3)                                  | (4)   |
|---|-------------------|--------------------------------------|---|
| Title of Class                            | Amount Authorized | Amount Held by Us or for Our Account | Amount Outstanding Exclusive of Amount Under Column (3) |
| Common Stock, par value \$0.001 per share | 450,000,000       | —                                    | 75,593,520  |

As of March 3, 2017, we had 14,535 record holders of our common stock.

#### Distributions and Taxable Income

Subject to our board of directors' discretion and applicable legal restrictions, we intend to declare distributions on a quarterly basis and pay such distributions monthly. With the authorization of our board of directors, we declared distributions during each quarter of the years ended December 31, 2016 and 2015. These distributions were paid monthly and were calculated based on stockholders of record each day in an amount equal to \$0.00191781 per share, per day (which represents an annualized distribution rate of 7.00% based on our initial offering price of \$10.00 per share and 7.53% based on our current offering price of \$9.30 per share, if it were maintained every day for a twelve-month period). Distributions are paid on the first business day following the completion of each month to which they relate. For additional information regarding our distributions, see "Item 1A. Risk Factors — Risks Relating to our Business and Structure — *The amount of our distributions to our stockholders is uncertain. Portions of the distributions that we pay may represent a return of capital to you for U.S. federal income tax purposes which will lower your tax basis in your shares and reduce the amount of funds we have for investment in targeted assets. We may not be able to pay you distributions, and our distributions may not grow over time.*" and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — *Financial Condition, Liquidity and Capital Resources.*"

We may fund our cash distributions from any sources of funds legally available, including stock offering proceeds, borrowings, net investment income from operations, capital gains proceeds from the sale of assets, non-capital gains proceeds from the sale of assets, dividends or other distributions paid to us on account of preferred and common equity investments in portfolio companies and fee waivers from our Advisers.

We have elected to be treated for U.S. federal income tax purposes as a RIC under Subchapter M of the Code. We intend to annually qualify as a RIC. As a RIC, we generally will not be subject to corporate-level U.S. federal income taxes on any ordinary income or capital gain that we distribute to our stockholders from our taxable earnings and profits. To qualify as a RIC in any taxable year, we must, among other things, satisfy certain source-of-income and asset diversification requirements. In addition, we must satisfy

the Annual Distribution Requirement to qualify and to maintain our ability to be subject to tax as a RIC. As a part of maintaining RIC status, undistributed taxable income (subject to a 4% nondeductible U.S. federal excise tax) pertaining to a given taxable year may be distributed up to 12 months subsequent to the end of that taxable year, provided such distributions are declared prior to the earlier of eight-and-one-half months after the close of such taxable year in which such taxable income was generated or the filing of the federal income tax return for the taxable year in which such taxable income was generated. In order to avoid the imposition of the 4% nondeductible U.S. federal excise tax, we need to satisfy the Excise Tax Avoidance Requirement. In 2014, approximately \$59,000, or \$0.0019 per share, of our taxable income for 2014 was distributed in 2015, prior to the filing of our federal income tax return for our 2014 taxable year, and no portion of this amount was subject to the 4% nondeductible federal excise tax. In 2015, we distributed \$3.8 million, or \$0.0615 per share, of our taxable income in 2016, prior to the filing of our federal income tax return for our 2015 taxable year. As a result, we were subject to a 4% nondeductible federal excise tax liability of approximately \$119,000. In 2016, we distributed \$7.3 million, or \$0.099478 per share, of our taxable income in 2017, prior to the filing of our federal income tax return for our 2016 taxable year. As a result, we were subject to a 4% nondeductible federal excise tax liability of approximately \$246,000.

Ordinary distributions from a RIC do not qualify for the 20% maximum federal income tax rate on dividend income from domestic corporations and qualified foreign corporations to the extent that the RIC received the income in the form of qualifying dividends from domestic corporations and qualified foreign corporations. The tax attributes of our distributions will generally include both ordinary income and capital gains but may also include qualified dividends or return of capital.

The determination of the tax attributes of our distributions is made annually at the end of our taxable year based upon our taxable income for the full taxable year and distributions paid for the full taxable year. The actual tax characteristics of distributions to stockholders will be reported to stockholders subject to tax reporting annually on a Form 1099-DIV. Promptly following the payment of distributions to all stockholders of record, we will send information to stockholders residing in Maryland and Oklahoma regarding the estimated source of such distributions.

Our distributions may exceed our earnings and profits, especially during the period before we have substantially invested the proceeds from the sales of common stock. As a result, a portion of the distributions we make may represent a return of capital for U.S. federal income tax purposes. Notices to stockholders will be provided in accordance with Section 19(a) of the 1940 Act with respect to any portion of our distributions not derived from our net investment income.

### Use of Proceeds from Registered Securities

The Registration Statement under which we registered the Offering was most recently declared effective by the SEC on October 6, 2016. As of December 31, 2016, we have raised gross proceeds of approximately \$105.4 million through the sale of 12,387,347 shares of common stock to the public, including proceeds from the distribution reinvestment plan of approximately \$24.8 million.

### Issuer Purchases of Equity Securities

The following table lists shares we repurchased under our share repurchase program during the period covered by this report.

| Period <sup>(1)</sup>                | Total Number of Shares Purchased | Average Price Paid per Share | Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs | Maximum Number of Shares that May Yet be Purchased Under the Plans or Programs <sup>(2)</sup> |
|--------------------------------------|----------------------------------|------------------------------|--|---|
| October 1 through October 31, 2016   | —                                | —                            | —  | —   |
| November 1 through November 30, 2016 | —                                | —                            | —  | —   |
| December 1 through December 31, 2016 | 306,426                          | \$ 8.08                      | 306,426  | —   |
| <b>Total</b>                         | <b>306,426</b>                   |                              | <b>306,426</b>   |   |

- (1) In September 2013, we commenced a share repurchase program pursuant to which we intend to offer to repurchase on a quarterly basis approximately 2.5% per quarter of our weighted average number of shares of common stock outstanding for the trailing four quarters on such terms as may be determined by our board of directors in its complete and absolute discretion unless, in the judgment of the independent directors of our board of directors, such repurchases would not be in the best interests of our stockholders or would violate applicable law.
- (2) Unless our board of directors determines otherwise, we will limit the number of shares we repurchase (i) in any calendar year to the proceeds we receive from the sale of our common stock under our distribution reinvestment plan during the trailing four quarters and (ii) in any calendar quarter to 2.5% of the weighted average number of shares of common stock outstanding during the trailing four quarters.

## Item 6. Selected Financial Data

The selected financial and other data below as of December 31, 2016, 2015, 2014, 2013 and 2012 and for the years then ended have been derived from financial statements that have been audited by Grant Thornton LLP, an independent registered public accounting firm. The data should be read in conjunction with “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations” and the financial statements and related notes included elsewhere in this Form 10-K.

|  | Year Ended<br>December<br>31, 2016 | Year Ended<br>December<br>31, 2015 | Year Ended<br>December<br>31, 2014 | Year Ended<br>December<br>31, 2013 | Year Ended<br>December<br>31, 2012 |
|--|------------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|
| (dollars in thousands)   |                                    |                                    |                                    |                                    |                                    |
| <b>Statement of operations data:</b>   |                                    |                                    |                                    |                                    |                                    |
| Investment income:   |                                    |                                    |                                    |                                    |                                    |
| Non-Control/Non-Affiliate investments  | \$ 84,503                          | \$ 63,253                          | \$ 19,013                          | \$ 2,758                           | \$ 1,238                           |
| Affiliate investments  | 3,968                              | 1,204                              | 170                                | —                                  | 635                                |
| Control investments  | 928                                | 932                                | 30                                 | —                                  | —                                  |
| Total investment income  | 89,399                             | 65,389                             | 19,213                             | 2,758                              | 1,873                              |
| Expenses:  |                                    |                                    |                                    |                                    |                                    |
| Interest expense   | 15,055                             | 11,159                             | 3,325                              | 419                                | 316                                |
| Base management and incentive fees   | 20,840                             | 18,142                             | 6,029                              | 784                                | 358                                |
| Administrative services expenses   | 2,315                              | 2,037                              | 1,497                              | 1,018                              | 438                                |
| Offering costs   | 901                                | —                                  | —                                  | —                                  | —                                  |
| Professional fees  | 1,056                              | 606                                | 478                                | 361                                | 201                                |
| Insurance  | 191                                | 192                                | 191                                | 186                                | 108                                |
| Other general and administrative   | 1,440                              | 1,280                              | 598                                | 235                                | 106                                |
| Expenses before fee and expense waivers  | 41,798                             | 33,416                             | 12,118                             | 3,003                              | 1,527                              |
| Waiver of management and incentive fees  | (1,689)                            | (2,601)                            | (2,274)                            | (784)                              | (358)                              |
| Waiver of administrative services expenses   | (2,315)                            | (2,037)                            | (1,497)                            | (1,018)                            | (438)                              |
| Expense support payment from Adviser   | —                                  | —                                  | (328)                              | (153)                              | —                                  |
| Total expenses, net of fee and expense waivers   | 37,794                             | 28,778                             | 8,019                              | 1,048                              | 731                                |
| Net investment income before taxes   | 51,605                             | 36,611                             | 11,194                             | 1,710                              | 1,142                              |
| Income tax expense (benefit), including excise tax                                       | 336                                | 127                                | (3)                                | 5                                  | 8                                  |
| Net investment income  | 51,269                             | 36,484                             | 11,197                             | 1,705                              | 1,134                              |
| Total realized gain (loss) from investments  | (22,891)                           | (5,508)                            | 20                                 | 27                                 | 14                                 |
| Net realized income  | 28,378                             | 30,976                             | 11,217                             | 1,732                              | 1,148                              |
| Total net unrealized appreciation (depreciation)   | 38,206                             | (37,956)                           | (14,214)                           | 421                                | 87                                 |
| <b>Net increase (decrease) in net assets resulting from operations</b>                   | <b>\$ 66,584</b>                   | <b>\$ (6,980)</b>                  | <b>\$ (2,997)</b>                  | <b>\$ 2,153</b>                    | <b>\$ 1,235</b>                    |
| Net investment income per share/unit – basic and diluted                                 | \$ 0.75                            | \$ 0.75                            | \$ 0.70                            | \$ 0.64                            | \$ 0.99                            |
| Net realized income per share/unit – basic and diluted                                   | \$ 0.41                            | \$ 0.63                            | \$ 0.70                            | \$ 0.65                            | \$ 1.00                            |
| Net increase (decrease) in net assets from operations per share/unit – basic and diluted | \$ 0.97                            | \$ (0.14)                          | \$ (0.19)                          | \$ 0.81                            | \$ 1.08                            |
| Stockholder distributions declared per share/unit – basic and diluted                    | \$ 0.70                            | \$ 0.70                            | \$ 0.70                            | \$ 0.70                            | \$ 0.94                            |
| Weighted average shares/units outstanding – basic and diluted                            | 68,029,977                         | 48,838,114                         | 16,022,853                         | 2,648,689                          | 1,151,554                          |

|   | As of December 31,     |                   |                   |                  |                  |
|---|------------------------|-------------------|-------------------|------------------|------------------|
|   | 2016                   | 2015              | 2014              | 2013             | 2012             |
|   | (dollars in thousands) |                   |                   |                  |                  |
| Balance sheet data:   |                        |                   |                   |                  |                  |
| Assets:   |                        |                   |                   |                  |                  |
| Total portfolio investments at fair value                             | \$ 989,247             | \$ 852,988        | \$ 473,862        | \$ 66,882        | \$ 16,132        |
| Cash and cash equivalents   | 23,719                 | 24,001            | 19,868            | 6,356            | 1,832            |
| Interest receivable   | 7,204                  | 7,927             | 4,328             | 399              | 58               |
| Receivable for securities sold  | 7,610                  | 1,995             | 3,014             | —                | —                |
| Prepaid and other assets  | 1,268                  | 511               | 338               | 109              | 82               |
| Due from Main Street  | —                      | —                 | —                 | 19               | 1,003            |
| Deferred offering costs (net of accumulated amortization)             | 680                    | 1,107             | 2,388             | 3,688            | 2,508            |
| Deferred financing costs (net of accumulated amortization)            | 3,840                  | 4,883             | 2,426             | 168              | 210              |
| Total assets  | <u>\$1,033,568</u>     | <u>\$ 893,412</u> | <u>\$ 506,224</u> | <u>\$ 77,621</u> | <u>\$ 21,825</u> |
| Liabilities and net assets:   |                        |                   |                   |                  |                  |
| Accounts payable and other liabilities                                | \$ 1,164               | \$ 610            | \$ 238            | \$ 66            | \$ 105           |
| Payable for unsettled trades  | 932                    | —                 | 6,249             | 2,608            | 290              |
| Stockholders distributions payable                                    | 4,354                  | 3,717             | 1,760             | 295              | 76               |
| Base management fees payable  | 5,054                  | 4,521             | 2,080             | —                | —                |
| Due to affiliates   | 184                    | 1,202             | 2,450             | 3,771            | 2,922            |
| Directors' fees payable   | 12                     | 14                | 8                 | 5                | 9                |
| Payable for securities purchased                                      | 11,035                 | 11,696            | 50,512            | 8,799            | —                |
| Notes payable   | 413,000                | 380,000           | 182,864           | 14,000           | 7,000            |
| Total liabilities   | <u>435,735</u>         | <u>401,760</u>    | <u>246,161</u>    | <u>29,544</u>    | <u>10,402</u>    |
| Total net assets  | <u>597,833</u>         | <u>491,652</u>    | <u>260,063</u>    | <u>48,077</u>    | <u>11,423</u>    |
| Total liabilities and net assets                                      | <u>\$1,033,568</u>     | <u>\$ 893,412</u> | <u>\$ 506,224</u> | <u>\$ 77,621</u> | <u>\$ 21,825</u> |
| Other data:   |                        |                   |                   |                  |                  |
| Weighted average effective yield on LMM debt <sup>(1)</sup>           | 12.4%                  | 11.0%             | 11.3%             | 15.0%            | 14.4%            |
| Number of LMM debt portfolio investments                              | 29                     | 19                | 11                | 2                | 6                |
| Weighted average effective yield on Middle Market debt <sup>(1)</sup> | 8.8%                   | 8.3%              | 8.0%              | 7.3%             | 8.2%             |
| Number of Middle Market debt portfolio investments                    | 75                     | 83                | 77                | 62               | 11               |
| Weighted average effective yield on Private Loan debt <sup>(1)</sup>  | 9.2%                   | 8.5%              | 9.7%              | 9.5%             | —%               |
| Number of Private Loan debt portfolio investments                     | 29                     | 20                | 11                | 2                | —                |
| Weighted average effective yield on total portfolio <sup>(1)</sup>    | 8.9%                   | 8.3%              | 8.1%              | 7.5%             | 9.9%             |
| Number of LMM equity portfolio investments                            | 28                     | 17                | 9                 | —                | —                |
| Number of Middle Market equity portfolio investments                  | 5                      | —                 | —                 | —                | —                |
| Number of Private Loan equity portfolio investments <sup>(2)</sup>    | 9                      | 5                 | —                 | —                | —                |
| Number of Other Portfolio investments                                 | 3                      | 3                 | 1                 | —                | —                |
| Expense ratios (as percentage of average net assets):                 |                        |                   |                   |                  |                  |
| Total expenses  | 6.89%                  | 7.19%             | 5.62%             | 4.21%            | 6.97%            |
| Operating expenses excluding interest expense                         | 4.25%                  | 4.40%             | 3.29%             | 2.53%            | 3.96%            |

(1) Weighted-average effective yield is calculated based on our investments at the end of each period and includes accretion of original issue discounts and amortization of premiums, and the amortization of fees received in connection with transactions. Investments on non-accrual status are assumed to have a zero yield in the calculation of weighted-average effective yield.

(2) Investments were non-income producing during the years ended December 31, 2016 and 2015.

## **Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations**

*The following discussion should be read in conjunction with our financial statements and the notes thereto included elsewhere in this Form 10-K.*

*Statements we make in the following discussion which express a belief, expectation or intention, as well as those that are not historical fact, are forward-looking statements that are subject to risks, uncertainties and assumptions. Our actual results, performance or achievements, or industry results, could differ materially from those we express in the following discussion as a result of a variety of factors, including the risks and uncertainties we have referred to under the headings "Special Note Regarding Forward-Looking Statements" and "Item 1A. Risk Factors" in Part I of this Form 10-K.*

### **OVERVIEW**

We are a specialty finance company sponsored by Hines that makes debt and equity investments in Middle Market and LMM companies. We are an externally managed, non-diversified closed-end investment company that has elected to be treated as a BDC under the 1940 Act. We are, therefore, required to comply with certain regulatory requirements. We have elected to be treated for U.S. federal income tax purposes as a RIC under the Code.

Our primary investment objective is to generate current income through debt and equity investments. A secondary objective is to generate long-term capital appreciation through equity and equity-related investments including warrants, convertible securities and other rights to acquire equity securities. Our portfolio strategy calls for us to invest primarily in illiquid debt and equity securities issued by LMM companies and Middle Market companies in private placements and negotiated transactions, which are traded in private over-the-counter markets for institutional investors. We will also invest in, and a significant portion of our assets are invested in, customized direct secured and unsecured loans to and equity securities of LMM companies, referred to as LMM securities. Typically, our investments in LMM companies will require us to co-invest with Main Street and/or its affiliates. We categorize some of our investments in LMM companies and Middle Market companies as Private Loan portfolio investments. Private Loan investments, often referred to in the debt markets as "club deals," are investments, generally in debt instruments, that we originate on a collaborative basis with other investment funds. Private Loan investments are typically similar in size, structure, terms and conditions to investments we hold in our LMM portfolio and Middle Market portfolio. Our portfolio also includes Other Portfolio investments primarily consisting of investments managed by third parties, which differ from the typical profiles for our LMM portfolio investments, Middle Market portfolio investments or Private Loan portfolio investments.

As a BDC, we are subject to certain regulatory restrictions in making our investments, including limitations on our ability to co-invest with certain affiliates, including Main Street. However, we received an order from the SEC that permits us, subject to certain conditions, to co-invest with Main Street in certain transactions originated by Main Street and/or our Advisers. The exemptive relief permits us, and certain of our directly or indirectly wholly-owned subsidiaries on one hand, and Main Street, and/or certain of its affiliates on the other hand, to co-invest in the same investment opportunities where such investment may otherwise be prohibited under Section 57(a)(4) of the 1940 Act. In addition, we may continue to co-invest with Main Street and/or its affiliates in syndicated deals and secondary loan market purchases in accordance with applicable regulatory guidance or interpretations where price is the only negotiated point.

As of December 31, 2016, we had investments in 75 Middle Market debt investments, 29 Private Loan debt investments, 29 LMM debt investments, 28 LMM equity investments, nine Private Loan equity investments, five Middle Market equity investments and three Other Portfolio investments with an aggregate fair value of approximately \$989.2 million, a cost basis of approximately \$1.0 billion, and a weighted average effective annual yield of approximately 8.9%. The weighted average annual yield was calculated using the effective interest rates for all investments at December 31, 2016, including accretion of original issue discount and amortization of the premium to par value, the amortization of fees received in connection with transactions, and assumes zero yield for investments on non-accrual status. Approximately 80.0% and 11.6% of our total portfolio investments (at fair value) were secured by first priority liens and second priority liens on portfolio company assets, respectively, with the remainder in unsecured debt investments and equity investments.

The level of new portfolio investment activity will fluctuate from period to period based upon the status of our capital raising efforts under the Offering, our view of the current economic fundamentals, our ability to identify new investment opportunities that meet our investment criteria and our ability to close on the identified transactions. The level of new investment activity and associated interest and fee income will directly impact future investment income. While we intend to grow our portfolio and our investment income over the long-term, our growth and our operating results may be more limited during depressed economic periods. However, we intend to appropriately manage our cost structure and liquidity position based on applicable economic conditions and our investment outlook. The level of realized gains or losses and unrealized appreciation or depreciation will also



fluctuate depending upon portfolio activity and the performance of our individual portfolio companies. The changes in realized gains and losses and unrealized appreciation or depreciation could have a material impact on our operating results.

### *Investment Income*

We have generated, and plan to continue to generate, investment income primarily in the form of interest on the debt securities that we hold, dividends and other distributions with respect to any equity interests that we hold and capital gains, if any, on convertible debt or other equity interests that we acquire in portfolio companies. In addition, we may generate revenue in the form of commitment, origination, structuring or diligence fees, monitoring fees, and possibly consulting fees and performance-based fees. All such fees will be generated in connection with our investments and recognized as earned or as additional yield over the life of the debt investment. To date our investment income has been interest income on debt investments, accretion of original issue discounts, dividend income, amortization of premiums and fees received from transactions and net realized/unrealized appreciation (depreciation).

### *Expenses*

On both a short-term and long-term basis, our primary use of funds will be investments in portfolio companies and cash distributions to our stockholders. Our primary operating expenses will be debt service payments, general and administrative expenses and payment of advisory fees under the Investment Advisory Agreement. The investment advisory fees paid to our Adviser (and the fees paid by our Adviser to our Sub-Adviser pursuant to the Sub-Advisory Agreement) will compensate our Advisers for their work in identifying, evaluating, negotiating, executing, monitoring and servicing our investments. We expect our expenses to fluctuate based upon the amount of assets under management.

We bear all other expenses of our operations and transactions, including fees and expenses relating to:

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

During periods of asset growth, we expect our general and administrative expenses to be relatively stable or decline as a percentage of total assets and increase during periods of asset declines.

*Base Management and Incentive Fee, Administrative Services Expense Waiver and Expense Support and Conditional Reimbursement Agreement*

From time to time, our Advisers may waive certain fees accrued under the Investment Advisory Agreement and the Sub-Advisory Agreement, as applicable, and our Adviser may pay to us Expense Support Payments. We may reimburse such waived fees and Expense Support Payments within three years from the date of each respective fee waiver and from the date that each respective Expense Support Payment was determined. See Note 10 - *Related Party Transactions and Arrangements* to the financial statements included elsewhere in this Form 10-K for additional information on our fee waivers and expense reimbursements.

## **CRITICAL ACCOUNTING POLICIES**

### *Basis of Presentation and Consolidation*

Our consolidated financial statements have been prepared in accordance with the instructions to Form 10-K and accounting principles generally accepted in the United States of America (“GAAP”) and include the accounts of our wholly-owned consolidated subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. Under the 1940 Act rules, regulations pursuant to Article 6 of Regulation S-X and Topic 946 of the Accounting Standards Codification, as amended (the “ASC”), of the Financial Accounting Standards Board (“FASB”), Financial Accounting Services-Investment Companies, we are precluded from consolidating portfolio company investments, including those in which we have a controlling interest, unless the portfolio company is a wholly-owned investment company. An exception to this general principle occurs if we own a controlled operating company whose purpose is to provide services to us such as an investment adviser or transfer agent. None of our investments qualifies for this exception. Therefore, our portfolio company investments, including those in which we have a controlling interest, are carried on the Consolidated Balance Sheet at fair value with changes to fair value recognized as “Net Unrealized Appreciation (Depreciation)” on the Consolidated Statements of Operations until the investment is realized, usually upon exit, resulting in any gain or loss on exit being recognized as a realized gain or loss. However, in the event that any controlled subsidiary exceeds the tests of significance set forth in Rules 3-09 or 4-08(g) of Regulation S-X, we will include required financial information for such subsidiary in the notes or as an attachment to our consolidated financial statements.

### *Investment Classification*

We classify our investments in accordance with the requirements of the 1940 Act. Under the 1940 Act, (a) “Control” investments are defined as investments in companies in which the Company owns more than 25% of the voting securities or has rights to nominate greater than 50% of the directors or managers of the entity, (b) “Affiliate” investments are defined as investments in which between 5% and 25% of the voting securities are owned, or an investment in an investment company’s investment adviser, and the investments are not classified as Control investments and (c) “Non-Control/Non-Affiliate” investments are defined as investments that are neither Control investments nor Affiliated investments.

### *Valuation of Portfolio Investments*

We account for our portfolio investments at fair value under the provisions of ASC Topic 820, Fair Value Measurements and Disclosures (“ASC 820”). ASC 820 defines fair value, establishes a framework for measuring fair value, establishes a fair value hierarchy based on the quality of inputs used to measure fair value and enhances disclosure requirements for fair value measurements. ASC 820 requires us to assume that the portfolio investment is to be sold in the principal market to independent market participants, which may be a hypothetical market. Market participants are defined as buyers and sellers in the principal market that are independent, knowledgeable, and willing and able to transact.

Our portfolio strategy calls for us to invest primarily in illiquid debt and equity securities issued by private, LMM companies and debt securities issued by Middle Market companies that are generally larger in size than the LMM companies. We categorize some of our investments in LMM companies and Middle Market companies as Private Loan portfolio investments. Private Loan investments, often referred to in the debt markets as “club deals,” are investments, generally in debt instruments, that we originate on a collaborative basis with other investment funds or lenders. Private Loan investments are typically similar in size, structure, terms and conditions to the investments we hold in our LMM portfolio and Middle Market portfolio. Our portfolio also includes Other Portfolio investments primarily consisting of investments managed by third parties, which differ from the typical profiles for our LMM portfolio investments, Middle Market portfolio investments or Private Loan portfolio investments. Our portfolio

investments may be subject to restrictions on resale. See “Item 1A. Risk Factors — Risks Related to Our Investments — *The lack of liquidity in our investments may adversely affect our business.*”

LMM investments and Other Portfolio investments generally have no established trading market while Middle Market securities generally have established markets that are not active. Private Loan investments may include investments which have no established trading market or have established markets that are not active. We determine in good faith the fair value of our investment portfolio pursuant to a valuation policy in accordance with ASC 820 and a valuation process approved by our board of directors and in accordance with the 1940 Act. Our valuation policies and processes are intended to provide a consistent basis for determining the fair value of the portfolio.

For LMM portfolio investments, we generally review external events, including private mergers, sales and acquisitions involving comparable companies, and includes these events in the valuation process by using an enterprise value waterfall (“Waterfall”) for our LMM equity investments and an income approach using a yield-to-maturity model (“Yield-to-Maturity”) for our LMM debt investments. For Middle Market portfolio investments, we use observable inputs such as quoted prices in the valuation process. We determine the appropriateness of the use of third-party broker quotes, if any, in determining fair value based on our understanding of the level of actual transactions used by the broker to develop the quote and whether the quote was an indicative price or binding offer, the depth and consistency of broker quotes and the correlation of changes in broker quotes with underlying performance of the portfolio company and other market indices. We often cannot observe the inputs considered by the third party in determining their quotes. For Middle Market and Private Loan portfolio investments in debt securities for which it has determined that third-party quotes or other independent pricing are not available or appropriate, we generally estimate the fair value based on the assumptions that we believe hypothetical market participants would use to value the investment in a current hypothetical sale using the Yield-to-Maturity valuation method. For our Other Portfolio equity investments, we generally calculate the fair value of the investment primarily based on the NAV of the fund. All of the valuation approaches for our portfolio investments estimate the value of the investment as if we were to sell, or exit, the investment as of the measurement date.

Under the Waterfall valuation method, we estimate the enterprise value of a portfolio company using a combination of market and income approaches or other appropriate valuation methods, such as considering recent transactions in the equity securities of the portfolio company or third-party valuations of the portfolio company, and then perform a Waterfall calculation by using the enterprise value over the portfolio company’s securities in order of their preference relative to one another. The enterprise value is the fair value at which an enterprise could be sold in a transaction between two willing parties, rather than through a forced or liquidation sale. Typically, private companies are bought and sold based on multiples of earnings before interest, taxes, depreciation and amortization, cash flows, net income, revenues, or in limited cases, book value. There is no single methodology for estimating enterprise value. For any one portfolio company, enterprise value is generally described as a range of values from which a single estimate of enterprise value is derived. In estimating the enterprise value of a portfolio company, we analyze various factors including the portfolio company’s historical and projected financial results. The operating results of a portfolio company may include unaudited, projected, budgeted or pro forma financial information and may require adjustments for non-recurring items or to normalize the operating results that may require significant judgment in its determination. In addition, projecting future financial results requires significant judgment regarding future growth assumptions. In evaluating the operating results, we also analyze the impact of exposure to litigation, loss of customers or other contingencies. After determining the appropriate enterprise value, we allocate the enterprise value to investments in order of the legal priority of the various components of the portfolio company’s capital structure. In applying the Waterfall valuation method, we assume the loans are paid off at the principal amount in a change in control transaction and are not assumed by the buyer, which we believe is consistent with our past transaction history and standard industry practices.

Under the Yield-to-Maturity valuation method, we also use the income approach to determine the fair value of debt securities based on projections of the discounted future free cash flows that the debt security will likely generate, including analyzing the discounted cash flows of interest and principal amounts for the debt security, as set forth in the associated loan agreements, as well as the financial position and credit risk of the portfolio investments. We estimate the expected repayment date of our debt securities is generally the legal maturity date of the instrument, as we generally intend to hold our loans and debt securities to maturity. The Yield-to-Maturity analysis also considers changes in leverage levels, credit quality, portfolio company performance and other factors. We will generally use the value determined by the Yield-to-Maturity analysis as the fair value for that security. However, it is our position that assuming a borrower is outperforming underwriting expectations and because these respective investments do not generally contain pre-payment penalties, the borrower would most likely prepay or refinance the borrowing if the market interest rate, given the borrower’s credit quality, is lower than the stated loan interest rate. Therefore, we do not believe that a market participant would pay a premium for the investment, and because of our general intent to hold its loans to maturity, we generally do not believe that the fair value of the investment should be adjusted in excess of the face amount. A change in the assumptions that we use to estimate the fair value of our debt securities using the Yield-to-Maturity valuation method could have a material impact on the determination of fair value. If there is deterioration in credit quality or if a debt security is in workout status, we may consider other factors in determining the fair value of the debt security, including the value attributable

to the debt security from the enterprise value of the portfolio company or the proceeds that would most likely be received in a liquidation analysis.

Under the NAV valuation method, for an investment in an investment fund that does not have a readily determinable fair value, we measure the fair value of the investment predominately based on the NAV of the investment fund as of the measurement date. However, in determining the fair value of the investment, we may consider whether adjustments to the NAV are necessary in certain circumstances, based on the analysis of any restrictions on redemption of our investment as of the measurement date, recent actual sales or redemptions of interests in the investment fund, and expected future cash flows available to equity holders, including the rate of return on those cash flows compared to an implied market return on equity required by market participants, or other uncertainties surrounding our ability to realize the full NAV of our interests in the investment fund.

With respect to investments for which market quotations are not readily available, our board of directors will undertake a multi-step valuation process, as described below:

- Our valuation process begins with each portfolio company or investment being initially valued by investment professionals of our Advisers responsible for credit monitoring.
- Preliminary valuation conclusions are then documented and discussed with our senior management and our Advisers.
- Our board of directors reviews these preliminary valuations.
- For our LMM portfolio companies and certain Private Loan portfolio companies, we have valuations reviewed by an independent valuation firm on a periodic basis.
- Our board of directors discusses valuations and determines the fair value of each investment in our portfolio in good faith.

Pursuant to our internal valuation process and the requirements under the 1940 Act, we perform valuation procedures on our unquoted investments in LMM portfolio companies and certain Private Loan portfolio companies (the “Internally Valued Investments”) at least once a quarter. Among other things, we generally consult with a nationally recognized independent valuation firm on the Internally Valued Investments at least once in every calendar year, and for new Internally Valued Investments, at least once in the twelve-month period subsequent to the initial investment. In certain instances, we may determine that it is not cost-effective, and as a result is not in our stockholders’ best interest, to consult with the nationally recognized independent valuation firm on our investments in one or more of these Internally Valued Investments. Such instances include situations where the fair value of our investment is determined to be insignificant relative to the total investment portfolio. For the year ended December 31, 2016, we consulted with our independent valuation firm in arriving at our determination of fair value on our investments in a total of 21 of the 23 LMM portfolio companies and in a total of 15 of the 29 Private Loan portfolio companies. For the year ended December 31, 2015, we consulted with our independent valuation firm in arriving at our determination of fair value on our investments in a total of 11 of the 16 LMM portfolio companies and in a total of seven of the 20 Private Loan portfolio companies.

Due to the inherent uncertainty in the valuation process, our estimate of fair value may differ materially from the values that would have been used had an active market for the securities existed. In addition, changes in the market environment, portfolio company performance and other events that may occur over the lives of the investments may cause the gains or losses ultimately realized on these investments to be materially different than the valuations currently assigned. We estimate the fair value of each individual investment and record changes in fair value as unrealized appreciation or depreciation in the Consolidated Statements of Operations.

#### *Interest, Fee and Dividend Income*

Interest and dividend income is recorded on the accrual basis to the extent amounts are expected to be collected. Prepayment penalties received by us are recorded as income upon receipt. Dividend income is recorded when dividends are declared by the portfolio company or at the point an obligation exists for the portfolio company to make a distribution. Accrued interest and dividend income are evaluated quarterly for collectability. When a debt security becomes 90 days or more past due and we do not expect the debtor to be able to service all of its debt or other obligations, the debt security will generally be placed on non-accrual status, and we will cease recognizing interest income on that debt security until the borrower has demonstrated the ability and intent to pay contractual amounts due. If there is reasonable doubt that we will receive any previously accrued interest, then the interest income will be written off. Additionally, if a debt security has deferred interest payment terms and we become aware of a deterioration in the credit quality, we will evaluate the collectability of the deferred interest payment. If it is determined that the deferred interest is unlikely to be collected, we will place the security on non-accrual status and cease recognizing interest income on that debt security until the borrower has demonstrated the ability and intent to pay the contractual amounts due. Payments received on non-accrual investments may be recognized as income or applied to principal depending upon the collectability of the remaining principal and interest. If a debt security’s status significantly improves with respect to the debtor’s ability to service the debt or other obligations, or if a debt security is fully impaired, sold or written off, it will be removed from non-accrual status.

As of December 31, 2016, we had five debt investments in four portfolio companies that were more than 90 days past due (two of which were in the oil and gas industry), including three debt investments in two portfolio companies that were on non-accrual status. Each of these portfolio companies experienced a significant decline in credit quality raising doubt regarding our ability to collect the principal and interest contractually due. Given the credit deterioration, we ceased accruing interest income on the non-accrual debt investments and wrote off any previously accrued interest deemed uncollectable. There was no allowance recorded for the year ended December 31, 2016. Aside from these three investments on non-accrual status as of December 31, 2016, we are not aware of any material changes to the creditworthiness of the borrowers underlying its debt investments.

As of December 31, 2015, we had three debt investments in two portfolio companies that were on non-accrual status including two debt investments in one portfolio company that were more than 90 days past due. Each of these portfolio companies experienced a significant decline in credit quality raising doubt regarding our ability to collect the principal and interest contractually due. Given the credit deterioration, we have recognized no interest income on two of the three non-accrual debt investments during the year ended December 31, 2015. For the other non-accrual debt investment, an allowance of \$196,000 was booked for the interest income recognized during the three months ended December 31, 2015.

From time to time, we may hold debt instruments in our investment portfolio that contain a PIK interest provision. If these borrowers elect to pay or are obligated to pay interest under the optional PIK provision, and, if deemed collectible, then the interest would be computed at the contractual rate specified in the investment's credit agreement, recorded as interest income and periodically added to the principal balance of the investment. Thus, the actual collection of this interest may be deferred until the time of debt principal repayment. We stop accruing PIK interest and write off any accrued and uncollected interest in arrears when we determine that such PIK interest in arrears is no longer collectible.

As of December 31, 2016 and 2015 we held 19 and seven investments, respectively, which contained a PIK provision. As discussed above, two of the 19 investments with PIK provisions as of December 31, 2016 and two of the seven investments with PIK provisions as of December 31, 2015 were on non-accrual status. No PIK interest was recorded on these investments during the years ended December 31, 2016 and December 31, 2015. For the years ended December 31, 2016, 2015 and 2014, we capitalized approximately \$469,000, \$1.2 million and \$274,000, respectively, of PIK interest. We stop accruing PIK interest and write off any accrued and uncollected interest in arrears when we determine that such PIK interest in arrears is no longer collectible.

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

A presentation of the investment income we received from our investment portfolio in each of the periods presented (dollars in thousands) is as follows:

|  | Year Ended        |                   |                   |
|--|-------------------|-------------------|-------------------|
|  | December 31, 2016 | December 31, 2015 | December 31, 2014 |
| <b>Interest, Fee and Dividend Income</b>       |                   |                   |                   |
| Interest Income                                | \$ 86,008         | \$ 63,864         | \$ 18,885         |
| Fee Income                                     | 1,259             | 1,072             | 328               |
| Dividend Income                                | 2,132             | 453               | —                 |
| <b>Total Interest, Fee and Dividend Income</b> | <b>\$ 89,399</b>  | <b>\$ 65,389</b>  | <b>\$ 19,213</b>  |

#### *Unearned Income – Original Issue Discount / Premium to Par Value*

We purchased some of our debt investments for an amount different than their respective principal values. For purchases at less than par value a discount is recorded at acquisition, which is accreted into interest income based on the effective interest method over the life of the debt investment. For purchases at greater than par value, a premium is recorded at acquisition, which is amortized as a reduction to interest income based on the effective interest method over the life of the investment. Upon repayment or sale, any unamortized discount or premium is also recognized into interest income. For the years ended December 31, 2016, 2015 and 2014, we accreted approximately a net \$11.9 million, \$4.4 million and \$1.1 million, respectively, into interest income.

### *Offering Costs*

In accordance with the Investment Advisory Agreement and the Sub-Advisory Agreement, we reimburse our Advisers for any offering costs that are paid on our behalf, which consist of, among other things, actual legal, accounting, bona fide out-of-pocket itemized and detailed due diligence costs, printing, filing fees, transfer agent costs, postage, escrow fees, data processing fees, advertising and sales literature and other offering costs. Pursuant to the terms of the Investment Advisory Agreement and Sub-Advisory Agreement, we expect to reimburse the Advisers for such costs incurred on our behalf on a monthly basis, up to a maximum aggregate amount of 1.5% of the gross stock offering proceeds. The Advisers are responsible for the payment of offering costs to the extent they exceed 1.5% of the aggregate gross stock offering proceeds.

Prior to January 1, 2016, offering costs were capitalized as incurred by our Advisers, and such costs, up to 1.5% of the gross proceeds, were recorded as a charge to additional paid in capital and a reduction of deferred offering costs. Effective January 1, 2016, we capitalize offering costs as deferred offering costs as incurred by us and subsequently amortize such costs to expense over a 12-month period to more closely track applicable guidance. Deferred offering costs related to an offering will be fully amortized to expense upon the expiration or earlier termination of an offering. We currently expect offering costs to be fully amortized by September 30, 2017, the anticipated date of the Closing. We evaluated this change in accounting treatment of offering costs and determined that it did not have a material impact on our consolidated financial position, results of operations or cash flows for periods prior to January 1, 2016.

### *Income Taxes*

Certain of our investment practices are subject to special and complex U.S. federal income tax provisions that may, among other things, (i) convert dividends that would otherwise constitute qualified dividend income into ordinary income, (ii) treat dividends that would otherwise be eligible for deductions available to certain U.S. corporations under the Code as ineligible for such treatment, (iii) disallow, suspend or otherwise limit the allowance of certain losses or deductions, (iv) convert long-term capital gains into short-term capital gains or ordinary income, (v) convert short-term capital losses into long-term capital losses, (vi) convert an ordinary loss or deduction into a capital loss (the deductibility of which is more limited), (vii) cause us to recognize income or gain without a corresponding receipt of cash, (viii) adversely alter the characterization of certain complex financial transactions, and (ix) produce gross income that will not constitute qualifying gross income for purposes of the gross income requirement that applies to RICs. These rules also could affect the amount, timing and character of distributions to stockholders. We intend to monitor our transactions and may make certain tax elections to mitigate the effect of these provisions on our ability to be subject to tax as a RIC.

Some of the income that we might otherwise earn, such as fees for providing managerial assistance, certain fees earned with respect to our investments, income recognized in a work-out or restructuring of a portfolio investment, or income recognized from an equity investment in an operating partnership, may not satisfy the 90% Income Test. To manage the risk that such income might disqualify us as a RIC for failure to satisfy the 90% Income Test, we may establish one or more Taxable Subsidiaries to hold assets from which we do not anticipate earning qualifying income under the 90% Income Test. Any investments held through a Taxable Subsidiary generally will be subject to U.S. federal income and other taxes, and therefore we can expect to achieve a reduced after-tax yield on such investments).

### *Uncertainty in Income Taxes*

We evaluate our tax positions in accordance with ASC Topic 740, Income Taxes, to determine if the tax positions taken meet the minimum recognition threshold in connection with accounting for uncertainties in income tax positions taken or expected to be taken for the purposes of measuring and recognizing tax benefits or liabilities in the consolidated financial statements. Recognition of a tax benefit or liability with respect to an uncertain tax position is required only when the position is “more likely than not” to be sustained assuming examination by taxing authorities. We recognize interest and penalties, if any, related to unrecognized tax liabilities as income tax expense in our consolidated statements of operations.

## **PORTFOLIO INVESTMENT COMPOSITION**

Our Middle Market portfolio investments primarily consist of direct or secondary purchases of interest-bearing debt securities in companies that are generally larger in size than the LMM companies included in our LMM portfolio. While our Middle Market debt investments are generally secured by a first priority lien, 17.0% of the fair value of our Middle Market portfolio is secured by second priority liens.

Our current LMM portfolio consists of debt investments secured by first and second priority liens (64.3% and 3.3% of the total fair value of the LMM portfolio, respectively) on the assets of the portfolio companies and equity investments (32.4% of the total



fair value of the LMM portfolio) in privately held LMM companies as of December 31, 2016. The LMM debt investments generally mature between five and seven years from the original investment date. The LMM equity investments represent an equity position or the right to acquire an equity position through warrants.

Our Private Loan portfolio primarily consists of debt investments secured by first and second priority liens (91.5% and 0.7% of the total fair value of the Private Loan portfolio, respectively) on the assets of the portfolio companies, unsecured debt investments (4.9% of the total fair value of the Private Loan portfolio) and equity investments (2.9% of the total fair value of the Private Loan portfolio) in six Private Loan companies as of December 31, 2016. The Private Loan debt investments typically have stated terms between three and seven years from the original investment date. The Private Loan equity investments represent an equity position or the right to acquire an equity position through warrants.

Our Other Portfolio investments primarily consist of investments managed by third parties, which differ from the typical profiles for LMM, Middle Market and Private Loan portfolio investments. In the Other Portfolio investments, we may incur indirect fees and expenses in connection with investments managed by third parties, such as investments in other investment companies or private funds.

During the year ended December 31, 2016, we funded investment purchases of approximately \$464.9 million and had three investments under contract to purchase as of December 31, 2016, for approximately \$11.0 million, which settled or we scheduled to settle after December 31, 2016. We also received proceeds from sales and repayments of existing portfolio investments of approximately \$349.6 million including \$106.6 million in sales. Additionally, we had two investments under contract to sell as of December 31, 2016, for approximately \$7.6 million, which represented the contract sales price. The combined result of these transactions increased our portfolio, on a cost basis, by approximately \$97.7 million, or 10.8%, and the number of portfolio investments by 31, or 21.1%, compared to the portfolio as of December 31, 2015. As of December 31, 2016, the largest investment in an individual portfolio company represented approximately 1.8% of our portfolio's fair value with the remaining investments in an individual portfolio company ranging from 0.01% to 1.6%. The average single investment in our portfolio is approximately \$5.6 million or 0.6% of the total portfolio. As a result of these transactions, our portfolio has become increasingly broadened across individual portfolio investments, geographic regions, and industries. Further, our total portfolio's investment composition (excluding our Other Portfolio investments) at fair value is comprised of 81.5% first lien debt securities, 11.8% second lien debt securities, with the remainder in unsecured debt investments and equity investments. First lien debt securities have priority over subordinated debt owed by the issuer with respect to the collateral pledged as security for the loan. Due to the relative priority of payment of first lien investments, these generally have lower yields than lower priority, less secured investments.

During the year ended December 31, 2015, we funded investment purchases of approximately \$631.1 million and had five investments under contract to purchase as of December 31, 2015 for approximately \$11.7 million, which settled or we scheduled to settle after December 31, 2015. We also received proceeds from sales and repayments of existing portfolio investments of approximately \$176.1 million including \$45.7 million in sales. Additionally, we had one investment under contract to sell as of December 31, 2015, for approximately \$2.0 million, which represented the contract sales price. The combined result of which increased our portfolio, on a cost basis, by approximately \$417.1 million, or 85.5%, and the number of portfolio investments by 38, or 34.9%, compared to the portfolio as of December 31, 2014. As of December 31, 2015, the largest investment in an individual portfolio company represented approximately 2.3% of our portfolio's fair value with the remaining investments in an individual portfolio company ranging from 0.03% to 1.8%. The average single investment in our portfolio is approximately \$5.8 million or 0.7% of the total portfolio. As a result of these transactions, our portfolio has become increasingly broadened across individual portfolio investments, geographic regions, and industries. Further, our total portfolio's investment composition (excluding our Other Portfolio investments) at fair value is comprised of 80.3% first lien debt securities, 16.7% second lien debt securities, with the remainder in unsecured debt investments and equity investments. First lien debt securities have priority over subordinated debt owed by the issuer with respect to the collateral pledged as security for the loan. Due to the relative priority of payment of first lien investments, these generally have lower yields than lower priority, less secured investments.

During the year ended December 31, 2014, we made investment purchases of approximately \$477.5 million and had 11 investments under contract to purchase as of December 31, 2014 for approximately \$50.5 million, which settled or are scheduled to settle after December 31, 2014. We also received proceeds from sales and repayments of existing portfolio investments of approximately \$96.3 million including \$58.9 million in sales. Additionally, we had three investments under contract to sell as of December 31, 2014, for approximately \$3.0 million, which represented the contract sales price. The combined result of which increased our portfolio, on a cost basis, by approximately \$421.2 million, or 634.2%, and the number of portfolio investments by 43, or 65.0%, compared to the portfolio as of December 31, 2013. As of December 31, 2014, the largest investment in an individual portfolio company represented approximately 3.1% of our portfolio's fair value with the remaining investments in an individual portfolio company ranging from 0.08% to 1.2%. The average single investment in our portfolio is approximately \$4.3 million or 0.9% of the total portfolio. As a result of these transactions, our portfolio has become increasingly broadened across individual portfolio investments, geographic regions, and industries. Further, our total portfolio's investment composition (excluding our Other

Portfolio investments) at fair value is comprised of 79.4% first lien debt securities, 18.0% second lien debt securities, with the remainder in unsecured debt investments and equity investments. First lien debt securities have priority over subordinated debt owed by the issuer with respect to the collateral pledged as security for the loan. Due to the relative priority of payment of first lien investments, these generally have lower yields than lower priority, less secured investments.

See “—Portfolio Asset Quality” for further discussion of the investment rating system. The result of the aforementioned transactions further diversified our geographic and industry concentrations and based upon our investment rating system, which is described further below, the weighted average rating of our LMM investments was approximately 2.6 and 3.0 as of December 31, 2016 and 2015, respectively. Lastly, the overall weighted average effective yield on our investment portfolio has increased from 8.3% at December 31, 2015 to 8.9% as of December 31, 2016.

As of both December 31, 2015 and 2014, the weighted average rating of our LMM investments was approximately 3.0. Lastly, the overall weighted average effective yield on our investment portfolio increased from 8.1% at December 31, 2014 to 8.3% as of December 31, 2015. For a discussion of calculation of effective yield, see “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operation — Overview.”

Summaries of the composition of our total investment portfolio at cost and fair value are shown in the following tables (this information excludes Other Portfolio investments):

|                          | December 31, 2016 |              |               |        | December 31, 2015 |              |               |        |
|--------------------------|-------------------|--------------|---------------|--------|-------------------|--------------|---------------|--------|
|                          | LMM               | Private Loan | Middle Market | Total  | LMM               | Private Loan | Middle Market | Total  |
| <b>Cost:</b>             |                   |              |               |        |                   |              |               |        |
| First Lien Secured Debt  | 67.9%             | 92.0%        | 81.5%         | 82.3%  | 69.4%             | 92.3%        | 79.9%         | 80.5%  |
| Second Lien Secured Debt | 3.5%              | 0.7%         | 16.9%         | 11.9%  | 4.1%              | 7.2%         | 19.7%         | 16.7%  |
| Unsecured Debt           | —%                | 4.9%         | 0.9%          | 1.6%   | —%                | —%           | 0.4%          | 0.3%   |
| Equity                   | 26.9%             | 2.0%         | 0.7%          | 3.9%   | 25.6%             | 0.1%         | —%            | 2.4%   |
| Equity Warrants          | 1.7%              | 0.4%         | —%            | 0.3%   | 0.9%              | 0.4%         | —%            | 0.1%   |
|                          | 100.0%            | 100.0%       | 100.0%        | 100.0% | 100.0%            | 100.0%       | 100.0%        | 100.0% |

|                          | December 31, 2016 |              |               |        | December 31, 2015 |              |               |        |
|--------------------------|-------------------|--------------|---------------|--------|-------------------|--------------|---------------|--------|
|                          | LMM               | Private Loan | Middle Market | Total  | LMM               | Private Loan | Middle Market | Total  |
| <b>Fair Value:</b>       |                   |              |               |        |                   |              |               |        |
| First Lien Secured Debt  | 64.3%             | 91.5%        | 81.3%         | 81.5%  | 67.7%             | 92.1%        | 79.9%         | 80.3%  |
| Second Lien Secured Debt | 3.3%              | 0.7%         | 17.0%         | 11.8%  | 4.0%              | 7.4%         | 19.9%         | 16.7%  |
| Unsecured Debt           | —%                | 4.9%         | 0.9%          | 1.7%   | —%                | —%           | 0.2%          | 0.1%   |
| Equity                   | 30.7%             | 2.1%         | 0.8%          | 4.6%   | 27.4%             | 0.1%         | —%            | 2.8%   |
| Equity Warrants          | 1.7%              | 0.8%         | —%            | 0.4%   | 0.9%              | 0.4%         | —%            | 0.1%   |
|                          | 100.0%            | 100.0%       | 100.0%        | 100.0% | 100.0%            | 100.0%       | 100.0%        | 100.0% |

See Note 3 — *Fair Value Hierarchy for Investments — Portfolio Investment Composition* to the financial statements included elsewhere in this Form 10-K for summaries of the composition of our investments by geographic region and by industry.

## PORTFOLIO ASSET QUALITY

As of December 31, 2016, we owned a broad portfolio of 178 investments in 127 companies representing a wide range of industries. We believe that this broad portfolio adds to the structural protection of the portfolio, revenue sources, income, cash flows and dividends. The portfolio included the following:

- 75 debt investments in 71 Middle Market portfolio companies with an aggregate fair value of approximately \$638.4 million and a cost basis of approximately \$658.8 million. The Middle Market portfolio had a weighted average annual effective yield of approximately 8.8%, which is calculated assuming the investments on non-accrual status are non-yielding, and 81.3% of the investments were secured by first priority liens. Further, 87.2% of the Middle Market investments contain variable rates, though a majority of the investments with variable rates are subject to contractual minimum base interest rates between 100 and 150 basis points.

- 29 debt investments in 28 Private Loan portfolio companies with an aggregate fair value of approximately \$205.0 million and a cost basis of approximately \$206.0 million. The Private Loan debt investments had a weighted average annual effective yield of approximately 9.2%, which is calculated assuming the investments on non-accrual status are non-yielding, and 94.3% of the Private Loan debt investments were secured by first priority liens. Further, 93.0% of the Private Loan debt investments contain variable rates, though a majority of the investments with variable rates are subject to contractual minimum base interest rates between 100 and 150 basis points.
- 29 debt investments in 22 LMM portfolio companies with an aggregate fair value of approximately \$78.4 million and a cost basis of approximately \$78.0 million. The LMM debt investments had a weighted average annual effective yield of approximately 12.4% and 95.1% of the debt investments were secured by first priority liens. Further, 38.4% of the LMM debt investments are fixed rate investments with fixed interest rates between 7.0% to 15.0%. Further, 16 LMM debt investments, representing approximately 61.6% of the LMM debt investments, have variable interest rates subject to a contractual minimum base interest rate of 100 basis points.
- 35 equity investments and 10 equity warrant investments in 22 LMM portfolio companies, six Private Loan portfolio companies, four Middle Market portfolio companies and three Other Portfolio companies with an aggregate fair value of approximately \$67.4 million and cost basis of approximately \$59.7 million.

Overall, our investment portfolio had a weighted average effective yield of approximately 8.9%, and 80.0% of our total portfolio's investment composition (including our Other Portfolio investments) was secured by first-priority liens.

As of December 31, 2016, we had three investments in two portfolio companies that were on non-accrual status. One of the two portfolio companies on non-accrual status was in default due to failure to pay its outstanding principal balance of \$2.9 million due upon the maturity of its two loans, while the other portfolio company on non-accrual status was in default due to failure to pay its required quarterly interest payments. Our Advisers are currently working with the borrowers to maximize recovery of the amounts borrowed. As of December 31, 2016, these three investments on non-accrual status comprised approximately 0.2% of the total investment portfolio at fair value and 0.8% of the total investment portfolio at cost. As of December 31, 2015, we had three investments in two portfolio companies that were on non-accrual status. These two investments on non-accrual status comprised approximately 0.4% of the total investment portfolio at fair value and 1.3% of the total investment portfolio at cost. For those investments in which S&P credit ratings are available, approximately 47.7% of the portfolio, the portfolio had a weighted average effective credit rating of B as of December 31, 2016.

We utilize a rating system developed by our Sub-Adviser to rate the performance of each LMM portfolio company. The investment rating system takes into consideration various factors, including each investment's expected level of returns, collectability, comparisons to competitors and other industry participants, and the portfolio company's future outlook.

- Investment Rating 1 represents a LMM portfolio company that is performing in a manner which significantly exceeds expectations.
- Investment Rating 2 represents a LMM portfolio company that, in general, is performing above expectations.
- Investment Rating 3 represents a LMM portfolio company that is generally performing in accordance with expectations. All new LMM portfolio investments receive an initial Investment Rating 3.
- Investment Rating 4 represents a LMM portfolio company that is underperforming expectations, requiring increased monitoring and scrutiny by us.
- Investment Rating 5 represents a LMM portfolio company that is significantly underperforming, requiring heightened levels of monitoring and scrutiny by us and involves the recognition of significant unrealized depreciation on such investment.

The following table shows the distribution of our LMM portfolio investments on the 1 to 5 investment rating scale at fair value as of December 31, 2016 and December 31, 2015 (dollars in thousands):

| Investment Rating | December 31, 2016         |                               | December 31, 2015         |                               |
|-------------------|---------------------------|-------------------------------|---------------------------|-------------------------------|
|                   | Investments at Fair Value | Percentage of Total Portfolio | Investments at Fair Value | Percentage of Total Portfolio |
| 1                 | \$ 1,541                  | 1.3 %                         | \$ —                      | — %                           |
| 2                 | 56,244                    | 48.5 %                        | 9,093                     | 10.6 %                        |
| 3                 | 50,764                    | 43.7 %                        | 70,653                    | 82.7 %                        |
| 4                 | 7,511                     | 6.5 %                         | 5,714                     | 6.7 %                         |
| 5                 | —                         | —                             | —                         | — %                           |
| <b>Totals</b>     | <b>\$ 116,060</b>         | <b>100.0%</b>                 | <b>\$ 85,460</b>          | <b>100.0%</b>                 |

Based upon the investment rating system, the weighted average rating of our LMM portfolio at fair value was approximately 2.6 and 3.0 as of December 31, 2016 and December 31, 2015, respectively.

## **DISCUSSION AND ANALYSIS OF RESULTS OF OPERATIONS**

### ***RESULTS COMPARISONS FOR THE YEARS ENDED DECEMBER 31, 2016 AND 2015***

#### ***Total Investment Income, Operating Expenses, Net Assets***

For the years ended December 31, 2016 and 2015, our total investment income was approximately \$89.4 million and \$65.4 million, respectively, consisting predominately of interest income. The increase in interest income was primarily due to (i) the growth in our total portfolio resulting from the investment of additional equity capital raised and borrowings under the Credit Facilities, (ii) an increase in the amount of accretion of unearned income into interest income and (iii) an increase in our investment portfolio's weighted average annual effective yield. For the year ended December 31, 2016, our average investment portfolio was \$912.6 million, compared to \$723.5 million for the year ended December 31, 2015. Additionally, during the years ended December 31, 2016 and 2015, we accreted approximately \$11.9 million and \$4.4 million, respectively, of unearned income into interest income. Finally, as of December 31, 2016 the portfolio had a weighted average annual effective yield on investments of approximately 8.9%, compared to 8.3% as of December 31, 2015. The increase in the weighted average annual effective yield is largely due to the additional investments in LMM and Private Loan companies during the year, which are higher yielding than the Middle Market investments. We believe further increases in investment income in future periods may arise due to (i) a growing base of portfolio company investments, and (ii) investments being held for the entire period relative to incremental net investment activity during each quarter.

For the year ended December 31, 2016, expenses, net of any fee and expense waivers, were approximately \$37.8 million as compared to expenses of approximately \$28.8 million for the year ended December 31, 2015. The increase in expenses was primarily due to (i) an increase in interest expense of \$3.9 million, (ii) an increase in base management and incentive fees (net of fee waivers) of \$3.6 million and (iii) commencing amortization of deferred offering costs to expense effective January 1, 2016 (see - *Critical Accounting Policies - Organizational and Offering Costs*). Interest expense increased primarily due to an increase in the average borrowings during the period and an increase in our cost of borrowing on the Credit Facilities. Average borrowings were \$396.0 million for the year ended December 31, 2016 compared to \$305.0 million for the year ended December 31, 2015. As of December 31, 2016 and December 31, 2015, the annualized interest rate on borrowings was approximately 3.5% and 3.0%, respectively. Base management and incentive fees (net of fee waivers) increased primarily due to an increase in our average gross assets.

For the year ended December 31, 2016, the base management and incentive fees, net of fee waivers, were approximately \$19.2 million compared to a net fee of \$15.5 million for the year ended December 31, 2015. There were no waivers of base management fees for the years ended December 31, 2016 and 2015, respectively; however, our Advisers waived the subordinated incentive fees on income for the years ended December 31, 2016 and 2015, totaling approximately \$1.7 million and \$2.6 million, respectively.

For the year ended December 31, 2016, the net increase in net assets resulting from operations was approximately \$66.6 million. The increase was attributable to unrealized appreciation on investments of approximately \$38.2 million and net investment income of approximately \$51.3 million, offset by net realized losses of approximately \$22.9 million. The unrealized appreciation on investments in our portfolio was primarily driven by a recovery in the leveraged loan markets and the appreciation of our LMM and Private Loan equity investments. The net realized losses were primarily the result of (i) the realized loss of \$20.3 million relating to the restructure of four Middle Market investments and (ii) the realized loss of \$2.4 million relating to the exit of one Middle Market investment.

For the year ended December 31, 2015, the net decrease in net assets resulting from operations was approximately \$7.0 million. The decrease was primarily attributable to unrealized depreciation on investments of approximately \$38.0 million and realized losses of approximately \$5.5 million, offset by net investment income of approximately \$36.5 million. The unrealized depreciation on investments in our portfolio was primarily driven by the impact of broad price declines in the high yield bond and leveraged loan markets and the effect of declining oil prices on our investments in companies in the oil and gas sector. The realized losses were primarily driven by the Private Loan debt investment in Relativity Media, LLC that was converted into equity and warrants following a declaration of bankruptcy by the company. In conjunction with the conversion, we recognized a \$5.5 million realized loss on the debt investment.

### ***RESULTS COMPARISONS FOR THE YEARS ENDED DECEMBER 31, 2015 AND 2014***

#### ***Total Investment Income, Operating Expenses, Net Assets***

For the years ended December 31, 2015 and 2014, our total investment income was approximately \$65.4 million and \$19.2 million, respectively, consisting predominately of interest income. The increase in interest income was primarily due to (i) the growth in our total portfolio resulting from the investment of additional equity capital raised and borrowings under the Credit Facilities, (ii) an increase in the amount of accretion of unearned income into interest income and (iii) an increase in our investment portfolio's

weighted average annual effective yield. For the year ended December 31, 2015, our average investment portfolio was \$723.5 million, compared to \$258.9 million for the year ended December 31, 2014. Additionally, during the years ended December 31, 2015 and 2014, we accreted approximately \$4.4 million and \$1.1 million, respectively, of unearned income into interest income. Finally, as of December 31, 2015, the portfolio had a weighted average annual effective yield on investments of approximately 8.3% compared to 8.1% as of December 31, 2014. The increase in yield is largely due to the additional investments in LMM and Private Loan companies during the year, which are higher yielding than the Middle Market investments.

For the year ended December 31, 2015, expenses, net of any fee and expense waivers and Expense Support Payments, were approximately \$28.8 million as compared to expenses of approximately \$8.0 million for the year ended December 31, 2014. The increase in expenses was primarily due to (i) an increase in base management and incentive fees (net of fee waivers) of \$11.8 million and (ii) an increase in interest expense of approximately \$7.8 million. Base management and incentive fees (net of fee waivers) increased primarily due to an increase in our average gross assets. Interest expense increased due to an increase in the average borrowings during the period. Average borrowings were \$305.0 million for the year ended December 31, 2015 compared to \$89.8 million for the year ended December 31, 2014. Additionally, interest expense was higher for the year ended December 31, 2015, due to the increase in amortization of deferred financing costs as a result of costs paid in connection with the Credit Facilities. As of December 31, 2015 and 2014, the annualized interest rate on borrowings was approximately 3%.

For the year ended December 31, 2015, the base management and incentive fees, net of fee waivers, were approximately \$11.8 million compared to a net fee of \$3.8 million for the year ended December 31, 2014. Our Adviser waived its base management fees in 2014 in an amount necessary for distributions declared to not represent a return of capital for U.S. federal income tax purposes. No such waiver was necessary for the year ended December 31, 2015. Additionally, our Advisers waived the subordinated incentive fee on income for the period October 1, 2014 to December 31, 2014, totaling approximately \$451,000 and for year ended December 31, 2015, totaling approximately \$2.6 million.

For the year ended December 31, 2015, the net decrease in net assets resulting from operations was approximately \$7.0 million. The decrease was attributable to unrealized depreciation on investments of approximately \$38.0 million and realized losses of approximately \$5.5 million, offset by net investment income of approximately \$36.5 million. The unrealized depreciation on investments in our portfolio was primarily driven by the impact of broad price declines in the high yield bond and leveraged loan markets and the effect of declining oil prices on our investments in companies in the oil and gas sector. The realized losses were primarily driven by the Private Loan debt investment in Relativity Media, LLC that was converted into equity and warrants following a declaration of bankruptcy by the company. In conjunction with the conversion, we recognized a \$5.5 million realized loss on the debt investment.

For the year ended December 31, 2014, the net decrease in net assets resulting from operations was approximately \$3.0 million. The decrease was primarily attributable to unrealized depreciation on investments of approximately \$14.2 million, offset by net investment income of approximately \$11.2 million. The unrealized depreciation on investments in our portfolio was primarily driven by the decline in the fair value of two investments, in one portfolio company, which went into default after December 31, 2014, and the impact of broad price declines in the high yield bond and leveraged loan markets and the effect of declining oil prices on our investments in companies in the oil and gas sector.

## ***FINANCIAL CONDITION, LIQUIDITY AND CAPITAL RESOURCES***

### ***Overview***

As of December 31, 2016, we had \$23.7 million in cash, which we held in various custodial accounts. In addition, as of December 31, 2016, we had \$97.0 million in capacity available under the Credit Facilities. To seek to enhance our returns, we intend to continue to employ leverage as market conditions permit and at the discretion of our Adviser, but in no event will leverage employed exceed 50% of the value of our assets, as required by the 1940 Act. See “— *Financing Arrangements*.”

As of December 31, 2016, we had 22 senior secured loan investments and three equity investments with aggregate unfunded commitments of \$42.7 million. We maintain sufficient cash on hand and available borrowings to fund such unfunded commitments should the need arise.

We currently generate cash primarily from the net proceeds of our Offering and the issuance of shares under our distribution reinvestment plan and from cash flows from fees, interest earned from our investments as well as principal repayments and proceeds from sales of our investments.

Prior to investing in securities of portfolio companies, we invest the net proceeds from our Offering, from the issuance of shares of common stock under our distribution reinvestment plan and from sales and pay-downs of existing investments primarily in cash, cash equivalents, U.S. government securities, repurchase agreements and high-quality debt instruments maturing in one year or less from the time of investment, consistent with our BDC election and our election to be taxed as a RIC.

## ***Cash Flows***

For the year ended December 31, 2016, we experienced a net decrease in cash and cash equivalents of approximately \$0.3 million. During that period, approximately \$71.6 million of cash was used in our operating activities, which principally consisted of the purchase of new portfolio investments of \$464.9 million, offset by the repayment of portfolio investments of \$349.6 million and a net increase in net assets resulting from operations of approximately \$66.6 million. During the year ended December 31, 2016, approximately \$71.3 million was generated from financing activities, which principally consisted of \$72.0 million in net offering proceeds received and a net \$33.0 million increase in borrowings under the Credit Facilities, offset by \$22.4 million in cash distributions paid to stockholders and \$10.9 million in redemptions paid to stockholders.

For the year ended December 31, 2015, we experienced a net increase in cash and cash equivalents of approximately \$4.1 million. During that period, approximately \$425.4 million of cash was used in our operating activities, which principally consisted of the purchase of new portfolio investments of \$631.1 million and a net decrease in net assets resulting from operations of approximately \$7.0 million, offset by the repayment of portfolio debt investments of \$176.1 million. During the year ended December 31, 2015, approximately \$429.5 million was generated from financing activities, which principally consisted of \$254.2 million in net offering proceeds received and a net \$197.1 million increase in borrowings under the Credit Facilities, offset by \$15.3 million in cash distributions paid to stockholders and \$3.5 million paid for financing costs related to the Credit Facilities entered into during the year ended December 31, 2015.

For the year ended December 31, 2014, we experienced a net increase in cash and cash equivalents of approximately \$13.5 million. During that period, approximately \$365.3 million of cash was used in our operating activities, which principally consisted of the purchase of new portfolio debt investments of \$477.5 million and a net decrease in net assets resulting from operations of approximately \$3.0 million, offset by the repayment of portfolio debt investments of \$96.3 million. During the year ended December 31, 2014, approximately \$378.8 million was generated from financing activities, which principally consisted of \$217.9 million in net offering proceeds received and a net \$168.9 million increase in borrowings under the Credit Facilities, offset by \$5.1 million in cash distributions paid to stockholders and \$2.7 million paid for financing costs related to the Credit Facilities entered into during the year ended December 31, 2014.

## ***Continuous Public Offering and Distribution Reinvestment Plan***

We are engaged in a continuous public offering of our common stock. We accept subscriptions on a continuous basis and issue shares at weekly closings at prices that, after deducting selling commissions and Dealer Manager fees, must be above our NAV per share. Since commencing our Initial Offering through March 3, 2017, we have issued 75,147,989 shares of common stock for gross proceeds of \$706.6 million. On February 22, 2017, our board of directors, after determining that it would be in the best interests of us and our stockholders, decided to continue the Offering until September 30, 2017 and authorized the Closing to occur on or about September 30, 2017. However, our board of directors retained its right to provide final approval on the specific terms of the Closing, including its right to accelerate the Closing or to further continue the Offering if our board of directors determines that it is in the best interest of us and our stockholders to do so.

During the year ended December 31, 2016, we issued 12,387,347 shares of common stock for gross proceeds of \$105.4 million at an average price per share of \$8.51. The gross proceeds received during the year ended December 31, 2016 include reinvested distributions of \$24.8 million for which we issued 3,115,762 shares of common stock. The selling commissions and Dealer Manager fees related to the sale of our common stock were \$7.0 million for the year ended December 31, 2016. During the year ended December 31, 2016, we also incurred offering costs of \$1.6 million related to the Offering, which consisted primarily of marketing expenses and legal, due diligence and printing fees.

During the year ended December 31, 2015, we raised proceeds of \$306.0 million from the Initial Offering, including proceeds from the distribution reinvestment plan, and made payments of \$25.7 million for selling commissions and Dealer Manager fees. We also incurred an obligation for \$4.6 million of Initial Offering costs.

During the year ended December 31, 2014, we raised proceeds of \$253.1 million from the Initial Offering, including proceeds from the distribution reinvestment plan, and made payments of \$23.0 million for selling commissions and Dealer Manager fees. We also incurred an obligation for \$3.8 million of Initial Offering costs.

## ***Distributions***

The following table reflects the cash distributions per share that we declared on our common stock during the years ended December 31, 2016, 2015 and 2014 (dollars in thousands except per share amounts).



| For the Period Ended                  | Distributions |           |
|---------------------------------------|---------------|-----------|
|                                       | Per Share     | Amount    |
| <b>2016</b>                           |               |           |
| Three months ended December 31, 2016  | \$ 0.18       | \$ 12,767 |
| Three months ended September 30, 2016 | \$ 0.17       | \$ 12,307 |
| Three months ended June 30, 2016      | \$ 0.18       | \$ 11,650 |
| Three months ended March 31, 2016     | \$ 0.17       | \$ 11,037 |
| <b>2015</b>                           |               |           |
| Three months ended December 31, 2015  | \$ 0.18       | \$ 10,564 |
| Three months ended September 30, 2015 | \$ 0.17       | \$ 9,373  |
| Three months ended June 30, 2015      | \$ 0.18       | \$ 7,998  |
| Three months ended March 31, 2015     | \$ 0.17       | \$ 6,260  |
| <b>2014</b>                           |               |           |
| Three months ended December 31, 2014  | \$ 0.18       | \$ 4,658  |
| Three months ended September 30, 2014 | \$ 0.17       | \$ 3,234  |
| Three months ended June 30, 2014      | \$ 0.18       | \$ 2,049  |
| Three months ended March 31, 2014     | \$ 0.17       | \$ 1,276  |

On December 21, 2016, with the authorization of our board of directors, we declared distributions to our stockholders for the period of January 2017 through March 2017. These distributions have been, or will be, calculated based on stockholders of record each day from January 1, 2017 through March 31, 2017 in an amount equal to \$0.00191781 per share, per day. Distributions are paid on the first business day following the completion of each month to which they relate.

Specific tax characteristics of all distributions are reported to stockholders shortly after the close of each calendar year on Form 1099-DIV. For the years ended December 31, 2016, 2015 and 2014, respectively, approximately 93.9%, 99.7% and 99.5% of the distributions paid were taxable to the investor as ordinary income and approximately 6.1%, 0.3% and 0.5% were treated as capital gain distributions for federal income tax purposes. No portion of the distributions paid during the years ended December 31, 2016, 2015 and 2014 represented a return of capital.

We have adopted an “opt in” distribution reinvestment plan for our stockholders. As a result, if we make a distribution, our stockholders will receive distributions in cash unless they specifically “opt in” to the distribution reinvestment plan so as to have their cash distributions reinvested in additional shares of our common stock. We may, for the foreseeable future, pay a portion of our distributions from sources other than net realized income from operations, which may include stock offering proceeds, borrowings, fee and expense waivers from our Advisers and support payments from the Adviser.

We may fund our cash distributions from any sources of funds legally available, including stock offering proceeds, borrowings, net investment income from operations, capital gains proceeds from the sale of assets, non-capital gains proceeds from the sale of assets, dividends or other distributions paid to us on account of preferred and common equity investments in portfolio companies and fee waivers from our Advisers. We have not established any limit on the extent to which we may use borrowings or stock offering proceeds to fund distributions. Our distributions may exceed our earnings, especially during the period before we have substantially invested the stock offering proceeds. As a result, a portion of the distributions we make may represent a return of capital for U.S. federal income tax purposes.

The timing and amount of any future distributions to stockholders are subject to applicable legal restrictions and the sole discretion of our board of directors.

In order to satisfy the Code’s requirements applicable to entities subject to tax as a RIC, we must distribute to our stockholders substantially all of our taxable income on an annual basis. However, we may elect to spill over certain excess undistributed taxable income from one tax year into the next tax year, which may require us to pay a 4% nondeductible U.S. federal excise tax on such excess undistributed taxable income. For the taxable years ended December 31, 2013 and 2014, no portion of our undistributed income was subject to the 4% nondeductible U.S. federal excise tax. For the taxable year ended December 31, 2015, we distributed \$3.8 million, or \$0.0615 per share, of our taxable income in 2016, prior to the filing of our U.S. federal income tax return for our 2015 taxable year. As a result, we were subject to a 4% nondeductible excise tax of \$119,000. In 2016, we distributed \$7.3 million, or \$0.099478 per share, of our taxable income in 2017, prior to the filing of our federal income tax return for our 2016 taxable year. As a result, we were subject to a 4% nondeductible excise tax liability of approximately \$246,000. In order to avoid the imposition of the 4% nondeductible U.S. federal excise tax, we need to satisfy the Excise Tax Avoidance Requirement.

## ***Financing Arrangements***

As of December 31, 2016, we had approximately \$23.7 million in cash and cash equivalents and our NAV totaled approximately \$597.8 million equating to approximately \$8.15 per share. The change from the December 31, 2015 NAV per share of \$7.88 was largely due to the unrealized appreciation on investments in the portfolio. The unrealized appreciation on investments in our portfolio was primarily driven by a recovery in the high yield bond and leveraged loan markets in the last three quarters of the year.

As of December 31, 2015, we had approximately \$24.0 million in cash and cash equivalents and our NAV totaled approximately \$491.7 million equating to approximately \$7.88 per share. The change from the December 31, 2014 NAV per share of \$8.40 was largely due to the unrealized depreciation on investments in the portfolio. The unrealized depreciation on investments in our portfolio was primarily driven by the broad price declines in the high yield bond and leveraged loan markets and by the effect of declining oil prices on our investments in the oil and gas sector.

On March 11, 2014, the Company entered into the Capital One Credit Facility, which as of December 31, 2016, had revolver commitments of \$125.0 million, with an accordion provision allowing borrowing capacity to increase up to \$150.0 million.

On June 2, 2014, HMS Funding, entered into the Deutsche Bank Credit Facility, which was most recently amended on February 9, 2016, increasing the revolver commitments to \$385.0 million. The Company contributes certain assets to HMS Funding from time to time, as permitted under the Capital One Credit Facility, as collateral to secure the Deutsche Bank Credit Facility.

As of December 31, 2016, we had \$80.0 million outstanding and \$45.0 million available under our Capital One Credit Facility, and \$333.0 million outstanding and \$52.0 million available under the Deutsche Bank Credit Facility, both of which we estimated approximated fair value and subject to certain limitations and the asset coverage restrictions under the 1940 Act. As of December 31, 2015, we had \$105.0 million outstanding and \$20.0 million available under our Capital One Credit Facility, and \$275.0 million outstanding and \$85.0 million available under our Deutsche Bank Credit Facility, both of which we estimated approximated fair value and subject to certain limitations and the asset coverage restrictions under the 1940 Act. See Note 5 - *Borrowings* to the financial statements included elsewhere in this Form 10-K for additional information regarding the Credit Facilities.

We anticipate that we will continue to fund our investment activities through existing cash, capital raised from our Offering and borrowings on the Credit Facilities. Our primary uses of funds in both the short-term and long-term will be investments in portfolio companies, operating expenses and cash distributions to holders of our common stock.

## **Related-Party Transactions and Agreements**

We have entered into agreements with our Adviser, our Sub-Adviser and our Dealer Manager, whereby we pay certain fees and reimbursements to these entities. These include payments to our Dealer Manager for selling commissions and the Dealer Manager fee and payments to our Adviser for reimbursement of offering costs. In addition, we make payments for certain services that include the identification, execution, and management of our investments and also the management of our day-to-day operations provided to us by our Adviser and Sub-Adviser, pursuant to various agreements that we have entered into. See Note 10 — *Related Party Transactions and Arrangements* to the financial statements included elsewhere in this Form 10-K for additional information regarding related party transactions.

## **Contractual Obligations**

As of December 31, 2016, we had \$413.0 million in borrowings outstanding under the Credit Facilities. Unless extended, the Deutsche Bank Credit Facility will mature on June 16, 2020. As of December 31, 2016, the Capital One Credit Facility had a maturity date of March 11, 2017, with two one-year extension options, subject to lender approval. On March 6, 2017, the Capital One Credit Facility was amended and restated to, among other things, extend the maturity date to March 6, 2020. See above for a description of the Credit Facilities.

A summary of our significant contractual payment obligations for the repayment of outstanding borrowings at December 31, 2016 is as follows:

|  | Payments Due By Period (dollars in thousands) |                  |           |            |               |
|--|---|------------------|-----------|------------|---------------|
|  | Total   | Less than 1 year | 1-3 years | 3-5 years  | After 5 years |
| Capital One Credit Facility <sup>(1)</sup>   | \$ 80,000                                     | \$ 80,000        | \$ —      | \$ —       | \$ —          |
| Deutsche Bank Credit Facility <sup>(2)</sup> | \$ 333,000                                    | \$ —             | \$ —      | \$ 333,000 | \$ —          |

(1) At December 31, 2016, \$45.0 million remained available under our Capital One Credit Facility; however, our borrowing ability is limited to the asset coverage ratio restrictions imposed by the 1940 Act, as discussed above.

(2) At December 31, 2016, \$52.0 million remained available under the Deutsche Bank Credit Facility; however, our borrowing ability is limited to the asset coverage ratio restrictions imposed by the 1940 Act, as discussed above.

## Recently Issued Accounting Standards

In May 2014, the FASB issued ASU 2014-09, *Revenue from Contracts with Customers (Topic 606)*. ASU 2014-09 supersedes the revenue recognition requirements under ASC 605, *Revenue Recognition*, and most industry-specific guidance throughout the Industry Topics of the ASC. The core principle of the guidance is that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which an entity expects to be entitled in exchange for those goods or services. Under the new guidance, an entity is required to perform the following five steps: (1) identify the contract(s) with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue when (or as) the entity satisfies a performance obligation. The new guidance will significantly enhance comparability of revenue recognition practices across entities, industries, jurisdictions and capital markets. Additionally, the guidance requires improved disclosures as to the nature, amount, timing and uncertainty of revenue that is recognized. In March 2016, the FASB issued ASU 2016-08, *Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)*, which clarified the implementation guidance on principal versus agent considerations. In April 2016, the FASB issued ASU 2016-10, *Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing*, which clarified the implementation guidance regarding performance obligations and licensing arrangements. In May 2016, the FASB issued ASU No. 2016-12, *Revenue from Contracts with Customers (Topic 606)-Narrow-Scope Improvements and Practical Expedients*, which clarified guidance on assessing collectability, presenting sales tax, measuring non-cash consideration, and certain transition matters. The new guidance will be effective for the annual reporting period beginning after December 15, 2017, including interim periods within that reporting period. Early adoption would be permitted for annual reporting periods beginning after December 15, 2016. We expect to identify similar performance obligations under ASC 606 as compared with deliverables and separate units of account previously identified. As a result, we expect the timing of our revenue recognition to remain the same.

In February 2015, the FASB issued ASU No. 2015-02, “Consolidation (Topic 810)-*Amendments to the Consolidation Analysis*.” This guidance applies to entities in all industries and provides a new scope exception to registered money market funds and similar unregistered money market funds. This guidance also makes targeted amendments to the current consolidation guidance and ends the deferral granted to investment companies from applying the variable interest entities guidance. We adopted this standard during the three months ended March 31, 2016. There was no impact on our consolidated financial statements from the adoption of this new accounting standard.

In April 2015, the FASB issued ASU No. 2015-03, Interest—Imputation of Interest: *Simplifying the Presentation of Debt Issuance Costs* which amends the required presentation of debt issuance costs on the balance sheet. The guidance will require that debt issuance costs related to a recognized debt liability be presented on the balance sheet as a direct deduction from the carrying amount of that debt liability, consistent with debt discounts. The recognition and measurement guidance for debt issuance costs are not affected by the ASU No. 2015-03. For public business entities, the guidance is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within those fiscal years. In August 2015, the FASB issued ASU No. 2015-15, Interest—Imputation of Interest: *Presentation and Subsequent Measurement of Debt Issuance Costs Associated with Line-of-Credit Arrangements* which clarified ASU 2015-03. This guidance allows an entity to defer and present debt issuance costs for line-of-credit arrangements as an asset and subsequently amortize these deferred costs over the term of the line-of-credit arrangement. We adopted this standard during the three months ended March 31, 2016. There was no impact on our consolidated financial statements from the adoption of this new accounting standard since the guidance allows us to continue to present our debt issuance costs for our line-of-credit arrangements as assets that are amortized over the term of the arrangements.

In May 2015, the FASB issued ASU 2015-07, Fair Value Measurements—*Disclosures for Certain Entities that Calculate Net Asset Value per Share*. This amendment updates guidance intended to eliminate the diversity in practice surrounding how investments measured at net asset value under the practical expedient with future redemption dates have been categorized in the fair value hierarchy. Under the updated guidance, investments for which fair value is measured at net asset value per share using

the practical expedient should no longer be categorized in the fair value hierarchy, while investments for which fair value is measured at net asset value per share but the practical expedient is not applied should continue to be categorized in the fair value hierarchy. The updated guidance requires retrospective adoption for all periods presented and is effective for interim and annual reporting periods beginning after December 15, 2015, with early adoption permitted. We adopted this standard during the three months ended March 31, 2016. There was no impact on our consolidated financial statements from the adoption of this new accounting standard as none of our investments are measured through the use of the practical expedient.

In January 2016, the FASB issued ASU 2016-01, Financial Instruments-Overall: *Recognition and Measurement of Financial Assets and Financial Liabilities* which amends the guidance related to the classification and measurement of investments in equity securities. The guidance requires equity investments (except those accounted for under the equity method of accounting or those that result in consolidation of the investee) to be measured at fair value with changes in fair value recognized in net income. The ASU will also amend the guidance related to the presentation of certain fair value changes for financial liabilities measured at fair value and certain disclosure requirements associated with the fair value of financial instruments. For public companies, this ASU is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The impact of the adoption of this new accounting standard on our consolidated financial statements is not expected to be material.

In August 2016, the FASB issued ASU No. 2016-15, “Statement of Cash Flows (Topic 230): *Classification of Certain Cash Receipts and Cash Payments*,” which addresses eight specific cash flow issues including, among other things, the classification of debt prepayment or debt extinguishment costs. ASU No. 2016-15 is effective for annual reporting periods, and the interim periods within those periods, beginning after December 15, 2017. Early adoption is permitted. The impact of the adoption of this new accounting standard on our consolidated financial statements is not expected to be material.

In November 2016, the FASB issued ASU No. 2016-18, “Statement of Cash Flows (Topic 230),” which requires that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Therefore, amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The new guidance is effective for interim and annual periods beginning after December 15, 2017 and early adoption is permitted. The amendment should be adopted retrospectively. The impact of the adoption of this new accounting standard on our consolidated financial statements is not expected to be material.

From time to time, new accounting pronouncements are issued by the FASB or other standards setting bodies that are adopted by us as of the specified effective date. We believe that the impact of recently issued standards and any that are not yet effective will not have a material impact on our financial statements upon adoption.

### **Off-Balance Sheet Arrangements**

At December 31, 2016, we had a total of approximately \$42.7 million in outstanding commitments comprised of (i) 22 commitments to fund revolving loans that had not been fully drawn or term loans that had not been funded and (ii) three capital commitments that had not been fully called. We recognized unrealized depreciation of \$266,000 on the outstanding unfunded loan commitments and unrealized appreciation of \$14,000 on the outstanding unfunded capital commitments during the year ended December 31, 2016. At December 31, 2015, we had a total of approximately \$34.1 million in outstanding commitments comprised of (i) 14 commitments to fund revolving loans that had not been fully drawn or term loans that had not been funded and (ii) three capital commitments that had not been fully called. We recognized unrealized depreciation of \$79,000 on our outstanding unfunded loan commitments and unrealized depreciation of \$14,000 on our outstanding unfunded capital commitments during the year ended December 31, 2015.

## Commitments and Contingencies

(dollars in thousands)

|                                       | December 31, 2016 | December 31, 2015 |
|---------------------------------------|-------------------|-------------------|
| <b>Unfunded Loan Commitments</b>      |                   |                   |
| AccuMed Corp.                         | \$ —              | \$ 875            |
| Apex Linen Services, Inc.             | 397               | 1,003             |
| Arcus Hunting, LLC                    | 2,136             | 1,196             |
| BarFly Ventures, LLC                  | 881               | 1,531             |
| Buca C, LLC                           | 1,548             | 1,780             |
| CapFusion Holding, LLC                | 394               | —                 |
| CDHA Management, LLC                  | 3,259             | —                 |
| Datacom, LLC                          | 1,302             | 1,500             |
| Gamber-Johnson Holdings, LLC          | 300               | —                 |
| Guerdon Modular Holdings, Inc.        | 400               | 400               |
| Hawk Ridge Systems, LLC               | 400               | —                 |
| Hojeij Branded Foods, Inc.            | 2,000             | 2,143             |
| HW Temps LLC                          | 50                | 200               |
| Jackmont Hospitality, Inc.            | 1,200             | 1,333             |
| LaMi Products, LLC                    | 1,729             | 1,521             |
| Minute Key, Inc.                      | 197               | 500               |
| Mystic Logistics, Inc.                | 194               | 200               |
| Pardus Oil & Gas, LLC                 | 357               | —                 |
| Permian Holdco 2                      | 290               | —                 |
| PPC/Shift, LLC                        | 500               | —                 |
| Strike, LLC                           | 2,475             | —                 |
| Unirush, LLC                          | 980               | —                 |
| Volusion, LLC                         | 2,955             | 3,000             |
| <b>Unfunded Capital Commitments</b>   |                   |                   |
| Brightwood Capital Fund III, LP       | 1,000             | 1,250             |
| Brightwood Capital Fund IV, LP        | 10,000            | —                 |
| EIG Traverse Co-Investment, LP        | —                 | 5,245             |
| Freeport First Lien Loan Fund III, LP | 7,737             | 10,423            |
| <b>Total</b>                          | <b>\$ 42,681</b>  | <b>\$ 34,100</b>  |

### Recent Developments

From January 1, 2017 through March 3, 2017, we raised approximately \$19.5 million in the Offering including proceeds from the distribution reinvestment plan of approximately \$6.6 million. During this period, we funded approximately \$34.2 million in investments and received proceeds from repayments and dispositions of approximately \$94.4 million.

On January 12, 2017 and January 18, 2017, we increased our public offering price per share to \$9.15 and \$9.30, respectively, which was effective as of our weekly close on January 12, 2017 and January 19, 2017, respectively.

On February 3, 2017, we filed a tender offer statement on Schedule TO with the SEC, to commence an offer by us to purchase, as approved by our board of directors, 1,700,749.42 shares of our issued and outstanding common stock, par value \$0.001 per share. The offer is for cash at a purchase price equal to the NAV per share to be determined within 48 hours of the repurchase date.

On February 22, 2017, our board of directors, after determining that it would be in the best interests of us and our stockholders, decided to continue the Offering until September 30, 2017 and authorized the Closing to occur on or about September 30, 2017. However, our board of directors retained its right to provide final approval on the specific terms of the Closing, including its right to accelerate the Closing or to further continue the Offering if the board of directors determines that it is in the best interests of us and our stockholders to do so.

On March 6, 2017, we, together with HMS Equity Holding, HMS Equity Holding II, EverBank and certain financial institutions as lenders, amended and restated the Capital One Credit Facility to, among other things, (i) extend the maturity date to March 6, 2020, (ii) reduce revolver commitments to \$95.0 million and (iii) assign Capital One's role as administrative agent to EverBank. This description of the amended and restated credit facility does not purport to be complete and is qualified in its entirety by

reference to the amended and restated credit facility, filed as Exhibit 10.40 to this Annual Report on Form 10-K and incorporate herein by reference.

## Item 7A. Quantitative and Qualitative Disclosures about Market Risk.

### *Quantitative and Qualitative Disclosures about Market Risk*

We are subject to financial market risks, in particular changes in interest rates. Changes in interest rates may affect our interest income from portfolio investments, the fair value of our fixed income investments, and our cost of funding.

Our interest income will be affected by changes in various interest rates, including LIBOR and prime rates, to the extent any of our debt investments include floating interest rates. We generally invest in floating rate debt instruments, meaning that the interest rate payable on such instrument resets periodically based upon changes in a specified interest rate index, typically the one-month or three-month LIBOR. As of December 31, 2016, approximately 85.7% of our LMM, Private Loan, and Middle Market portfolio debt investments (based on cost) contained floating interest rates. As of December 31, 2016, the one-month and three-month LIBOR was approximately 0.77% and 1.00% respectively. However, many of our investments provide as well that the specified interest rate index on such instruments will never fall below a level, or floor, generally between 100 and 150 basis points, equal to 1.0% to 1.5%, regardless of the level of the specified index rate. Given that most floating rate debt investments have index floors at or above 100 basis points, a decline in index rates is not expected to result in a significant change to interest income.

In addition, any fluctuations in prevailing interest rates may affect the fair value of our fixed rate debt instruments and result in changes in unrealized gains and losses, and may also affect a net increase or decrease in net assets resulting from operations. Such changes in unrealized appreciation and depreciation will materialize into realized gains and losses if we sell our investments before their respective debt maturity dates.

Further, because we borrow money to make investments, our net investment income is partially dependent upon the difference between the interest rate at which we invest borrowed funds and the interest rate at which we borrow funds. In periods of rising interest rates and when we have borrowed capital with floating interest rates, our interest expense will increase, which will increase our financing costs and reduce our net investment income, especially to the extent we hold fixed-rate debt investments. As a result, there can be no assurance that a significant change in market interest rates will not have a material adverse effect on our net investment income.

The following table shows the approximate annualized increase or decrease (dollars in thousands) in the components of net investment income due to hypothetical interest rate index changes, assuming no changes in our investments and borrowings as of December 31, 2016.

| Change in interest rates | Increase<br>(Decrease) in<br>Interest Income | Increase<br>(Decrease) in<br>Interest Expense | Net Increase<br>(Decrease) in Net<br>Investment Income |
|--------------------------|--|---|--|
| Down 25 basis points     | \$ (166)                                     | \$ (1,033)                                    | \$ 867   |
| Up 50 basis points       | 3,168  | 2,065   | 1,103  |
| Up 100 basis points      | 7,169  | 4,130   | 3,039  |
| Up 200 basis points      | 15,196                                       | 8,260   | 6,936  |
| Up 300 basis points      | 23,230                                       | 12,390  | 10,840   |

Although we believe that this analysis is indicative of our existing sensitivity to interest rate changes, it does not adjust for changes in the credit market, credit quality, the size and composition of the assets in our portfolio and other business developments, including borrowing under the Credit Facilities or other borrowings, that could affect net increase in net assets resulting from operations, or net income. Accordingly, we can offer no assurances that actual results would not differ materially from the analysis above.

If deemed prudent, we may use interest rate risk management techniques in an effort to minimize our exposure to interest rate fluctuations. These techniques may include various interest rate hedging activities to the extent permitted by the 1940 Act. Adverse developments resulting from changes in interest rates or hedging transactions could have a material adverse effect on our business, financial condition and results of operations. As of December 31, 2016, we had not entered into any interest rate hedging arrangements.



**Item 8. *Financial Statements and Supplementary Data***

**Index to Audited Financial Statements**

|   |    |
|---|----|
| Report of Independent Registered Public Accounting Firm   | 62 |
| Consolidated Balance Sheets as of December 31, 2016 and 2015  | 63 |
| Consolidated Statements of Operations for the years ended December 31, 2016, 2015 and 2014            | 64 |
| Consolidated Statements of Changes in Net Assets for the years ended December 31, 2016, 2015 and 2014 | 65 |
| Consolidated Statements of Cash Flows for the years ended December 31, 2016, 2015 and 2014            | 66 |
| Consolidated Schedules of Investments as of December 31, 2016 and 2015                                | 67 |
| Notes to the Consolidated Financial Statements  | 83 |

## **Report of Independent Registered Public Accounting Firm**

Board of Directors and Stockholders  
HMS Income Fund, Inc.

We have audited the accompanying consolidated balance sheets of HMS Income Fund, Inc. (a Maryland corporation) and subsidiaries (the “Company”), including the schedule of investments, as of December 31, 2016 and 2015, and the related consolidated statements of operations, changes in net assets, and cash flows for each of the three years in the period ended December 31, 2016 and the financial highlights (see Note 6) for each of the five years in the period ended December 31, 2016. These financial statements and financial highlights are the responsibility of the Company’s management. Our responsibility is to express an opinion on these financial statements and financial highlights based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company’s internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. Our procedures included verification by confirmation of securities as of December 31, 2016 and 2015, by correspondence with the portfolio companies and custodians, or by other appropriate auditing procedures where replies were not received. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements and financial highlights referred to above present fairly, in all material respects, the financial position of HMS Income Fund, Inc. and subsidiaries as of December 31, 2016 and 2015, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2016 and the financial highlights for each of the five years in the period ended December 31, 2016 in conformity with accounting principles generally accepted in the United States of America.

/s/ GRANT THORNTON LLP

Houston, Texas  
March 7, 2017

## PART I — FINANCIAL INFORMATION

### HMS Income Fund, Inc. Consolidated Balance Sheets (dollars in thousands, except share and per share amounts)

|   | December 31, 2016   | December 31, 2015 |
|---|---------------------|-------------------|
| <b>ASSETS</b>   |                     |                   |
| Portfolio investments at fair value:  |                     |                   |
| Non-Control/Non-Affiliate investments (amortized cost: \$935,741 and \$866,499 as of December 31, 2016 and December 31, 2015, respectively)                                 | \$ 916,393          | \$ 812,205        |
| Affiliate investments (amortized cost: \$53,771 and \$23,949 as of December 31, 2016 and December 31, 2015, respectively)   | 56,312              | 25,303            |
| Control investments (amortized cost: \$12,883 and \$14,241 as of December 31, 2016 and December 31, 2015, respectively)   | 16,542              | 15,480            |
| Total portfolio investments   | 989,247             | 852,988           |
| Cash and cash equivalents   | 23,719              | 24,001            |
| Interest receivable   | 7,204               | 7,927             |
| Receivable for securities sold  | 7,610               | 1,995             |
| Prepaid and other assets  | 1,268               | 511               |
| Deferred offering costs (net of accumulated amortization of \$9,919 and \$9,018 as of December 31, 2016 and December 31, 2015, respectively)                                | 680                 | 1,107             |
| Deferred financing costs (net of accumulated amortization of \$2,862 and \$1,370 as of December 31, 2016 and December 31, 2015, respectively)                               | 3,840               | 4,883             |
| Total assets  | \$ 1,033,568        | \$ 893,412        |
| <b>LIABILITIES</b>  |                     |                   |
| Accounts payable and other liabilities  | \$ 1,164            | \$ 610            |
| Payable for unsettled trades  | 932                 | —                 |
| Stockholder distributions payable   | 4,354               | 3,717             |
| Base management fees payable  | 5,054               | 4,521             |
| Due to affiliates   | 184                 | 1,202             |
| Directors' fees payable   | 12                  | 14                |
| Payable for securities purchased  | 11,035              | 11,696            |
| Notes payable   | 413,000             | 380,000           |
| Total liabilities   | 435,735             | 401,760           |
| Commitments and Contingencies (Note 12)   |                     |                   |
| <b>NET ASSETS</b>   |                     |                   |
| Common stock, \$.001 par value; 150,000,000 shares authorized, 73,382,971 and 62,382,044 issued and outstanding as of December 31, 2016 and December 31, 2015, respectively | 73                  | 62                |
| Additional paid in capital  | 633,855             | 546,508           |
| Accumulated distributions in excess of net investment income  | (22,602)            | (3,219)           |
| Net unrealized appreciation (depreciation)  | (13,493)            | (51,699)          |
| Total net assets  | 597,833             | 491,652           |
| <b>Total liabilities and net assets</b>   | <b>\$ 1,033,568</b> | <b>\$ 893,412</b> |
| <b>Net asset value per share</b>  | <b>\$ 8.15</b>      | <b>\$ 7.88</b>    |

*See notes to the consolidated financial statements.*

**HMS Income Fund, Inc.**  
**Consolidated Statements of Operations**  
(dollars in thousands, except shares and per share amounts)

|  | Year Ended<br>December 31, 2016 | Year Ended<br>December 31, 2015 | Year Ended<br>December 31, 2014 |
|--|---------------------------------|---------------------------------|---------------------------------|
| <b>INVESTMENT INCOME</b>   |                                 |                                 |                                 |
| Interest, fee and dividend income  |                                 |                                 |                                 |
| Non-Control/Non-Affiliate investments  | \$ 84,503                       | \$ 63,253                       | \$ 19,013                       |
| Affiliate investments  | 3,968                           | 1,204                           | 170                             |
| Control investments  | 928                             | 932                             | 30                              |
| Total interest, fee and dividend income  | 89,399                          | 65,389                          | 19,213                          |
| <b>EXPENSES</b>  |                                 |                                 |                                 |
| Interest expense   | 15,055                          | 11,159                          | 3,325                           |
| Base management and incentive fees   | 20,840                          | 18,142                          | 6,029                           |
| Administrative services expenses   | 2,315                           | 2,037                           | 1,497                           |
| Offering costs   | 901                             | —                               | —                               |
| Professional fees  | 1,056                           | 606                             | 478                             |
| Insurance  | 191                             | 192                             | 191                             |
| Other general and administrative   | 1,440                           | 1,280                           | 598                             |
| Expenses before fee and expense waivers  | 41,798                          | 33,416                          | 12,118                          |
| Waiver of management and incentive fees  | (1,689)                         | (2,601)                         | (2,274)                         |
| Waiver of administrative services expenses   | (2,315)                         | (2,037)                         | (1,497)                         |
| Expense support payment from Adviser   | —                               | —                               | (328)                           |
| Total expenses, net of fee and expense waivers   | 37,794                          | 28,778                          | 8,019                           |
| Net investment income before taxes   | 51,605                          | 36,611                          | 11,194                          |
| Income tax expense (benefit), including excise tax   | 336                             | 127                             | (3)                             |
| <b>NET INVESTMENT INCOME</b>   | 51,269                          | 36,484                          | 11,197                          |
| <b>NET REALIZED GAIN (LOSS) FROM INVESTMENTS</b>   |                                 |                                 |                                 |
| Non-Control/Non-Affiliate investments  | (22,891)                        | (5,508)                         | 20                              |
| Affiliate investments  | —                               | —                               | —                               |
| Control investments  | —                               | —                               | —                               |
| Total realized gain (loss) from investments  | (22,891)                        | (5,508)                         | 20                              |
| <b>NET REALIZED INCOME</b>   | 28,378                          | 30,976                          | 11,217                          |
| <b>NET UNREALIZED APPRECIATION (DEPRECIATION)</b>  |                                 |                                 |                                 |
| Non-Control/Non-Affiliate investments  | 34,613                          | (40,543)                        | (14,220)                        |
| Affiliate investments  | 1,173                           | 1,348                           | 6                               |
| Control investments  | 2,420                           | 1,239                           | —                               |
| Total net unrealized appreciation (depreciation)   | 38,206                          | (37,956)                        | (14,214)                        |
| <b>NET INCREASE (DECREASE) IN NET ASSETS RESULTING FROM OPERATIONS</b>                         | \$ 66,584                       | \$ (6,980)                      | \$ (2,997)                      |
| <b>PER SHARE INFORMATION – BASIC AND DILUTED</b>   |                                 |                                 |                                 |
| NET INVESTMENT INCOME PER SHARE  | \$ 0.75                         | \$ 0.75                         | \$ 0.70                         |
| NET REALIZED INCOME PER SHARE  | \$ 0.41                         | \$ 0.63                         | \$ 0.70                         |
| NET INCREASE (DECREASE) IN NET ASSETS RESULTING FROM OPERATIONS PER SHARE (EARNINGS PER SHARE) | \$ 0.97                         | \$ (0.14)                       | \$ (0.19)                       |
| DISTRIBUTIONS DECLARED PER SHARE   | \$ 0.70                         | \$ 0.70                         | \$ 0.70                         |
| WEIGHTED AVERAGE SHARES OUTSTANDING – BASIC AND DILUTED  | 68,029,977                      | 48,838,114                      | 16,022,853                      |

*See notes to the consolidated financial statements.*

**HMS Income Fund, Inc.**  
**Consolidated Statements of Changes in Net Assets**  
(dollars in thousands, except share and per share amounts)

|   | Year Ended<br>December 31, 2016 | Year Ended<br>December 31, 2015 | Year Ended<br>December 31, 2014 |
|---|---------------------------------|---------------------------------|---------------------------------|
| <b>Change in Net Assets from Operations:</b>                          |                                 |                                 |                                 |
| Net investment income   | \$ 51,269                       | \$ 36,484                       | \$ 11,197                       |
| Net realized gain (loss) on investments                               | (22,891)                        | (5,508)                         | 20                              |
| Net unrealized appreciation (depreciation)                            | 38,206                          | (37,956)                        | (14,214)                        |
| Net increase (decrease) in net assets resulting from operations       | 66,584                          | (6,980)                         | (2,997)                         |
| <b>Change in Net Assets from Stockholders' Distributions:</b>         |                                 |                                 |                                 |
| Distributions from net investment income                              | (47,761)                        | (34,195)                        | (11,197)                        |
| Distributions from net realized gain on investments                   | —                               | —                               | (20)                            |
| Net decrease in net assets resulting from stockholders' distributions | (47,761)                        | (34,195)                        | (11,217)                        |
| <b>Change in Net Assets from Capital Share Transactions:</b>          |                                 |                                 |                                 |
| Issuance of common stock, net of issuance costs                       | 73,491                          | 263,372                         | 225,525                         |
| Reinvestment of stockholder distributions                             | 24,766                          | 16,937                          | 4,630                           |
| Repurchase of common stock  | (10,899)                        | (2,955)                         | (158)                           |
| Offering costs  | —                               | (4,590)                         | (3,797)                         |
| Net increase in net assets resulting from capital share transactions  | 87,358                          | 272,764                         | 226,200                         |
| <b>Total Increase in Net Assets</b>                                   | <b>106,181</b>                  | <b>231,589</b>                  | <b>211,986</b>                  |
| Net Assets at beginning of period                                     | 491,652                         | 260,063                         | 48,077                          |
| Net Assets at end of the period                                       | <u>\$ 597,833</u>               | <u>\$ 491,652</u>               | <u>\$ 260,063</u>               |
| <br>NAV at end of the period  | <br><u>\$ 8.15</u>              | <br><u>\$ 7.88</u>              | <br><u>\$ 8.40</u>              |
| <br>Common shares outstanding, beginning of period                    | <br>62,382,044                  | <br>30,967,120                  | <br>5,396,967                   |
| Issuance of common shares   | 9,271,585                       | 29,856,266                      | 25,073,940                      |
| Issuance of common shares pursuant to distribution reinvestment plan  | 3,115,762                       | 1,918,998                       | 514,471                         |
| Repurchase of common shares   | (1,386,420)                     | (360,340)                       | (18,258)                        |
| Common shares outstanding, end of period                              | <u>73,382,971</u>               | <u>62,382,044</u>               | <u>30,967,120</u>               |

*See notes to the consolidated financial statements.*

**HMS Income Fund, Inc.**  
**Consolidated Statements of Cash Flows**  
(dollars in thousands)

|  | Year Ended<br>December 31, 2016 | Year Ended<br>December 31, 2015 | Year Ended<br>December 31, 2014 |
|--|---------------------------------|---------------------------------|---------------------------------|
| <b>CASH FLOWS FROM OPERATING ACTIVITIES</b>  |                                 |                                 |                                 |
| Net increase (decrease) in net assets resulting from operations  | \$ 66,584                       | \$ (6,980)                      | \$ (2,997)                      |
| Adjustments to reconcile net increase (decrease) in net assets resulting from operations to net cash used in operating activities: |                                 |                                 |                                 |
| Principal repayments received, proceeds from sales of investments in portfolio companies   | 349,564                         | 176,066                         | 96,264                          |
| Investments in portfolio companies   | (464,882)                       | (631,126)                       | (477,482)                       |
| Net unrealized depreciation (appreciation) of portfolio investments  | (38,206)                        | 37,956                          | 14,214                          |
| Net realized loss (gain) on sale of portfolio investments  | 22,891                          | 5,508                           | (20)                            |
| Amortization of deferred financing costs   | 1,492                           | 1,161                           | 438                             |
| Amortization of deferred offering costs  | 901                             | —                               | —                               |
| Accretion of unearned income   | (11,946)                        | (4,378)                         | (1,084)                         |
| Net payment-in-kind interest accrual   | (469)                           | (1,223)                         | (274)                           |
| Changes in other assets and liabilities:   |                                 |                                 |                                 |
| Interest receivable  | 723                             | (3,599)                         | (3,929)                         |
| Prepaid and other assets   | 103                             | 101                             | (128)                           |
| Due from Main Street Capital Corporation   | —                               | —                               | 19                              |
| Due to affiliates  | 24                              | 4,623                           | 3,778                           |
| Base management fees payable   | 533                             | 2,441                           | 2,080                           |
| Accounts payable and other liabilities   | 204                             | 302                             | 162                             |
| Directors' fees payable  | (2)                             | 6                               | 3                               |
| Payable for unsettled trades   | 932                             | (6,249)                         | 3,641                           |
| Net cash used in operating activities  | <u>(71,554)</u>                 | <u>(425,391)</u>                | <u>(365,315)</u>                |
| <b>CASH FLOWS FROM FINANCING ACTIVITIES</b>  |                                 |                                 |                                 |
| Proceeds from issuance of common stock   | 80,611                          | 284,481                         | 244,703                         |
| Redemption of common shares  | (10,899)                        | (2,955)                         | (158)                           |
| Payment of selling commissions and dealer manager fees   | (7,033)                         | (25,699)                        | (22,975)                        |
| Payment of offering costs  | (1,603)                         | (4,590)                         | (3,799)                         |
| Payment of stockholder distributions   | (22,359)                        | (15,301)                        | (5,122)                         |
| Repayments on notes payable  | (388,000)                       | (176,664)                       | (152,636)                       |
| Proceeds from notes payable  | 421,000                         | 373,800                         | 321,500                         |
| Payment of deferred financing costs  | (445)                           | (3,548)                         | (2,686)                         |
| Net cash provided by financing activities  | <u>71,272</u>                   | <u>429,524</u>                  | <u>378,827</u>                  |
| Net (decrease) increase in cash and cash equivalents   | (282)                           | 4,133                           | 13,512                          |
| CASH AND CASH EQUIVALENTS AT THE BEGINNING OF THE PERIOD   | <u>24,001</u>                   | <u>19,868</u>                   | <u>6,356</u>                    |
| CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD   | <u>\$ 23,719</u>                | <u>\$ 24,001</u>                | <u>\$ 19,868</u>                |

*See notes to the consolidated financial statements.*



**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2016**  
**(dollars in thousands)**

| Portfolio Company (1) (3)  | Business Description   | Type of Investment (2) (3)   | Index Rate (22) | Principal (7) | Cost (7)  | Fair Value |
|--|--|--|-----------------|---------------|-----------|------------|
| Control Investments (6)  |  |  |                 |               |           |            |
| GRT Rubber Technologies, LLC (8) (10) (13)                               | Engineered Rubber Product Manufacturer                                 | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt (Maturity - December 19, 2019)     | 1 month LIBOR   | \$ 6,538      | \$ 6,448  | \$ 6,538   |
|  |  | Member Units (2,896 shares)  | —               | —             | 6,435     | 10,004     |
|  |  |  |                 |               | 12,883    | 16,542     |
| Subtotal Control Investments (6) (2% of total investments at fair value) |  |  |                 |               | \$ 12,883 | \$ 16,542  |
| Affiliate Investments (4)  |  |  |                 |               |           |            |
| AFG Capital Group, LLC (10) (13)   | Provider of Rent-to-Own Financing Solutions and Services               | Member Units (46 shares)   | —               | —             | \$ 300    | \$ 687     |
|  |  | Warrants (10 equivalent shares, Expiration - November 7, 2024)   | —               | —             | 65        | 167        |
|  |  |  |                 |               | 365       | 854        |
| Clad-Rex Steel, LLC (10) (13)  | Specialty Manufacturer of Vinyl-Clad Metal                             | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt (Maturity - December 20, 2021) (8) | 1 month LIBOR   | 3,520         | 3,449     | 3,449      |
|  |  | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt (Maturity - December 20, 2018) (8) | 1 month LIBOR   | 100           | 99        | 99         |
|  |  | Member Units (179 units)   | —               | —             | 1,820     | 1,820      |
|  |  | 10.00% Secured Debt (Clad-Rex Steel RE Investor, LLC) (Maturity - December 20, 2036)                   | None            | 301           | 298       | 298        |
|  |  | Member Units (Clad-Rex Steel RE Investor, LLC) (200 units)   | —               | —             | 53        | 53         |
|  |  |  |                 |               | 5,719     | 5,719      |
| EIG Traverse Co-Investment, LP (9) (15)                                  | Investment Partnership   | LP Interests (EIG Traverse Co-Investment, LP) (Fully diluted 22.20%) (16)                              | —               | —             | 9,805     | 9,905      |
| Freeport First Lien Loan Fund III, LP (9) (15)                           | Investment Partnership   | LP Interests (Freeport First Lien Loan Fund III, LP) (Fully diluted 5.60%) (16)                        | —               | —             | 4,763     | 4,763      |
| Gamber-Johnson Holdings, LLC (8) (10) (13)                               | Manufacturer of Ruggedized Computer Mounting Systems                   | LIBOR Plus 11.00% (Floor 1.00%), Current Coupon 12.00%, Secured Debt (Maturity - June 24, 2021)        | 1 month LIBOR   | 6,020         | 5,902     | 5,964      |
|  |  | Member Units (2,155 units)   |                 | —             | 3,711     | 4,730      |
|  |  |  |                 |               | 9,613     | 10,694     |
| Guerdon Modular Holdings, Inc. (10) (13)                                 | Multi-Family and Commercial Modular Construction Company               | 9.00% Current / 4.00% PIK Secured Debt (Maturity - August 13, 2019)                                    | None            | 2,668         | 2,621     | 2,642      |
|  |  | Common Stock (53,008 shares)   | —               | —             | 746       | 20         |
|  |  | Class B Preferred Stock (101,250 shares)   | —               | —             | 285       | 285        |
|  |  |  |                 |               | 3,652     | 2,947      |
| Gulf Publishing Holdings, LLC (10) (13)                                  | Energy Focused Media and Publishing                                    | 12.50% Secured Debt (Maturity - April 29, 2021)  | None            | 2,500         | 2,455     | 2,455      |
|  |  | Member Units (781 shares)  |                 | —             | 781       | 781        |
|  |  |  |                 |               | 3,236     | 3,236      |
| Hawk Ridge Systems, LLC (9) (10) (13)                                    | Value-Added Reseller of Engineering Design and Manufacturing Solutions | 10.00% Secured Debt (Maturity - December 2, 2021)  | None            | 2,500         | 2,451     | 2,451      |
|  |  | Preferred Member Units (56 units)  | —               | —             | 713       | 713        |
|  |  | Preferred Member Units (HRS Services, ULC) (56 units)  | —               | —             | 38        | 38         |
|  |  |  |                 |               | 3,202     | 3,202      |
| HW Temps LLC (8) (10) (13)   | Temporary Staffing Solutions   | LIBOR Plus 13.00% (Floor 1.00%), Current Coupon 14.00%, Secured Debt (Maturity - July 2, 2020)         | 1 month LIBOR   | 2,644         | 2,591     | 2,591      |
|  |  | Preferred Member Units (800 shares) (16)   | —               | —             | 986       | 985        |
|  |  |  |                 |               | 3,577     | 3,576      |
| M.H. Corbin Holding, LLC (10) (13)                                       | Manufacturer and Distributor of Traffic Safety Products                | 10.00% Secured Debt (Maturity - August 31, 2021)   | None            | 3,325         | 3,299     | 3,299      |
|  |  | Preferred Member Units (1,000 shares)  |                 | —             | 1,500     | 1,500      |
|  |  |  |                 |               | 4,799     | 4,799      |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2016**  
**(dollars in thousands)**

| Portfolio Company (1) (3)  | Business Description  | Type of Investment (2) (3)   | Index Rate (22) | Principal (7) | Cost (7)  | Fair Value |
|--|---|--|-----------------|---------------|-----------|------------|
| Mystic Logistics, Inc. (10) (13)   | Logistics and Distribution Services Provider for Large Volume Mailers | 12.00% Secured Debt (Maturity - August 15, 2019)   | None            | 2,294         | 2,246     | 2,294      |
|  |   | Common Stock (1,468 shares) (16)   | —               | —             | 680       | 1,445      |
|  |   |  |                 |               | 2,926     | 3,739      |
| SoftTouch Medical Holdings LLC (8) (10) (13)                               | Home Provider of Pediatric Durable Medical Equipment                  | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt (Maturity - October 31, 2019)                          | 1 month LIBOR   | 1,260         | 1,244     | 1,260      |
|  |   | Member Units (785 units) (16)  | —               | —             | 870       | 1,618      |
|  |   |  |                 |               | 2,114     | 2,878      |
| Subtotal Affiliate Investments (4) (6% of total investments at fair value) |   |  |                 |               | \$ 53,771 | \$ 56,312  |
| Non-Control/Non-Affiliate Investments (5)                                  |   |  |                 |               |           |            |
| Adams Publishing Group, LLC (8) (11)                                       | Local Newspaper Operator  | LIBOR Plus 7.00% (Floor 1.00%), Current Coupon 8.00%, Secured Debt (Maturity - November 3, 2020)                           | 3 month LIBOR   | 7,589         | 7,459     | 7,589      |
| ADS Tactical, Inc. (8) (11)  | Value-Added Logistics and Supply Chain Solutions Provider             | LIBOR Plus 7.50% (Floor 1.00%), Current Coupon 8.50%, Secured Debt (Maturity - December 31, 2022)                          | 3 month LIBOR   | 10,000        | 9,750     | 9,750      |
| Ahead, LLC (8) (11)  | IT Infrastructure Value Added Reseller                                | LIBOR Plus 6.50%, Current Coupon 7.50%, Secured Debt (Maturity - November 2, 2020)   | 3 month LIBOR   | 9,500         | 9,267     | 9,536      |
| Allflex Holdings III Inc. (8)  | Manufacturer of Livestock Identification Products                     | LIBOR Plus 7.00% (Floor 1.00%), Current Coupon 8.00%, Secured Debt (Maturity - July 19, 2021) (14)                         | 6 month LIBOR   | 14,922        | 15,012    | 14,936     |
| American Scaffold Holdings, Inc. (8) (11)                                  | Marine Scaffolding Service Provider                                   | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - March 31, 2022)                             | 1 month LIBOR   | 7,359         | 7,257     | 7,323      |
| American Teleconferencing Services, Ltd. (8)                               | Provider of Audio Conferencing and Video Collaboration Solutions      | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - December 8, 2021)                           | 3 month LIBOR   | 10,056        | 9,122     | 9,848      |
|  |   | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt (Maturity - June 6, 2022) (14)                         | 3 month LIBOR   | 5,571         | 5,353     | 5,353      |
|  |   |  |                 |               | 14,475    | 15,201     |
| AmeriTech College Operations, LLC (10) (13)                                | For-Profit Nursing and Healthcare College                             | 13.00% Secured Debt (Maturity - January 31, 2020)  | None            | 375           | 375       | 375        |
|  |   | 10.00% Secured Debt (Maturity - November 30, 2019)   | None            | 61            | 61        | 61         |
|  |   | 13.00% Secured Debt (Maturity - November 30, 2019)   | None            | 64            | 64        | 64         |
|  |   | Preferred Member Units (364 units, 5.00% cumulative) (16)  | —               | —             | 284       | 284        |
|  |   |  |                 |               | 784       | 784        |
| AP Gaming I, LLC (8) (11)  | Developer, Manufacturer and Operator of Gaming Machines               | LIBOR Plus 8.25% (Floor 1.00%), Current Coupon 9.25%, Secured Debt (Maturity - December 21, 2020)                          | 3 month LIBOR   | 11,291        | 11,194    | 11,267     |
| Apex Linen Service, Inc. (10) (13)   | Industrial Launderers   | 13.00% Secured Debt (Maturity - October 30, 2022)  | None            | 3,604         | 3,545     | 3,545      |
|  |   | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - October 30, 2022)                           | 1 month LIBOR   | 600           | 600       | 600        |
|  |   |  |                 |               | 4,145     | 4,145      |
| Arcus Hunting, LLC (8) (11)  | Manufacturer of Bowhunting and Archery Products and Accessories       | LIBOR Plus 7.00% (Floor 1.00%), Current Coupon 8.00%, Secured Debt (Maturity - November 13, 2019)                          | 1 month LIBOR   | 6,973         | 6,850     | 6,973      |
| Artel, LLC (8) (12)  | Provider of Secure Satellite Network and IT Solutions                 | LIBOR Plus 7.00% (Floor 1.25%), 7.25% Current/1.00% PIK, Current Coupon 8.25%, Secured Debt (Maturity - November 27, 2017) | 3 month LIBOR   | 5,173         | 5,000     | 4,837      |
| ATI Investment Sub, Inc. (8)   | Manufacturer of Solar Tracking Systems                                | LIBOR Plus 7.25% (Floor 1.00%), Current Coupon 8.25%, Secured Debt (Maturity - June 22, 2021)                              | 1 month LIBOR   | 9,500         | 9,322     | 9,476      |
| ATX Networks Corp. (8) (9)   | Provider of Radio Frequency Management Equipment                      | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - June 11, 2021)                              | 3 month LIBOR   | 14,775        | 14,541    | 14,516     |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2016**  
**(dollars in thousands)**

| Portfolio Company (1) (3)                       | Business Description  | Type of Investment (2) (3)   | Index Rate (22) | Principal (7) | Cost (7)      | Fair Value    |
|---|---|--|-----------------|---------------|---------------|---------------|
| <b>BarFly Ventures, LLC (11)</b>                | Casual Restaurant Group   | 12.00% Secured Debt (Maturity - August 30, 2020)   | None            | 1,986         | 1,953         | 1,942         |
|   |   | Warrants (.410 equivalent units, Expiration - August 31, 2025)                                     | —               | —             | 158           | 94            |
|   |   | Options (.731 equivalent units)  | —               | —             | 133           | 164           |
|   |   |  |                 |               | <u>2,244</u>  | <u>2,200</u>  |
| <b>BBB Tank Services, LLC (10) (13)</b>         | Maintenance, Repair and Construction Services to the Above-Ground Storage Tank Market | 15% Current Secured Debt (Maturity - April 8, 2021)  | None            | 1,007         | 989           | 989           |
|   |   | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt (Maturity - April 8, 2021)     | 1 month LIBOR   | 200           | 200           | 200           |
|   |   | Member Units (200,000 units)   | —               | —             | 200           | 200           |
|   |   |  |                 |               | <u>1,389</u>  | <u>1,389</u>  |
| <b>Berry Aviation, Inc. (11)</b>                | Airline Charter Service Operator  | 12.00% Current / 1.75% PIK, Current Coupon 13.75%, Secured Debt (Maturity - January 30, 2020) (14) | None            | 1,407         | 1,390         | 1,407         |
|   |   | Common Stock (138 shares)  | —               | —             | 100           | 205           |
|   |   |  |                 |               | <u>1,490</u>  | <u>1,612</u>  |
|   |   |  |                 |               |               |               |
| <b>Bluestem Brands, Inc. (8)</b>                | Multi-Channel Retailer of General Merchandise   | LIBOR Plus 7.50% (Floor 1.00%), Current Coupon 8.50%, Secured Debt (Maturity - November 6, 2020)   | 3 month LIBOR   | 13,812        | 13,582        | 12,039        |
| <b>Brightwood Capital Fund III, LP (9) (15)</b> | Investment Partnership  | LP Interests (Brightwood Capital Fund III, LP) (Fully diluted .52%) (16)                           | —               | —             | 4,075         | 3,698         |
| <b>Brundage-Bone Concrete Pumping, Inc.</b>     | Construction Services Provider  | 10.38% Secured Debt (Maturity - September 1, 2021) (14)  | None            | 12,000        | 12,088        | 12,960        |
| <b>Buca C, LLC (8) (10) (13)</b>                | Casual Restaurant Group   | LIBOR Plus 7.25% (Floor 1.00%), Current Coupon 8.25%, Secured Debt (Maturity - June 30, 2020)      | 1 month LIBOR   | 15,114        | 14,889        | 15,114        |
|   |   | Preferred Member Units (4 units, 6.00% cumulative) (16)  | —               | —             | 2,547         | 3,110         |
|   |   |  |                 |               | <u>17,436</u> | <u>18,224</u> |
|   |   |  |                 |               |               |               |
| <b>CAI Software, LLC (10) (13)</b>              | Provider of Specialized Enterprise Resource Planning Software                         | 12.00% Secured Debt (Maturity - October 10, 2019)  | None            | 921           | 904           | 921           |
|   |   | Member Units (16,339 units)  | —               | —             | 163           | 620           |
|   |   |  |                 |               | <u>1,067</u>  | <u>1,541</u>  |
| <b>CapFusion Holding, LLC (9) (10) (13)</b>     | Business Lender   | 13.00% Secured Debt (Maturity - March 25, 2021)  | None            | 3,600         | 3,289         | 3,289         |
|   |   | Warrants (400 equivalent units, Expiration - March 24, 2026)                                       | —               | —             | 300           | 300           |
|   |   |  |                 |               | <u>3,589</u>  | <u>3,589</u>  |
|   |   |  |                 |               |               |               |
| <b>CDHA Management, LLC (8) (11)</b>            | Dental Services   | Prime Plus 6.25% (Floor 3.75%), Current Coupon 10.00%, Secured Debt (Maturity - December 5, 2021)  | PRIME           | 4,491         | 4,376         | 4,376         |
| <b>Cenveo Corporation</b>                       | Provider of Commercial Printing, Envelopes, Labels, Printed Office Products           | 6.00% Secured Debt (Maturity - August 1, 2019)   | None            | 15,000        | 13,013        | 13,388        |
| <b>Charlotte Russe, Inc. (8)</b>                | Fast-Fashion Retailer to Young Women  | LIBOR Plus 5.50% (Floor 1.25%), Current Coupon 6.75%, Secured Debt (Maturity - May 22, 2019)       | 3 month LIBOR   | 15,101        | 14,918        | 9,184         |
| <b>CJ Holding Company (8)</b>                   | Oil and Gas Equipment and Services  | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt (Maturity - March 31, 2017)    | 3 month LIBOR   | 83            | 85            | 83            |
| <b>Clarius BIGS, LLC (11) (18)</b>              | Prints & Advertising Film Financing   | 15.00% PIK Secured Debt (Maturity - January 5, 2015) (18)  | None            | 2,144         | 1,886         | 64            |
|   |   | 20.00% PIK Secured Debt (Maturity - January 5, 2015) (18)  | None            | 774           | 681           | 23            |
|   |   |  |                 |               | <u>2,567</u>  | <u>87</u>     |
|   |   |  |                 |               |               |               |
| <b>Compuware Corporation (8)</b>                | Provider of Software and Supporting Services  | LIBOR Plus 5.25% (Floor 1.00%), Current Coupon 6.25%, Secured Debt (Maturity - December 15, 2019)  | 3 month LIBOR   | 12,265        | 12,004        | 12,341        |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2016**  
**(dollars in thousands)**

| Portfolio Company (1) (3)                                      | Business Description   | Type of Investment (2) (3)  | Index Rate (22) | Principal (7) | Cost (7) | Fair Value |
|--|--|---|-----------------|---------------|----------|------------|
| <b>Construction Supply Investments, LLC (8) (11)</b>           | Distribution Platform of Specialty Construction Materials to Professional Concrete and Masonry Contractors | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt (Maturity - June 30, 2023)      | 3 month LIBOR   | 8,500         | 8,305    | 8,330      |
|  |  | Member units (20,000 units)   | —               | —             | 2,000    | 2,000      |
|  |  |   |                 |               | 10,305   | 10,330     |
| <b>ContextMedia Health, LLC (8) (12)</b>                       | Provider of Healthcare Media Content   | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - December 21, 2021)   | 1 month LIBOR   | 10,000        | 9,000    | 9,150      |
| <b>Covenant Surgical Partners, Inc.</b>                        | Ambulatory Surgical Centers  | 8.75% Secured Debt (Maturity - August 1, 2019)  | None            | 9,500         | 9,500    | 9,168      |
| <b>CRGT, Inc. (8)</b>  | Provider of Custom Software Development  | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - December 18, 2020)   | 1 month LIBOR   | 9,642         | 9,492    | 9,666      |
| <b>CST Industries, Inc. (8)</b>                                | Storage Tank Manufacturer  | LIBOR Plus 6.25% (Floor 1.50%), Current Coupon 7.75%, Secured Debt (Maturity - May 22, 2017)        | 3 month LIBOR   | 2,759         | 2,766    | 2,759      |
| <b>Datacom, LLC (10) (13)</b>                                  | Technology and Telecommunications Provider   | 5.25% Current / 5.25% PIK, Current Coupon 10.50% Secured Debt (Maturity - May 30, 2019)             | None            | 1,296         | 1,282    | 1,222      |
|  |  | 8.00% Secured Debt (Maturity - May 30, 2017)  | —               | 100           | 100      | 100        |
|  |  | Class A Preferred Member Units (1,530 units, 15.00% cumulative) (16)                                | —               | —             | 131      | 152        |
|  |  | Class B Preferred Member Units (717 units)  | —               | —             | 670      | 170        |
|  |  |   |                 |               | 2,183    | 1,644      |
| <b>Digital River, Inc. (8)</b>                                 | Provider of Outsourced e-Commerce Solutions and Services   | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - February 12, 2021)   | 3 month LIBOR   | 14,586        | 14,477   | 14,713     |
| <b>Digital Room, LLC (8)</b>                                   | Organic Lead Generation for Online Postsecondary Schools   | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - November 21, 2022)   | 3 month LIBOR   | 7,625         | 7,475    | 7,549      |
| <b>East West Copolymer &amp; Rubber, LLC (10) (13)</b>         | Manufacturer of Synthetic Rubbers  | 12.00% Current / 2.00% PIK, Current Coupon 14.00%, Secured Debt (Maturity - October 17, 2019)       | None            | 2,400         | 2,351    | 2,136      |
|  |  | Warrants (627,697 equivalent shares, Expiration - October 15, 2024)                                 | —               | —             | 13       | —          |
|  |  |   |                 |               | 2,364    | 2,136      |
| <b>ECP-PF Holdings Groups, Inc. (11)</b>                       | Fitness Club Operator  | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt (Maturity - November 26, 2019)  | 3 month LIBOR   | 1,875         | 1,863    | 1,875      |
| <b>Evergreen Skills Lux S.á r.l. (d/b/a Skillsoft) (8) (9)</b> | Technology-Based Performance Support Solutions   | LIBOR Plus 8.25% (Floor 1.00%), Current Coupon 9.34%, Secured Debt (Maturity - April 28, 2022) (14) | 6 month LIBOR   | 10,902        | 10,443   | 8,214      |
| <b>Flavors Holdings, Inc. (8)</b>                              | Global Provider of Flavoring and Sweetening Products and Solutions   | LIBOR Plus 5.75% (Floor 1.00%), Current Coupon 6.75%, Secured Debt (Maturity - April 3, 2020)       | 3 month LIBOR   | 11,774        | 11,236   | 9,596      |
| <b>GST Autoleather, Inc. (8)</b>                               | Automotive Leather Manufacturer  | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity - July 10, 2020)       | 3 month LIBOR   | 12,204        | 12,073   | 11,929     |
| <b>Guitar Center, Inc.</b>                                     | Musical Instruments Retailer   | 6.50% Secured Debt (Maturity - April 15, 2019)  | None            | 15,015        | 14,128   | 13,626     |
| <b>Hojeij Branded Foods, LLC (8) (11)</b>                      | Multi-Airport, Multi-Concept Restaurant Operator   | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - July 28, 2021)       | 3 month LIBOR   | 5,419         | 5,376    | 5,419      |
| <b>Hoover Group, Inc. (8) (9) (11)</b>                         | Provider of Storage Tanks and Related Products to the Energy and Petrochemical Markets                     | LIBOR Plus 7.25% (Floor 1.00%), Current Coupon 8.25%, Secured Debt (Maturity - January 28, 2021)    | 3 month LIBOR   | 15,000        | 13,961   | 13,961     |
| <b>Horizon Global Corporation (8) (9)</b>                      | Auto Parts Manufacturer  | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - June 30, 2021)       | 1 month LIBOR   | 12,098        | 11,893   | 12,325     |
| <b>Hunter Defense Technologies, Inc. (8)</b>                   | Provider of Military and Commercial Shelters and Systems   | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - August 5, 2019)      | 3 Month LIBOR   | 13,847        | 13,255   | 12,878     |
| <b>Hygea Holdings Corp. (8) (11)</b>                           | Provider of Physician Services   | LIBOR Plus 9.25%, Current Coupon 10.17%, Secured Debt (Maturity - February 24, 2019)                | 3 Month LIBOR   | 7,875         | 7,378    | 7,615      |
|  |  | Warrants (5,910,453 equivalent shares, Expiration - February 24, 2023)                              | —               | —             | 369      | 1,531      |
|  |  |   |                 |               | 7,747    | 9,146      |
| <b>iEnergizer Limited (8) (9)</b>                              | Provider of Business Outsourcing Solutions   | LIBOR 6.00% (Floor 1.25%), Current Coupon 7.25%, Secured Debt (Maturity - May 1, 2019)              | 1 month LIBOR   | 8,569         | 8,110    | 8,312      |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2016**  
**(dollars in thousands)**

| Portfolio Company (1) (3)                          | Business Description   | Type of Investment (2) (3)   | Index Rate (22) | Principal (7) | Cost (7) | Fair Value |
|--|--|--|-----------------|---------------|----------|------------|
| <b>Indivior Finance, LLC (8) (9)</b>               | Specialty Pharmaceutical Company Treating Opioid Dependence      | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - December 19, 2019)        | 3 month LIBOR   | 9,000         | 8,644    | 9,079      |
| <b>Industrial Container Services, LLC (8) (11)</b> | Steel Drum Reconditioner   | LIBOR Plus 5.75% (Floor 1.00%), Current Coupon 6.75%, Secured Debt (Maturity - December 31, 2018)        | 3 month LIBOR   | 8,927         | 8,871    | 8,927      |
| <b>Industrial Services Acquisitions, LLC (11)</b>  | Industrial Cleaning Services                                     | 11.25% Current / 0.75% PIK, Current Coupon 12.00%, Unsecured Debt (Maturity - December 17, 2022) (17)    | None            | 10,523        | 10,325   | 10,325     |
|  |  | Member units (Industrial Services Investments, LLC) (2,100,000 units)                                    | —               | —             | 2,100    | 2,100      |
|  |  |  |                 |               | 12,425   | 12,425     |
| <b>Inn of the Mountain Gods Resort and Casino</b>  | Hotel & Casino Owner & Operator                                  | 9.25% Secured Debt (Maturity - November 30, 2020)  | None            | 10,749        | 10,583   | 9,782      |
| <b>Intertain Group Limited (8) (9)</b>             | Business-to-Consumer Online Gaming Operator                      | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - April 8, 2022)            | 3 month LIBOR   | 8,799         | 8,633    | 8,876      |
| <b>iPayment, Inc. (8)</b>                          | Provider of Merchant Acquisition                                 | LIBOR Plus 5.25% (Floor 1.50%), Current Coupon 6.75%, Secured Debt (Maturity - May 8, 2017)              | 3 month LIBOR   | 15,007        | 14,986   | 14,481     |
| <b>Ipreo Holdings, LLC</b>                         | Application Software for Capital Markets                         | 7.25% Unsecured Debt (Maturity - August 1, 2022) (17)  | None            | 6,250         | 5,318    | 5,266      |
| <b>iQor US Inc. (8)</b>                            | Business Process Outsourcing Services Provider                   | LIBOR Plus 5.00% (Floor 1.00%), Current Coupon 6.00%, Secured Debt (Maturity - April 1, 2021)            | 1 month LIBOR   | 7,757         | 7,331    | 7,442      |
| <b>IronGate Energy Services, LLC (18)</b>          | Oil and Gas Services   | 11.00% Secured Debt (Maturity - July 1, 2018) (18)   | None            | 5,825         | 5,827    | 1,631      |
| <b>Jackmont Hospitality, Inc. (8) (11)</b>         | Franchisee of Casual Dining Restaurants                          | LIBOR Plus 4.25% (Floor 1.00%)/ 2.50% PIK , Current Coupon 7.75%, Secured Debt (Maturity - May 26, 2021) | 1 month LIBOR   | 8,891         | 8,861    | 8,891      |
| <b>Joerns Healthcare, LLC (8)</b>                  | Manufacturer and Distributor of Health Care Equipment & Supplies | LIBOR Plus 5.00% (Floor 1.00%), Current Coupon 6.00%, Secured Debt (Maturity - May 9, 2020)              | 3 month LIBOR   | 12,172        | 11,947   | 11,442     |
| <b>JSS Holdings, Inc. (8)</b>                      | Aircraft Maintenance Program Provider                            | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - August 31, 2021)          | 3 month LIBOR   | 13,828        | 13,550   | 13,759     |
| <b>Kellermeyer Bergensons Services, LLC (8)</b>    | Outsourced Janitorial Services to Retail/Grocery Customers       | LIBOR Plus 8.50% (Floor 1.00%), Current Coupon 9.50%, Secured Debt (Maturity - April 29, 2022) (14)      | 3 month LIBOR   | 14,700        | 14,603   | 13,964     |
| <b>Kendra Scott, LLC (8)</b>                       | Jewelry Retail Stores  | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - July 17, 2020)            | 3 month LIBOR   | 9,375         | 9,305    | 9,328      |
| <b>Keypoint Government Solutions, Inc. (8)</b>     | Provider of Pre-Employment Screening Services                    | LIBOR Plus 6.50% (Floor 1.25%), Current Coupon 7.75%, Secured Debt (Maturity - November 13, 2017)        | 3 month LIBOR   | 1,761         | 1,757    | 1,752      |
| <b>LaMi Products, LLC (8) (11)</b>                 | General Merchandise Distribution                                 | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - September 16, 2020)       | 3 month LIBOR   | 10,735        | 10,564   | 10,730     |
| <b>Larchmont Resources, LLC (8)</b>                | Oil & Gas Exploration & Production                               | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00% PIK, Secured Debt (Maturity - August 7, 2020)      | 3 month LIBOR   | 3,816         | 3,816    | 3,731      |
|  |  | Member units (Larchmont Intermediate Holdo, LLC) (4,806 units)   | —               | —             | 601      | 2,027      |
|  |  |  |                 |               | 4,417    | 5,758      |
| <b>Legendary Pictures Funding, LLC (8) (11)</b>    | Producer of TV, Film, and Comic Content                          | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - April 22, 2020)           | 3 month LIBOR   | 8,020         | 7,905    | 8,030      |
| <b>LJ Host Merger Sub, Inc. (8)</b>                | Managed Services and Hosting Provider                            | LIBOR Plus 4.75% (Floor 1.25%), Current Coupon 6.00%, Secured Debt (Maturity - December 13, 2019)        | 3 month LIBOR   | 4,846         | 4,837    | 4,595      |
| <b>Logix Acquisition Company, LLC (8) (11)</b>     | Competitive Local Exchange Carrier                               | LIBOR Plus 8.28% (Floor 1.00%), Current Coupon 9.28%, Secured Debt (Maturity - June 24, 2021)            | 3 month LIBOR   | 8,593         | 8,455    | 8,593      |
| <b>Minute Key, Inc. (10) (13)</b>                  | Operator of Automated Key Duplication Kiosk                      | 10.00% Current / 2.00% PIK Secured Debt (Maturity - September 19, 2019) (14)                             | None            | 3,905         | 3,821    | 3,821      |
|  |  | Warrants (359,352 equivalent units, Expiration - May 20, 2025)   | —               | —             | 70       | 117        |
|  |  |  |                 |               | 3,891    | 3,938      |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2016**  
**(dollars in thousands)**

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|--|---|--|-----------------|---------------|--------------|--------------|
| <b>Mood Media Corporation (8) (9)</b>            | Provider of Electronic Equipment  | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - May 1, 2019)            | 3 month LIBOR   | 14,822        | 14,741       | 14,328       |
| <b>New Media Holdings II LLC (8) (9)</b>         | Local Newspaper Operator  | LIBOR Plus 6.25% (Floor 1.00%), Current Coupon 7.25%, Secured Debt (Maturity - June 4, 2020)           | 3 month LIBOR   | 14,706        | 14,578       | 14,633       |
| <b>North American Lifting Holdings, Inc. (8)</b> | Crane Service Provider  | LIBOR Plus 4.50% (Floor 1.00%), Current Coupon 5.50%, Secured Debt (Maturity - November 27, 2020)      | 3 month LIBOR   | 2,405         | 2,016        | 2,101        |
| <b>North Atlantic Trading Company, Inc. (8)</b>  | Marketer/Distributor of Tobacco   | Prime Plus 5.50% (Floor 3.75%), Current Coupon 9.25%, Secured Debt (Maturity - January 13, 2020)       | PRIME           | 10,897        | 10,913       | 10,829       |
| <b>Novitex Acquisition, LLC (8)</b>              | Provider of Document Management Services  | LIBOR Plus 6.75% (Floor 1.25%), Current Coupon 8.00%, Secured Debt (Maturity - July 7, 2020)           | 3 month LIBOR   | 13,322        | 13,004       | 12,823       |
| <b>NTM Acquisition Corp. (8)</b>                 | Provider of B2B Travel Information Content  | LIBOR Plus 6.25% (Floor 1.00%), Current Coupon 7.25%, Secured Debt (Maturity - June 7, 2022)           | 3 month LIBOR   | 4,144         | 4,085        | 4,128        |
| <b>Pardus Oil &amp; Gas, LLC</b>                 | Oil & Gas Exploration and Production  | 13.00% PIK, Secured Debt (Maturity - November 12, 2021)  | None            | 989           | 989          | 989          |
|  |   | 5.00% PIK, Secured Debt (Maturity - May 13, 2022) (14)   | None            | 517           | 517          | 293          |
|  |   | Class A units (1,331 units)  | —               | —             | 1,331        | 523          |
|  |   |  |                 |               | <u>2,837</u> | <u>1,805</u> |
| <b>Paris Presents, Inc. (8)</b>                  | Branded Cosmetic and Bath Accessories   | LIBOR Plus 8.75% (Floor 1.00%), Current Coupon 9.75%, Secured Debt (Maturity - December 31, 2021) (14) | 1 month LIBOR   | 7,500         | 7,382        | 7,350        |
| <b>Parq Holdings, LP (8) (9)</b>                 | Hotel and Casino Operator   | LIBOR Plus 7.50% (Floor 1.00%), Current Coupon 8.50%, Secured Debt (Maturity - December 17, 2020)      | 1 month LIBOR   | 12,500        | 12,378       | 12,313       |
| <b>Permian Holdco 2, Inc.</b>                    | Storage Tank Manufacturer   | 14.00% PIK Unsecured Debt (Maturity - October 15, 2021)  | None            | 483           | 483          | 483          |
|  |   | Series A Preferred Shares (Permian Holdco 1, Inc.) (386,255 units) (12.00% Cumulative) (16)            | —               | —             | 997          | 997          |
|  |   | Common Shares (Permian Holdco 1, Inc.) (386,255 units)   | —               | —             | 997          | 997          |
|  |   |  |                 |               | <u>2,477</u> | <u>2,477</u> |
| <b>Permian Holdings, Inc.</b>                    | Storage Tank Manufacturer   | 10.50% Secured Debt (Maturity - January 15, 2018)  | None            | 1,000         | 338          | 338          |
| <b>Pernix Therapeutics Holdings, Inc. (11)</b>   | Pharmaceutical Royalty - Anti-Migraine  | 12.00% Secured Debt (Maturity - August 1, 2020)  | None            | 3,016         | 2,990        | 2,910        |
| <b>Pike Corporation (8)</b>                      | Construction and Maintenance Services for Electric Transmission and Distribution Infrastructure | LIBOR Plus 8.50% (Floor 1.00%), Current Coupon 9.50%, Secured Debt (Maturity - June 22, 2022) (14)     | 1 month LIBOR   | 13,334        | 13,070       | 13,411       |
| <b>Polycorn, Inc. (8)</b>                        | Provider of Audio and Video Communication Solutions   | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - September 27, 2023)     | 3 month LIBOR   | 12,089        | 11,617       | 12,194       |
| <b>PPC/Shift, LLC (8) (11)</b>                   | Provider of Digital Solutions to Automotive Industry  | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - December 22, 2021)      | 3 month LIBOR   | 7,000         | 6,851        | 6,851        |
| <b>Premier Dental Services, Inc. (8)</b>         | Dental Care Services  | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - November 1, 2018)       | 3 month LIBOR   | 4,511         | 4,497        | 4,494        |
| <b>Prowler Acquisition Corporation (8)</b>       | Specialty Distributor to the Energy Sector  | LIBOR Plus 4.50% (Floor 1.00%), Current Coupon 5.50%, Secured Debt (Maturity - January 28, 2020)       | 3 month LIBOR   | 11,329        | 9,896        | 8,383        |
| <b>Raley's, Inc. (8)</b>                         | Family-Owned Supermarket Chain in California  | LIBOR Plus 6.25% (Floor 1.00%), Current Coupon 7.25%, Secured Debt (Maturity - May 18, 2022)           | 3 month LIBOR   | 4,195         | 4,125        | 4,242        |
| <b>Redbox Automated Retail, LLC (8)</b>          | Operator of Home Media Entertainment Kiosks   | LIBOR Plus 7.50% (Floor 1.00%), Current Coupon 8.50%, Secured Debt (Maturity - September 27, 2021)     | 3 month LIBOR   | 14,344        | 13,925       | 13,989       |
| <b>Renaissance Learning, Inc. (8)</b>            | Technology-based K-12 Learning Solutions  | LIBOR Plus 7.00% (Floor 1.00%), Current Coupon 8.00%, Secured Debt (Maturity - April 11, 2022) (14)    | 3 month LIBOR   | 12,950        | 12,548       | 12,896       |
| <b>RGL Reservoir Operations, Inc. (8) (9)</b>    | Oil & Gas Equipment & Services  | LIBOR Plus 5.00% (Floor 1.00%), Current Coupon 6.00%, Secured Debt (Maturity - August 13, 2021)        | 3 month LIBOR   | 3,910         | 3,826        | 880          |



**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2016**  
**(dollars in thousands)**

| Portfolio Company (1) (3)                          | Business Description  | Type of Investment (2) (3)   | Index Rate (22) | Principal (7) | Cost (7) | Fair Value |
|--|---|--|-----------------|---------------|----------|------------|
| <b>RM Bidder, LLC (11)</b>                         | Full-scale Film and Television Production and Distribution    | Common Stock (1,854 units)   | —               | —             | 31       | 29         |
|  |   | Series A Warrants (124,915 equivalent units, Expiration - October 20, 2025)                        | —               | —             | 284      | 200        |
|  |   | Series B Warrants (93,686 equivalent units, Expiration - October 20, 2025)                         | —               | —             | —        | —          |
|  |   |  |                 |               | 315      | 229        |
| <b>Salient Partners, LP (8)</b>                    | Provider of Asset Management Services                         | LIBOR Plus 8.50% (Floor 1.00%), Current Coupon 9.50%, Secured Debt (Maturity - June 9, 2021)       | 3 month LIBOR   | 11,842        | 11,527   | 11,338     |
| <b>School Specialty, Inc. (8)</b>                  | Distributor of Education Supplies and Furniture               | LIBOR Plus 8.50% (Floor 1.00%), Current Coupon 9.50%, Secured Debt (Maturity - June 11, 2019)      | 1 month LIBOR   | 5,467         | 5,396    | 5,536      |
| <b>Sigma Electric Manufacturing Corp. (8) (11)</b> | Manufacturer and Distributor of Electrical Fittings and Parts | LIBOR Plus 7.25% (Floor 1.00%), Current Coupon 8.25%, Secured Debt (Maturity - May 13, 2019)       | 3 Month LIBOR   | 12,500        | 12,199   | 12,199     |
| <b>Sorenson Communications, Inc.</b>               | Manufacturer of Communication Products for Hearing Impaired   | 9.00% Secured Debt (Maturity - October 31, 2020) (14)  | None            | 11,710        | 11,308   | 10,305     |
|  |   | LIBOR Plus 5.75% (Floor 2.25%), Current Coupon 8.00%, Secured Debt (Maturity - April 30, 2020)     | 3 month LIBOR   | 2,977         | 2,957    | 2,955      |
|  |   |  |                 |               | 14,265   | 13,260     |
| <b>Strike, LLC (8)</b>                             | Pipeline Construction and Maintenance Services                | LIBOR Plus 8.00% (Floor 1.00%), Current Coupon 9.29%, Secured Debt (Maturity - November 30, 2022)  | 6 month LIBOR   | 10,000        | 9,667    | 9,900      |
| <b>Synagro Infrastructure Company, Inc. (8)</b>    | Waste Management Services                                     | LIBOR Plus 5.25% (Floor 1.00%), Current Coupon 6.25%, Secured Debt (Maturity - August 22, 2020)    | 3 month LIBOR   | 2,704         | 2,687    | 2,372      |
| <b>TaxAct, Inc. (8)</b>                            | Provider of Tax Preparation Solutions                         | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - January 3, 2023)    | 1 month LIBOR   | 6,500         | 6,369    | 6,549      |
| <b>TE Holdings, LLC</b>                            | Oil & Gas Exploration & Production                            | Common Units (72,785 units)  | —               | —             | 728      | 546        |
| <b>Teleguam Holdings, LLC (8)</b>                  | Cable and Telecom Services Provider                           | LIBOR Plus 7.50% (Floor 1.25%), Current Coupon 8.75%, Secured Debt (Maturity - June 10, 2019) (14) | 1 month LIBOR   | 6,397         | 6,387    | 6,268      |
|  |   | LIBOR Plus 4.00% (Floor 1.25%), Current Coupon 5.25%, Secured Debt (Maturity - December 10, 2018)  | 1 month LIBOR   | 7,481         | 7,335    | 7,406      |
|  |   |  |                 |               | 13,722   | 13,674     |
| <b>TMC Merger Sub Corp (8)</b>                     | Refractory & Maintenance Services Provider                    | LIBOR Plus 6.25% (Floor 1.00%), Current Coupon 7.25%, Secured Debt (Maturity - October 31, 2022)   | 1 week LIBOR    | 12,500        | 12,376   | 12,438     |
| <b>The Topps Company, Inc. (8)</b>                 | Trading Cards & Confectionary                                 | LIBOR Plus 6.00% (Floor 1.25%), Current Coupon 7.25%, Secured Debt (Maturity - October 2, 2018)    | 3 month LIBOR   | 1,109         | 1,104    | 1,113      |
| <b>TOMS Shoes, LLC (8)</b>                         | Global Designer, Distributor, and Retailer of Casual Footwear | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity - October 30, 2020)   | 3 month LIBOR   | 4,913         | 4,573    | 3,635      |
| <b>Travel Leaders Group, LLC (8)</b>               | Travel Agency Network Provider                                | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - December 7, 2020)   | 1 month LIBOR   | 15,988        | 15,900   | 15,960     |
| <b>TVG-I-E CMN Acquisition, LLC (8) (11)</b>       | Organic Lead Generation for Online Postsecondary Schools      | LIBOR Plus 6.00%, Current Coupon 7.00%, Secured Debt (Maturity - November 3, 2021)                 | 1 month LIBOR   | 6,459         | 6,333    | 6,333      |
| <b>Unirush LLC (10) (13)</b>                       | Provider of Prepaid Debit Card Solutions                      | 12.00% Secured Debt (Maturity Date - February 1, 2019)   | None            | 3,000         | 2,745    | 3,000      |
|  |   | Warrants (111,181 equivalent units, Expiration - February 2, 2026)                                 | —               | —             | 313      | 313        |
|  |   |  |                 |               | 3,058    | 3,313      |
| <b>U.S. Telepacific Corp. (8) (11)</b>             | Provider of Communications and Managed Services               | LIBOR Plus 8.50% (Floor 1.00%), Current Coupon 9.50%, Secured Debt (Maturity - February 24, 2021)  | 3 month LIBOR   | 7,500         | 7,367    | 7,367      |
| <b>USJ-IMECO Holding Company, LLC (8)</b>          | Marine Interior Design and Installation                       | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - April 16, 2020)     | 3 month LIBOR   | 8,857         | 8,829    | 8,813      |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2016**  
**(dollars in thousands)**

| Portfolio Company (1) (3)  | Business Description   | Type of Investment (2) (3)  | Index Rate (22) | Principal (7) | Cost (7)            | Fair Value        |
|--|--|---|-----------------|---------------|---------------------|-------------------|
| <b>Valley Healthcare Group, LLC (8) (10) (13)</b>  | Provider of Durable Medical Equipment                          | LIBOR Plus 12.50% (Floor 0.50%), Current Coupon 13.12%, Secured Debt (Maturity - December 29, 2020) | 1 month LIBOR   | 3,239         | 3,183               | 3,183             |
|  |  | Preferred Member Units (Valley Healthcare Holding, LLC) (400 units)                                 | —               | —             | 400                 | 400               |
|  |  |   |                 |               | 3,583               | 3,583             |
| <b>VCVH Holding Corp. (8)</b>  | Healthcare Technology Services Focused on Revenue Maximization | LIBOR Plus 9.25% (Floor 1.00%), Current Coupon 10.25%, Secured Debt (Maturity - June 1, 2024) (14)  | 3 month LIBOR   | 3,500         | 3,417               | 3,474             |
| <b>Volusion, LLC (10) (13)</b>   | Provider of Online Software-as-a-Service eCommerce Solutions   | 11.50% Secured Debt (Maturity - January 24, 2020)   | None            | 7,500         | 6,484               | 6,484             |
|  |  | Preferred Member Units (2,090,001 units)  | —               | —             | 6,000               | 6,000             |
|  |  | Warrants (784,866.80 equivalent units, Expiration - January 26, 2025)                               | —               | —             | 1,104               | 1,104             |
|  |  |   |                 |               | 13,588              | 13,588            |
| <b>Wellnext, LLC (8) (11)</b>  | Manufacturer of Supplements and Vitamins                       | LIBOR Plus 9.00% (Floor 0.50%), Current Coupon 9.85%, Secured Debt (Maturity - May 23, 2021)        | 3 month LIBOR   | 10,058        | 9,966               | 10,058            |
| <b>Worley Claims Services, LLC (8) (11)</b>  | Insurance Adjustment Management and Services Provider          | LIBOR Plus 8.00% (Floor 1.00%), Current Coupon 9.00%, Secured Debt (Maturity - October 31, 2020)    | 1 month LIBOR   | 6,370         | 6,326               | 6,370             |
| <b>YP Holdings LLC (8)</b>   | Online and Offline Advertising Operator                        | LIBOR Plus 11.00% (Floor 1.25%), Current Coupon 12.25%, Secured Debt (Maturity - June 4, 2018)      | 1 month LIBOR   | 15,280        | 15,016              | 15,241            |
| <b>Subtotal Non-Control/Non-Affiliate Investments (5) (91% of total portfolio investments at fair value)</b> |  |   |                 |               | <b>\$ 935,741</b>   | <b>\$ 916,393</b> |
| <b>Total Portfolio Investments</b>   |  |   |                 |               | <b>\$ 1,002,395</b> | <b>\$ 989,247</b> |
| <b>Short Term Investments (20)</b>   |  |   |                 |               |                     |                   |
| <b>Fidelity Institutional Money Market Funds</b>   | —  | Prime Money Market Portfolio, Class III Shares (21)   | —               | —             | \$ 9,775            | \$ 9,775          |
| <b>UMB Bank Money Market Account (21)</b>  | —  | —   | —               | —             | 642                 | 642               |
| <b>US Bank Money Market Account (21)</b>   | —  | —   | —               | —             | 10,672              | 10,672            |
| <b>Total Short Term Investments</b>  |  |   |                 |               | <b>\$ 21,089</b>    | <b>\$ 21,089</b>  |

(1) All investments are Middle Market portfolio investments, unless otherwise noted. All of the assets of HMS Income Fund, Inc. (the “Company”) are encumbered as security for the Company’s credit agreements. See Note 5 - *Borrowings*.

(2) Debt investments are income producing, unless otherwise noted. Equity investments and warrants are non-income producing, unless otherwise noted.

(3) See Note 3 - *Fair Value Hierarchy for Investments* for summary geographic location of portfolio companies.

(4) Affiliate investments are defined by the Investment Company Act of 1940, as amended (the “1940 Act”), as investments in which between 5% and 25% of the voting securities are owned, or an investment in an investment company’s investment adviser, and the investments are not classified as Control investments.

(5) Non-Control/Non-Affiliate investments are defined by the 1940 Act as investments that are neither Control investments nor Affiliate investments.

(6) Control investments are defined by the 1940 Act as investments in which more than 25% of the voting securities are owned or where the ability to nominate greater than 50% of the board representation is maintained.

(7) Principal is net of repayments. Cost represents amortized cost which is net of repayments and adjusted for the amortization of premiums and/or accretion of discounts, as applicable.

(8) Index based floating interest rate is subject to contractual minimum interest rates.

(9) The investment is not a qualifying asset under the 1940 Act. A business development company (“BDC”) may not acquire any asset other than qualifying assets unless, at the time the acquisition is made, qualifying assets represent at least 70% of the BDC’s total assets. As of December 31, 2016, approximately 13.8% of the Company’s investments were considered non-qualifying.

(10) Investment is classified as a Lower Middle Market investment.

(11) Investment is classified as a Private Loan portfolio investment.

(12) Investment or portion of investment is under contract to purchase and met trade date accounting criteria as of December 31, 2016. Settlement occurred or is scheduled to occur after December 31, 2016. See Note 2 - *Basis of Presentation and Summary of Significant Accounting Policies* for Summary of Security Transactions.

(13) Investment serviced by Main Street pursuant to servicing arrangements with the Company.

(14) Second lien secured debt investment.

(15) Investment is classified as an Other Portfolio investment.

(16) Income producing through dividends or distributions.

(17) Unsecured debt investment.

(18) Investment is on non-accrual status as of December 31, 2016.

(19) Maturity date is under on-going negotiations with the portfolio company and other lenders, if applicable.

(20) Short term investments represent an investment in a fund that invests in highly liquid investments with average original maturity dates of three months or less.

(21) Effective yield as of December 31, 2016 was approximately 0.01%.

(22) The 1 week and 1, 2, 3 and 6 month LIBOR rates were 0.72%, 0.77%, 0.82%, 1.00% and 1.32%, respectively, as of December 31, 2016. The actual LIBOR rate for each loan listed may not be the applicable LIBOR rate as of December 31, 2016, as the loan may have been priced or repriced based on a LIBOR rate prior to or subsequent to December 31, 2016. The prime rate was 3.75% as of December 31, 2016.

*See notes to the consolidated financial statements.*

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2015**  
**(dollars in thousands)**

| Portfolio Company (1) (3)  | Business Description  | Type of Investment (2) (3)   | Index Rate (22) | Principal (7) | Cost (7)  | Fair Value |
|--|---|--|-----------------|---------------|-----------|------------|
| Control Investments (6)  |   |  |                 |               |           |            |
| GRT Rubber Technologies, LLC (8) (10) (13)   | Engineered Rubber Product Manufacturer                                | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt (Maturity - December 19, 2019)     | 1 month LIBOR   | \$ 7,941      | \$ 7,806  | \$ 7,806   |
|  |   | Member Units (2,896 shares)  | —               | —             | 6,435     | 7,674      |
|  |   |  |                 |               | 14,241    | 15,480     |
| Subtotal Control Investments (6) (2% of total portfolio investments at fair value)   |   |  |                 |               | \$ 14,241 | \$ 15,480  |
| Affiliate Investments (4)  |   |  |                 |               |           |            |
| AFG Capital Group, LLC (10) (13)   | Provider of Rent-to-Own Financing Solutions and Services              | 11.00% Secured Debt (Maturity Date - November 7, 2019)   | None            | \$ 3,240      | \$ 3,118  | \$ 3,198   |
|  |   | Member Units (46 shares)   | —               | —             | 300       | 505        |
|  |   | Warrants (10 equivalent shares, Expiration - November 7, 2024)   | —               | —             | 65        | 122        |
|  |   |  |                 |               | 3,483     | 3,825      |
| EIG Traverse Co-Investment, LP (9) (15)  | Investment Partnership  | LP Interests (EIG Traverse Co-Investment, LP) (Fully diluted 6.6%) (16)                                | —               | —             | 4,755     | 4,755      |
| Freeport First Lien Loan Fund III, LP (9) (15)                                       | Investment Partnership  | LP Interests (Freeport First Lien Loan Fund III, LP) (Fully diluted 6.4%) (16)                         | —               | —             | 2,077     | 2,077      |
| HW Temps LLC (8) (10) (13)   | Temporary Staffing Solutions  | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt (Maturity Date - July 2, 2020)     | 1 month LIBOR   | 2,494         | 2,430     | 2,430      |
|  |   | Member Units (800 shares)  | —               | —             | 986       | 986        |
|  |   |  |                 |               | 3,416     | 3,416      |
| M.H. Corbin LLC (10) (13)  | Manufacturer and Distributor of Traffic Safety Products               | 10.00% Secured Debt (Maturity Date - August 31, 2021)  | None            | 3,500         | 3,467     | 3,467      |
|  |   | Member Units (1,000 shares)  | —               | —             | 1,500     | 1,500      |
|  |   |  |                 |               | 4,967     | 4,967      |
| Mystic Logistics, Inc. (10) (13)   | Logistics and Distribution Services Provider for Large Volume Mailers | 12.00% Secured Debt (Maturity Date - August 15, 2019)  | None            | 2,362         | 2,299     | 2,361      |
|  |   | Common Stock (1,468 shares) (16)   | —               | —             | 680       | 1,492      |
|  |   |  |                 |               | 2,979     | 3,853      |
| SoftTouch Medical Holdings LLC (8) (10) (13)   | Home Provider of Pediatric Durable Medical Equipment                  | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt (Maturity Date - October 31, 2019) | 1 month LIBOR   | 1,425         | 1,402     | 1,402      |
|  |   | Member Units (785 shares) (16)   | —               | —             | 870       | 1,008      |
|  |   |  |                 |               | 2,272     | 2,410      |
| Subtotal Affiliate Investments (4) (3% of total portfolio investments at fair value) |   |  |                 |               | \$ 23,949 | \$ 25,303  |
| Non-Control/Non-Affiliate Investments (5)  |   |  |                 |               |           |            |
| AccuMed Corporation (8) (11)   | Medical Device Contract Manufacturer                                  | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - October 29, 2020)       | 2 month LIBOR   | \$ 9,750      | \$ 9,595  | \$ 9,595   |
| Adams Publishing Group, LLC (8) (11)   | Local Newspaper Operator  | LIBOR Plus 6.75% (Floor 1.00%), Current Coupon 7.75%, Secured Debt (Maturity - November 3, 2020)       | 2 month LIBOR   | 9,506         | 9,317     | 9,328      |
| Ahead, LLC (8) (11)  | IT Infrastructure Value Added Reseller                                | LIBOR Plus 6.50%, Current Coupon 6.76%, Secured Debt (Maturity - November 2, 2020)                     | 1 month LIBOR   | 10,000        | 9,708     | 9,750      |
| Allflex Holdings III Inc. (8)  | Manufacturer of Livestock Identification Products                     | LIBOR Plus 7.00% (Floor 1.00%), Current Coupon 8.00%, Secured Debt (Maturity - July 19, 2021) (14)     | 3 month LIBOR   | 14,922        | 15,013    | 14,713     |
| AmeriTech College Operations, LLC (10) (13)  | For-Profit Nursing and Healthcare College                             | 10.00% Secured Debt, (Maturity - January 31, 2020)   | None            | 375           | 375       | 375        |
|  |   | 10.00% Secured Debt, (Maturity - November 30, 2019)  | None            | 61            | 60        | 60         |
|  |   | 10.00% Secured Debt, (Maturity - May 15, 2016)   | None            | 64            | 64        | 64         |
|  |   | Preferred Member Units (364 shares) (16)   | —               | —             | 284       | 284        |
|  |   |  |                 |               | 783       | 783        |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2015**  
**(dollars in thousands)**

| Portfolio Company (1) (3)                | Business Description  | Type of Investment (2) (3)   | Index Rate (22) | Principal (7) | Cost (7) | Fair Value |
|--|---|--|-----------------|---------------|----------|------------|
| AMF Bowling Centers, Inc. (8)            | Bowling Alley Operator  | LIBOR Plus 6.25% (Floor 1.00%), Current Coupon 7.25%, Secured Debt (Maturity - September 18, 2021)     | 3 month LIBOR   | 13,847        | 13,777   | 13,720     |
| AP Gaming I, LLC (8) (11)                | Developer, Manufacturer, and Operator of Gaming Machines        | LIBOR Plus 8.25% (Floor 1.00%), Current Coupon 9.25%, Secured Debt (Maturity - December 21, 2020)      | 3 month LIBOR   | 11,407        | 11,290   | 11,036     |
| Apex Linen Service, Inc. (10) (13)       | Industrial Launderers   | 13.00% Secured Debt, (Maturity - October 30, 2022)   | None            | 3,000         | 2,944    | 2,944      |
|  |   | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - October 30, 2022)       | 1 month LIBOR   | 400           | 400      | 400        |
|  |   |  |                 |               | 3,344    | 3,344      |
| Aptean, Inc. (8)                         | Enterprise Application Software Provider                        | LIBOR Plus 4.25% (Floor 1.00%), Current Coupon 5.25%, Secured Debt (Maturity - February 26, 2020)      | 3 month LIBOR   | 4,415         | 4,415    | 4,323      |
| Arcus Hunting, LLC (8) (11)              | Manufacturer of Bowhunting and Archery Products and Accessories | LIBOR Plus 7.00% (Floor 1.00%), Current Coupon 8.00%, Secured Debt (Maturity - November 13, 2019)      | 3 month LIBOR   | 4,770         | 4,665    | 4,665      |
| Artel, LLC (8)                           | Land-Based and Commercial Satellite Provider                    | LIBOR Plus 7.00% (Floor 1.25%), Current Coupon 8.25%, Secured Debt (Maturity - November 27, 2017)      | 3 month LIBOR   | 3,344         | 3,274    | 2,859      |
| ATX Networks Corp. (8) (9)               | Provider of Radio Frequency Management Equipment                | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - June 11, 2021)          | 3 month LIBOR   | 14,925        | 14,645   | 14,701     |
| BarFly Ventures, LLC (11)                | Casual Restaurant Group   | 12.00% Secured Debt (Maturity Date - August 30, 2020)  | None            | 1,374         | 1,348    | 1,348      |
|  |   | Warrants (.364 equivalent shares, Expiration - August 31, 2025)  | —               | —             | 158      | 158        |
|  |   |  |                 |               | 1,506    | 1,506      |
| Berry Aviation, Inc. (11)                | Airline Charter Service Operator                                | 12.00% Current / 1.75% PIK Secured Debt (Maturity Date - January 30, 2020) (14)                        | None            | 1,407         | 1,386    | 1,386      |
|  |   | Common Stock (138 shares)  | —               | —             | 100      | 100        |
|  |   |  |                 |               | 1,486    | 1,486      |
| Bioventus, LLC (8) (11)                  | Production of Orthopedic Healing Products                       | LIBOR Plus 10.00% (Floor 1.00%), Current Coupon 11.00%, Secured Debt (Maturity - April, 10, 2020) (14) | 1 month LIBOR   | 7,000         | 6,888    | 6,895      |
| Blackbrush Oil and Gas LP (8)            | Oil & Gas Exploration   | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - July 30, 2021) (14)     | 3 month LIBOR   | 12,085        | 11,655   | 9,758      |
| Blackhawk Specialty Tools LLC (8)        | Oilfield Equipment & Services                                   | LIBOR Plus 5.25% (Floor 1.25%), Current Coupon 6.50%, Secured Debt (Maturity - August 1, 2019)         | 3 month LIBOR   | 8,500         | 8,047    | 7,862      |
| Blue Bird Body Company (8)               | School Bus Manufacturer   | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity - June 26, 2020)          | 3 month LIBOR   | 5,062         | 5,002    | 5,027      |
| Bluestem Brands, Inc. (8) (9)            | Multi-Channel Retailer of General Merchandise                   | LIBOR Plus 7.50% (Floor 1.00%), Current Coupon 8.50%, Secured Debt (Maturity - November 6, 2020)       | 3 month LIBOR   | 14,619        | 14,330   | 13,705     |
| Brightwood Capital Fund III, LP (9) (15) | Investment Partnership  | LP Interests (Brightwood Capital Fund III, LP) (Fully diluted .52%) (16)                               | —               | —             | 3,825    | 3,695      |
| Brundage-Bone Concrete Pumping, Inc.     | Construction Services Provider                                  | 10.38% Secured Bond (Maturity - September 1, 2021) (14)  | None            | 10,000        | 10,173   | 9,750      |
| Buca C, LLC (8) (10) (13)                | Casual Restaurant Group   | LIBOR Plus 7.25% (Floor 1.00%), Current Coupon 8.25%, Secured Debt (Maturity - June 30, 2020)          | 1 month LIBOR   | 17,020        | 16,708   | 16,708     |
|  |   | Preferred Member Units (4 units)   | —               | —             | 2,472    | 2,472      |
|  |   |  |                 |               | 19,180   | 19,180     |
| CAI Software, LLC (10) (13)              | Provider of Specialized Enterprise Resource Planning Software   | 12.00% Secured Debt (Maturity Date - October 10, 2019)   | None            | 1,165         | 1,138    | 1,165      |
|  |   | Member Units (16,339 shares)   | —               | —             | 163      | 250        |
|  |   |  |                 |               | 1,301    | 1,415      |
| CJ Holding Company (8)                   | Oil and Gas Equipment and Services                              | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity - March 24, 2020)         | 1 month LIBOR   | 5,955         | 5,189    | 3,710      |
| Cengage Learning Acquisitions, Inc. (8)  | Provider of Educational Print and Digital Services              | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - March 31, 2020)         | 1 month LIBOR   | 15,018        | 15,024   | 14,680     |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2015**  
**(dollars in thousands)**

| Portfolio Company (1) (3)                                      | Business Description  | Type of Investment (2) (3)  | Index Rate (22) | Principal (7) | Cost (7) | Fair Value |
|--|---|---|-----------------|---------------|----------|------------|
| <b>Cenveo Corporation</b>                                      | Provider of Commercial Printing, Envelopes, Labels, Printed Office Products | 6.00% Secured Bond (Maturity - August 1, 2019)  | None            | 10,000        | 8,719    | 7,050      |
| <b>Charlotte Russe, Inc. (8)</b>                               | Fast-Fashion Retailer to Young Women  | LIBOR Plus 5.50% (Floor 1.25%), Current Coupon 6.75%, Secured Debt (Maturity - May 22, 2019)              | 3 month LIBOR   | 15,101        | 14,853   | 10,541     |
| <b>Clarius BIGS, LLC (11) (13) (18)</b>                        | Prints & Advertising Film Financing   | 15.00% PIK Secured Debt (Maturity - January 5, 2015) (18)   | None            | 2,480         | 2,222    | 412        |
|  |   | 20.00% PIK Secured Debt (Maturity - January 5, 2015) (18)   | None            | 896           | 803      | 149        |
|  |   |   |                 |               | 3,025    | 561        |
| <b>Compuware Corporation (8)</b>                               | Provider of Software and Supporting Services                                | LIBOR Plus 5.25% (Floor 1.00%), Current Coupon 6.25%, Secured Debt (Maturity - December 15, 2019)         | 3 month LIBOR   | 14,250        | 13,893   | 13,523     |
| <b>Covenant Surgical Partners, Inc.</b>                        | Ambulatory Surgical Centers   | 8.75% Secured Debt (Maturity - August 1, 2019)  | None            | 9,500         | 9,500    | 9,263      |
| <b>CRGT, Inc. (8)</b>  | Provider of Custom Software Development                                     | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - December 18, 2020)         | 3 month LIBOR   | 14,168        | 13,918   | 14,098     |
| <b>CST Industries, Inc. (8)</b>                                | Storage Tank Manufacturer   | LIBOR Plus 6.25% (Floor 1.50%), Current Coupon 7.75%, Secured Debt (Maturity - May 22, 2017)              | 3 month LIBOR   | 1,978         | 1,975    | 1,958      |
| <b>Datacom, LLC (10) (13)</b>                                  | Technology and Telecommunications Provider                                  | 10.50% Secured Debt (Maturity - May 30, 2019)   | None            | 1,245         | 1,226    | 1,192      |
|  |   | Preferred Member Units (1,530 units) (16)   | —               | —             | 131      | 131        |
|  |   | Preferred Member Units (717 units)  | —               | —             | 670      | 564        |
|  |   |   |                 |               | 2,027    | 1,887      |
| <b>Digital River, Inc. (8) (12)</b>                            | Provider of Outsourced e-Commerce Solutions and Services                    | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - February 12, 2021)         | 3 month LIBOR   | 9,786         | 9,691    | 9,688      |
| <b>ECP-PF: CT Operations, Inc. (8) (11)</b>                    | Fitness Club Operator   | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt (Maturity - November 26, 2019)        | 3 month LIBOR   | 1,875         | 1,860    | 1,831      |
| <b>East West Copolymer &amp; Rubber, LLC (10) (13)</b>         | Manufacturer of Synthetic Rubbers   | 12.00% Secured Debt (Maturity Date - October 17, 2019)  | None            | 2,400         | 2,336    | 2,336      |
|  |   | Warrants (627,697 equivalent shares, Expiration - October 15, 2024)                                       | —               | —             | 10       | 10         |
|  |   |   |                 |               | 2,346    | 2,346      |
| <b>Energy &amp; Exploration Partners, LLC (18)</b>             | Oil & Gas Exploration and Production  | LIBOR plus 6.75% (Floor 1.00%), Current Coupon 7.75%, Secured Debt (Maturity - January 22, 2019) (8) (18) | 3 month LIBOR   | 9,900         | 8,638    | 2,500      |
|  |   | 8.75% Secured Debt (Maturity - January 21, 2016)  | None            | 233           | 233      | 233        |
|  |   |   |                 |               | 8,871    | 2,733      |
| <b>Evergreen Skills Lux S.á r.l. (d/b/a Skillsoft) (8) (9)</b> | Technology-Based Performance Support Solutions                              | LIBOR Plus 8.25% (Floor 1.00%), Current Coupon 9.25%, Secured Debt (Maturity - April 28, 2022) (14)       | 3 month LIBOR   | 10,902        | 10,382   | 7,277      |
| <b>Extreme Reach, Inc. (8)</b>                                 | Integrated TV and Video Advertising Platform                                | LIBOR Plus 5.75% (Floor 1.00%), Current Coupon 6.75%, Secured Debt (Maturity - February 7, 2020)          | 3 month LIBOR   | 6,853         | 6,822    | 6,742      |
| <b>Flavors Holdings, Inc. (8)</b>                              | Global Provider of Flavoring and Sweetening Products and Solutions          | LIBOR Plus 5.75% (Floor 1.00%), Current Coupon 6.75%, Secured Debt (Maturity - April 3, 2020)             | 3 month LIBOR   | 8,438         | 8,135    | 7,509      |
| <b>Fram Group Holdings, Inc. (8)</b>                           | Manufacturer of Automotive Maintenance Products                             | LIBOR Plus 5.50% (Floor 1.50%), Current Coupon 7.00%, Secured Debt (Maturity - July 29, 2017)             | 1 month LIBOR   | 8,099         | 7,782    | 6,105      |
| <b>GST Autoleather, Inc. (8)</b>                               | Automotive Leather Manufacturer   | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity Date - July 10, 2020)        | 3 month LIBOR   | 9,875         | 9,796    | 9,529      |
| <b>Guerdon Modular Holdings, Inc. (10) (13)</b>                | Multi-Family and Commercial Modular Construction Company                    | 11.00% Secured Debt (Maturity - August 13, 2019)  | None            | 2,600         | 2,542    | 2,547      |
|  |   | Common Stock (53,008 shares)  | —               | —             | 746      | 497        |
|  |   |   |                 |               | 3,288    | 3,044      |
| <b>Guitar Center, Inc.</b>                                     | Musical Instruments Retailer  | 6.50% Secured Bond (Maturity - April 15, 2019)  | None            | 13,015        | 12,135   | 10,933     |
| <b>Halcon Resources Corporation</b>                            | Oil & Gas Exploration & Production  | 9.75% Unsecured Bond (Maturity - July 15, 2020) (17)  | None            | 3,000         | 2,630    | 870        |



**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2015**  
**(dollars in thousands)**

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|--|--|---|-----------------|---------------|----------|------------|
| <b>Hojeij Branded Foods, Inc. (8) (11)</b>         | Multi-Airport, Multi-Concept Restaurant Operator                 | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity Date - July 28, 2021)            | 3 month LIBOR   | 5,330         | 5,280    | 5,280      |
| <b>Horizon Global Corporation (8)</b>              | Auto Parts Manufacturer  | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity Date - June 30, 2021)            | 1 month LIBOR   | 12,675        | 12,462   | 12,580     |
| <b>Hunter Defense Technologies, Inc. (8)</b>       | Provider of Military and Commercial Shelters and Systems         | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity Date - August 5, 2019)           | 3 month LIBOR   | 10,495        | 10,420   | 10,390     |
| <b>ICON Health and Fitness, Inc.</b>               | Producer of Fitness Products                                     | 11.88% Secured Bond (Maturity - October 15, 2016)   | None            | 13,337        | 13,252   | 12,670     |
| <b>iEnergizer Limited (8) (9)</b>                  | Provider of Business Outsourcing Solutions                       | LIBOR Plus 6.00% (Floor 1.25%), Current Coupon 7.25%, Secured Debt (Maturity - May 1, 2019)                   | 1 month LIBOR   | 4,312         | 4,305    | 3,988      |
| <b>Indivior Finance, LLC (8) (9)</b>               | Specialty Pharmaceutical Company Treating Opioid Dependence      | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - December 19, 2019)             | 3 month LIBOR   | 9,500         | 9,003    | 8,930      |
| <b>Industrial Container Services, LLC (8) (11)</b> | Steel Drum Reconditioner   | LIBOR Plus 5.75% (Floor 1.00%), Current Coupon 6.75%, Secured Debt (Maturity - December 31, 2018)             | 3 month LIBOR   | 4,987         | 4,930    | 4,930      |
| <b>Inn of the Mountain Gods Resort and Casino</b>  | Hotel & Casino Owner & Operator                                  | 9.25% Secured Bond (Maturity - November 30, 2020)   | None            | 10,749        | 10,551   | 9,943      |
| <b>Intertain Group Limited (8) (9)</b>             | Business-to-Consumer Online Gaming Operator                      | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - April 8, 2022)                 | 3 month LIBOR   | 9,938         | 9,783    | 9,914      |
| <b>Invenery Thermal Operating I, LLC (8)</b>       | Power Generation   | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity - October 19, 2022)              | 3 month LIBOR   | 9,975         | 9,775    | 9,676      |
| <b>iPayment, Inc. (8) (12)</b>                     | Provider of Merchant Acquisition                                 | LIBOR Plus 5.25% (Floor 1.50%), Current Coupon 6.75%, Secured Debt (Maturity - May 8, 2017)                   | 3 month LIBOR   | 15,115        | 14,954   | 14,532     |
| <b>iQor US Inc. (8)</b>                            | Business Process Outsourcing Services Provider                   | LIBOR Plus 5.00% (Floor 1.00%), Current Coupon 6.00%, Secured Debt (Maturity - April 1, 2021)                 | 3 month LIBOR   | 7,837         | 7,320    | 6,295      |
| <b>IronGate Energy Services, LLC</b>               | Oil and Gas Services   | 11.00% Secured Bond (Maturity - July 1, 2018)   | None            | 5,825         | 5,828    | 3,204      |
| <b>Jackmont Hospitality, Inc. (8) (11)</b>         | Franchisee of Casual Dining Restaurants                          | LIBOR Plus 4.25% (Floor 1.00%)/ 2.50% PIK , Current Coupon 7.75%, Secured Debt (Maturity Date - May 26, 2021) | 1 month LIBOR   | 8,715         | 8,678    | 8,325      |
| <b>Joerns Healthcare, LLC (8)</b>                  | Manufacturer and Distributor of Health Care Equipment & Supplies | LIBOR Plus 5.00% (Floor 1.00%), Current Coupon 6.00%, Secured Debt (Maturity - May 9, 2020)                   | 3 month LIBOR   | 4,412         | 4,392    | 4,381      |
| <b>JSS Holdings, Inc. (8)</b>                      | Aircraft Maintenance Program Provider                            | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity Date - August 31, 2021)          | 3 month LIBOR   | 14,566        | 14,230   | 13,765     |
| <b>Kellermeyer Bergensons Services, LLC (8)</b>    | Outsourced Janitorial Services to Retail/Grocery Customers       | LIBOR Plus 8.50% (Floor 1.00%), Current Coupon 9.50%, Secured Debt (Maturity - April 29, 2022) (14)           | 3 month LIBOR   | 14,700        | 14,591   | 14,553     |
| <b>Kendra Scott, LLC (8)</b>                       | Jewelry Retail Stores  | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity Date - July 17, 2020)            | 3 month LIBOR   | 9,875         | 9,784    | 9,801      |
| <b>Keypoint Government Solutions, Inc. (8)</b>     | Provider of Pre-Employment Screening Services                    | LIBOR Plus 6.50% (Floor 1.25%), Current Coupon 7.75%, Secured Debt (Maturity - November 13, 2017)             | 3 month LIBOR   | 2,033         | 2,025    | 2,023      |
| <b>LaMi Products, LLC (8) (11)</b>                 | General Merchandise Distribution                                 | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - September 16, 2020)            | 3 month LIBOR   | 4,729         | 4,640    | 4,640      |
| <b>Larchmont Resources, LLC (8)</b>                | Oil & Gas Exploration & Production                               | LIBOR Plus 8.75% (Floor 1.00%), Current Coupon 9.75%, Secured Debt (Maturity - August 7, 2019)                | 3 month LIBOR   | 13,268        | 11,918   | 9,420      |
| <b>Legendary Pictures Funding, LLC (8) (11)</b>    | Producer of TV, Film, and Comic Content                          | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - April 22, 2020)                | 3 month LIBOR   | 7,500         | 7,367    | 7,425      |
| <b>LJ Host Merger Sub, Inc. (8)</b>                | Managed Services and Hosting Provider                            | LIBOR Plus 4.75% (Floor 1.25%), Current Coupon 6.00%, Secured Debt (Maturity - December 13, 2019)             | 3 month LIBOR   | 5,122         | 5,109    | 5,071      |
| <b>MAH Merger Corporation (8)</b>                  | Sports-Themed Casual Dining Chain                                | LIBOR Plus 4.50% (Floor 1.25%), Current Coupon 5.75%, Secured Debt (Maturity - July 19, 2019)                 | 1 month LIBOR   | 1,373         | 1,373    | 1,370      |
| <b>MediMedia USA, Inc. (8)</b>                     | Provider of Healthcare Media and Marketing                       | LIBOR Plus 6.75% (Floor 1.25%), Current Coupon 8.00%, Secured Debt (Maturity - November 20, 2018)             | 3 month LIBOR   | 11,904        | 11,826   | 11,369     |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2015**  
**(dollars in thousands)**

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|---|---|---|-----------------|---------------|----------|------------|
| <b>Milk Specialties Company (8)</b>               | Processor of Nutrition Products   | LIBOR Plus 7.00% (Floor 1.25%), Current Coupon 8.25%, Secured Debt (Maturity - November 9, 2018)        | 3 month LIBOR   | 4,669         | 4,630    | 4,673      |
| <b>Minute Key, Inc. (10) (13)</b>                 | Operator of Automated Key Duplication Kiosk   | 10.00% Current / 2.00% PIK Secured Debt (Maturity Date - September 19, 2019) (14)                       | None            | 3,530         | 3,426    | 3,426      |
|   |   | Warrants (359,352 equivalent shares, Expiration - May 20, 2025)   | —               | —             | 70       | 70         |
|   |   |   |                 |               | 3,496    | 3,496      |
| <b>Mood Media Corporation (8) (9)</b>             | Provider of Electronic Equipment  | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - May 1, 2019)             | 3 month LIBOR   | 14,975        | 14,953   | 14,282     |
| <b>New Media Holdings II LLC (8) (9)</b>          | Local Newspaper Operator  | LIBOR Plus 6.25% (Floor 1.00%), Current Coupon 7.25%, Secured Debt (Maturity - June 4, 2020)            | 3 month LIBOR   | 14,856        | 14,696   | 14,726     |
| <b>North Atlantic Trading Company, Inc. (8)</b>   | Marketer/Distributor of Tobacco   | LIBOR Plus 6.50% (Floor 1.25%), Current Coupon 7.75%, Secured Debt (Maturity - January 13, 2020)        | 3 month LIBOR   | 11,222        | 11,222   | 11,138     |
| <b>Novitex Acquisition, LLC (8)</b>               | Provider of Document Management Services  | LIBOR Plus 6.25% (Floor 1.25%), Current Coupon 7.50%, Secured Debt (Maturity - July 7, 2020)            | 3 month LIBOR   | 11,632        | 11,387   | 10,963     |
| <b>Panolam Industries International, Inc. (8)</b> | Decorative Laminate Manufacturer  | LIBOR Plus 6.50% (Floor 1.25%), Current Coupon 7.75%, Secured Debt (Maturity - August 23, 2017)         | 1 month LIBOR   | 7,402         | 7,342    | 7,365      |
| <b>Paris Presents, Inc. (8)</b>                   | Branded Cosmetic and Bath Accessories   | LIBOR Plus 8.25% (Floor 1.00%), Current Coupon 9.25%, Secured Debt (Maturity - December 31, 2021) (14)  | 1 month LIBOR   | 7,500         | 7,364    | 7,350      |
| <b>Parq Holdings, LP (8) (9) (12)</b>             | Hotel and Casino Operator   | LIBOR Plus 7.50% (Floor 1.00%), Current Coupon 8.50%, Secured Debt (Maturity - December 17, 2020)       | 1 month LIBOR   | 12,500        | 12,354   | 12,000     |
| <b>Permian Holdings, Inc.</b>                     | Storage Tank Manufacturer   | 10.50% Secured Bond (Maturity - January 15, 2018)   | None            | 6,885         | 5,819    | 2,616      |
| <b>Pernix Therapeutics Holdings, Inc. (11)</b>    | Pharmaceutical Royalty - Anti-Migraine  | 12.00% Secured Bond (Maturity - August 1, 2020)   | None            | 3,341         | 3,309    | 3,305      |
| <b>Pike Corporation (8) (12)</b>                  | Construction and Maintenance Services for Electric Transmission and Distribution Infrastructure | LIBOR Plus 8.50% (Floor 1.00%), Current Coupon 9.50%, Secured Debt (Maturity - June 22, 2022) (14)      | 3 month LIBOR   | 13,334        | 13,037   | 13,079     |
| <b>Polyconcept Financial B.V. (8)</b>             | Promotional Products to Corporations and Consumers  | LIBOR Plus 4.75% (Floor 1.25%), Current Coupon 6.00%, Secured Debt (Maturity - June 28, 2019)           | 1 month LIBOR   | 5,312         | 5,303    | 5,279      |
| <b>Premier Dental Services, Inc. (8)</b>          | Dental Care Services  | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - November 1, 2018)        | 3 month LIBOR   | 4,511         | 4,490    | 3,958      |
| <b>Prowler Acquisition Corporation (8)</b>        | Specialty Distributor to the Energy Sector  | LIBOR Plus 4.50% (Floor 1.00%), Current Coupon 5.50%, Secured Debt (Maturity - January 28, 2020)        | 3 month LIBOR   | 7,248         | 6,541    | 6,161      |
| <b>Raley's, Inc. (8)</b>                          | Family-Owned Supermarket Chain in California  | LIBOR Plus 6.25% (Floor 1.00%), Current Coupon 7.25%, Secured Debt (Maturity - May 18, 2022)            | 3 month LIBOR   | 5,094         | 4,998    | 5,069      |
| <b>RCHP, Inc. (8)</b>                             | Region Non-Urban Hospital Owner/Operator  | LIBOR Plus 10.25% (Floor 1.00%), Current Coupon 11.25%, Secured Debt (Maturity - October 23, 2019) (14) | 2 month LIBOR   | 15,072        | 14,680   | 15,072     |
| <b>Renaissance Learning, Inc. (8)</b>             | Technology-based K-12 Learning Solutions  | LIBOR Plus 7.00% (Floor 1.00%), Current Coupon 8.00%, Secured Debt (Maturity - April 11, 2022) (14)     | 3 month LIBOR   | 12,950        | 12,493   | 12,238     |
| <b>RGL Reservoir Operations, Inc. (8) (9)</b>     | Oil & Gas Equipment & Services  | LIBOR Plus 5.00% (Floor 1.00%), Current Coupon 6.00%, Secured Debt (Maturity - August 13, 2021)         | 3 month LIBOR   | 3,950         | 3,850    | 1,534      |
| <b>RLJ Entertainment, Inc. (8) (11)</b>           | Movie and TV Programming Licensee and Distributor   | LIBOR Plus 8.75% (Floor .25%), Current Coupon 9.08%, Secured Debt (Maturity - September 11, 2019)       | 3 month LIBOR   | 8,134         | 7,824    | 7,824      |
| <b>RM Bidder, LLC (11)</b>                        | Acquisition Vehicle   | Common Stock (1,854 shares)   | —               | —             | 31       | 30         |
|   |   | Series A Warrants (124,915 equivalent shares, Expiration - October 20, 2025)                            | —               | —             | 284      | 242        |
|   |   | Series B Warrants (93,686 equivalent shares, Expiration - October 20, 2025)                             | —               | —             | —        | —          |
|   |   |   |                 |               | 315      | 272        |
| <b>Sage Automotive Interiors, Inc (8)</b>         | Automotive Textiles Manufacturer  | LIBOR Plus 8.00% (Floor 1.00%), Current Coupon 9.00%, Secured Debt (Maturity - October 8, 2021) (14)    | 3 month LIBOR   | 5,000         | 4,956    | 4,950      |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2015**  
**(dollars in thousands)**

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|---|---|--|-----------------|---------------|------------|------------|
| Salient Partners, LP (8)  | Provider of Asset Management Services                         | LIBOR Plus 6.50% (Floor 1.00%), Current Coupon 7.50%, Secured Debt (Maturity - June 9, 2021)           | 1 month LIBOR   | 7,388         | 7,250      | 7,240      |
| Siteone Landscape Supply, LLC (8) (11)  | Distributor of Landscaping Supplies                           | LIBOR Plus 4.00% (Floor 1.00%), Current Coupon 5.00%, Secured Debt (Maturity - December 23, 2019)      | 3 month LIBOR   | 6,383         | 6,149      | 6,224      |
| Sorenson Communications, Inc.   | Manufacturer of Communication Products for Hearing Impaired   | 9.00% Secured Bond (Maturity - October 31, 2020) (14)  | None            | 11,710        | 11,226     | 11,007     |
| Sotera Defense Solutions, Inc. (8)  | Defense Industry Intelligence Services                        | LIBOR Plus 7.50% (Floor 1.50%), Current Coupon 9.00%, Secured Debt (Maturity - April 21, 2017)         | 3 month LIBOR   | 3,453         | 3,344      | 3,194      |
| Stardust Finance Holdings, Inc. (8)   | Manufacturer of Diversified Building Products                 | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity - March 13, 2022)         | 3 month LIBOR   | 2,481         | 2,425      | 2,413      |
|   |   | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt (Maturity - March 13, 2023) (14)   | 3 month LIBOR   | 5,000         | 4,766      | 4,825      |
|   |   |  |                 |               | 7,191      | 7,238      |
| Synagro Infrastructure Company, Inc. (8)  | Waste Management Services                                     | LIBOR Plus 5.25% (Floor 1.00%), Current Coupon 6.25%, Secured Debt (Maturity - August 22, 2020)        | 3 month LIBOR   | 2,704         | 2,683      | 2,366      |
| Telequam Holdings, LLC (8)  | Cable and Telecom Services Provider                           | LIBOR Plus 7.50% (Floor 1.25%), Current Coupon 8.75%, Secured Debt (Maturity - June 10, 2019) (14)     | 1 month LIBOR   | 3,000         | 3,017      | 2,985      |
| Templar Energy, LLC (8)   | Oil & Gas Exploration & Production                            | LIBOR Plus 7.50% (Floor 1.00%), Current Coupon 8.50%, Secured Debt (Maturity - November 25, 2020) (14) | 3 month LIBOR   | 3,000         | 2,982      | 364        |
| Tervita Corporation (8) (9)   | Oil and Gas Environmental Services                            | LIBOR Plus 5.00% (Floor 1.25%), Current Coupon 6.25%, Secured Debt (Maturity - May 15, 2018)           | 3 month LIBOR   | 1,009         | 1,015      | 785        |
| The Topps Company, Inc. (8)   | Trading Cards & Confectionary                                 | LIBOR Plus 6.00% (Floor 1.25%), Current Coupon 7.25%, Secured Debt (Maturity - October 2, 2018)        | 3 month LIBOR   | 980           | 974        | 962        |
| TOMS Shoes, LLC (8)   | Global Designer, Distributor, and Retailer of Casual Footwear | LIBOR Plus 5.50% (Floor 1.00%), Current Coupon 6.50%, Secured Debt (Maturity - October 30, 2020)       | 3 month LIBOR   | 4,963         | 4,548      | 3,387      |
| Travel Leaders Group, LLC (8)   | Travel Agency Network Provider                                | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - December 7, 2020)       | 3 month LIBOR   | 14,306        | 14,226     | 14,163     |
| USJ-IMECO Holding Company, LLC (8)  | Marine Interior Design and Installation                       | LIBOR Plus 6.00% (Floor 1.00%), Current Coupon 7.00%, Secured Debt (Maturity - April 16, 2020)         | 3 month LIBOR   | 7,867         | 7,848      | 7,789      |
| Valley Healthcare Group, LLC (8) (10) (13)  | Provider of Durable Medical Equipment                         | LIBOR Plus 12.50% (Floor .50%), Current Coupon 13.00%, Secured Debt (Maturity - December 29, 2020)     | 1 month LIBOR   | 2,600         | 2,548      | 2,548      |
| Vantage Oncology, LLC   | Outpatient Radiation Oncology Treatment Centers               | 9.50% Secured Bond (Maturity - June 15, 2017)  | None            | 13,507        | 13,211     | 11,413     |
| Vision Solutions, Inc. (8)  | Provider of Information Availability Software                 | LIBOR Plus 4.50% (Floor 1.50%), Current Coupon 6.00%, Secured Debt (Maturity - July 23, 2016)          | 1 month LIBOR   | 1,296         | 1,297      | 1,257      |
|   |   | LIBOR Plus 8.00% (Floor 1.50%), Current Coupon 9.50%, Secured Debt (Maturity - July 23, 2017) (14)     | 1 month LIBOR   | 875           | 871        | 831        |
|   |   |  |                 |               | 2,168      | 2,088      |
| Volusion, LLC (10)  | Provider of Online Software-as-a-Service eCommerce Solutions  | 10.50% Secured Debt (Maturity Date - January 24, 2020)   | None            | 7,500         | 6,866      | 6,866      |
|   |   | Member Units (2,090,001 shares)  | —               | —             | 6,000      | 6,000      |
|   |   | Warrants (407,408 equivalent shares, Expiration - January 26, 2025)                                    | —               | —             | 600        | 600        |
|   |   |  |                 |               | 13,466     | 13,466     |
| Worley Claims Services, LLC (8) (11)  | Insurance Adjustment Management and Services Provider         | LIBOR Plus 8.00% (Floor 1.00%), Current Coupon 9.00%, Secured Debt (Maturity - October 31, 2020)       | 1 month LIBOR   | 6,435         | 6,382      | 6,210      |
| YP Holdings LLC (8)   | Online and Offline Advertising Operator                       | LIBOR Plus 6.75% (Floor 1.25%), Current Coupon 8.00%, Secured Debt (Maturity - June 4, 2018)           | 1 month LIBOR   | 12,347        | 12,336     | 11,977     |
| Subtotal Non-Control/Non-Affiliate Investments (5) (95% of total portfolio investments at fair value) |   |  |                 |               | \$ 866,499 | \$ 812,205 |
| Total Portfolio Investments   |   |  |                 |               | \$ 904,689 | \$ 852,988 |

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments**  
**As of December 31, 2015**  
**(dollars in thousands)**

| Portfolio Company (1) (3)                        | Business Description | Type of Investment (2) (3)                         | Index Rate (22) | Principal (7) | Cost (7)         | Fair Value       |
|--|----------------------|--|-----------------|---------------|------------------|------------------|
| <b>Short Term Investments (20)</b>               |                      |  |                 |               |                  |                  |
| <b>Fidelity Institutional Money Market Funds</b> | —                    | Prime Money Market Portfolio, Class II Shares (21) | —               | 13,363        | 13,363           | 13,363           |
| <b>US Bank Money Market Account (21)</b>         | —                    | —  | —               | 7,009         | 7,009            | 7,009            |
| <b>Total Short Term Investments</b>              |                      |  |                 |               | <b>\$ 20,372</b> | <b>\$ 20,372</b> |

(1) All investments are Middle Market portfolio investments, unless otherwise noted. All of the Company's assets are encumbered as security for the Company's credit agreements. See Note 5 - *Borrowings*.

(2) Debt investments are income producing, unless otherwise noted. Equity investments and warrants are non-income producing, unless otherwise noted.

(3) See Note 3 - *Fair Value Hierarchy for Investments* for summary geographic location of portfolio companies.

(4) Affiliate investments are defined by the Investment Company Act of 1940, as amended (the "1940 Act"), as investments in which between 5% and 25% of the voting securities are owned, or an investment in an investment company's investment adviser, and the investments are not classified as Control investments.

(5) Non-Control/Non-Affiliate investments are defined by the 1940 Act as investments that are neither Control investments nor Affiliate investments.

(6) Control investments are defined by the 1940 Act as investments in which more than 25% of the voting securities are owned or where the ability to nominate greater than 50% of the board representation is maintained.

(7) Principal is net of repayments. Cost represents amortized cost which is net of repayments and adjusted for the amortization of premiums and/or accretion of discounts, as applicable.

(8) Index based floating interest rate is subject to contractual minimum interest rates.

(9) The investment is not a qualifying asset under the 1940 Act. A business development company ("BDC") may not acquire any asset other than qualifying assets unless, at the time the acquisition is made, qualifying assets represent at least 70% of the BDC's total assets. As of December 31, 2015, approximately 12.6% of the Company's investments were considered non-qualifying.

(10) Investment is classified as a Lower Middle Market investment.

(11) Investment is classified as a Private Loan portfolio investment.

(12) Investment or portion of investment is under contract to purchase and met trade date accounting criteria as of December 31, 2015. Settlement occurred or is scheduled to occur after December 31, 2015.

(13) Investment serviced by Main Street pursuant to servicing arrangements with the Company.

(14) Second lien secured debt investment.

(15) Investment is classified as an Other Portfolio investment.

(16) Income producing through dividends or distributions.

(17) Unsecured debt investment.

(18) Investment is on non-accrual status as of December 31, 2015.

(19) Maturity date is under on-going negotiations with the portfolio company and other lenders, if applicable.

(20) Short term investments represent an investment in a fund that invests in highly liquid investments with average original maturity dates of three months or less.

(21) Effective yield as of December 31, 2015 was approximately 0.01%.

(22) The 1, 2, 3 and 6 month LIBOR rates were 0.43%, 0.51%, 0.61% and 0.85%, respectively, as of December 31, 2015. The actual LIBOR rate for each loan listed may not be the applicable LIBOR rate as of December 31, 2015, as the loan may have been priced or repriced based on a LIBOR rate prior to or subsequent to December 31, 2015. The prime rate was 3.25% as of December 31, 2015.

*See notes to the consolidated financial statements.*

**HMS Income Fund, Inc.**  
**Notes to the Consolidated Financial Statements**

**Note 1. Principal Business and Organization**

HMS Income Fund, Inc. (the “Company”) was formed as a Maryland corporation on November 28, 2011 under the General Corporation Law of the State of Maryland. The Company is an externally managed, non-diversified closed-end investment company that has elected to be treated as a BDC under the 1940 Act. The Company has elected to be treated for U.S. federal income tax purposes as a regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended (the “Code”).

The Company’s primary investment objective is to generate current income through debt and equity investments. A secondary objective of the Company is to generate long-term capital appreciation through such equity and equity-related investments including warrants, convertible securities and other rights to acquire equity securities. The Company’s portfolio strategy calls for it to invest primarily in illiquid debt and equity securities issued by lower middle market (“LMM”) companies, which generally have annual revenues between \$10 million and \$150 million, and middle market (“Middle Market”) companies that are generally larger in size than the LMM companies. The Company categorizes some of its investments in LMM companies and Middle Market companies as private loan (“Private Loan”) portfolio investments. Private Loan investments, often referred to in the debt markets as “club deals,” are investments, generally in debt instruments, that the Company originates on a collaborative basis with other investment funds. Private Loan investments are typically similar in size, structure, terms and conditions to investments the Company holds in its LMM portfolio and Middle Market portfolio. The Company’s portfolio also includes other portfolio (“Other Portfolio”) investments primarily consisting of investments managed by third parties, which differ from the typical profiles for LMM portfolio investments, Middle Market portfolio investments or Private Loan portfolio investments.

The Company previously registered for sale up to 150,000,000 shares of common stock pursuant to a registration statement on Form N-2 (File No. 333-178548) which was initially declared effective by the Securities and Exchange Commission (the “SEC”) on June 4, 2012 (the “Initial Offering”). The Initial Offering terminated on December 1, 2015. The Company had raised approximately \$601.2 million under the Initial Offering, including proceeds from the dividend reinvestment plan of approximately \$22.0 million. The Company also registered for sale up to \$1,500,000,000 worth of shares of common stock (the “Offering”) pursuant to a new registration statement on Form N-2 (File No. 333-204659), as amended, most recently declared effective on October 6, 2016. As of December 31, 2016, the Company had raised approximately \$105.4 million in the Offering, including proceeds from the distribution reinvestment plan of approximately \$24.8 million.

On February 22, 2017, the Company’s board of directors, after determining that it would be in the best interests of the Company and its stockholders to do so, decided to continue the Offering until September 30, 2017 and authorized the closing of the Offering to new investors (the “Closing”) to occur on or about such date. The Company’s board of directors previously authorized the Closing to occur on or about March 31, 2017, subject to the board of directors’ final approval. The board of directors retained its right to provide final approval on the specific terms of the Closing, including its right to accelerate the Closing or to further continue the Company’s Offering if the board of directors determines that it is in the best interests of the Company and its stockholders to do so.

The business of the Company is managed by HMS Adviser LP (the “Adviser”), a Texas limited partnership and affiliate of Hines Interests Limited Partnership (“Hines”), under an Investment Advisory and Administrative Services Agreement dated May 31, 2012, (as amended, the “Investment Advisory Agreement”). The Company and the Adviser have retained MSC Adviser I, LLC (the “Sub-Adviser”), a wholly owned subsidiary of Main Street Capital Corporation (“Main Street”), a New York Stock Exchange listed BDC, as the Company’s investment sub-adviser, pursuant to an Investment Sub-Advisory Agreement (the “Sub-Advisory Agreement”) to identify, evaluate, negotiate and structure prospective investments, make investment and portfolio management recommendations for approval by the Adviser, monitor the Company’s investment portfolio and provide certain ongoing administrative services to the Adviser. The Adviser and the Sub-Adviser are collectively referred to as the “Advisers”, and each is registered as an investment adviser under the Investment Advisers Act of 1940, as amended. Upon the execution of the Sub-Advisory Agreement, Main Street became an affiliate of the Company. The Company has engaged Hines Securities, Inc. (the “Dealer Manager”), an affiliate of the Adviser, to serve as the Dealer Manager for the Offering. The Dealer Manager is responsible for marketing the Company’s common stock.

**Note 2. Basis of Presentation and Summary of Significant Accounting Policies**

*Basis of Presentation and Consolidation*

The Company is an investment company, as defined in the accounting and reporting guidance under Topic 946, *Financial Services-Investment Companies*, of the Financial Accounting Standards Board’s (“FASB’s”) Accounting Standards Codification, as amended

(the “ASC”). The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) and include the accounts of the Company and its wholly owned consolidated subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. Under the 1940 Act rules, regulations pursuant to Articles 6 and 10 of Regulation S-X and ASC Topic 946, the Company is precluded from consolidating portfolio company investments, including those in which it has a controlling interest, unless the portfolio company is a wholly owned investment company. An exception to this general principle occurs if the Company owns a controlled operating company whose purpose is to provide services to the Company such as an investment adviser or transfer agent. None of the investments made by the Company qualifies for this exception. Therefore, the Company’s portfolio company investments, including those in which the Company has a controlling interest, are carried on the Consolidated Balance Sheet at fair value, as discussed below, with changes to fair value recognized as “Net Unrealized Appreciation (Depreciation)” on the Consolidated Statements of Operations until the investment is realized, usually upon exit, resulting in any gain or loss on exit being recognized as a realized gain or loss. However, in the event that any controlled subsidiary exceeds the tests of significance set forth in Rules 3-09 or 4-08 (g) of Regulation S-X, the Company will include required financial information for such subsidiary in the notes or as an attachment to its consolidated financial statements.

### *Reclassifications*

Certain amounts in the Consolidated Balance Sheet and Consolidated Statement of Cash Flows related to base management fees payable and directors’ fees payable have been disaggregated from due to affiliates and accounts payable and other liabilities, respectively, as of December 31, 2016. Additionally, certain amounts in the Consolidated Statements of Operations related to income taxes have been disaggregated from other general and administrative expenses as of December 31, 2016. The prior periods have been reclassified to conform to this presentation as of December 31, 2016.

### *Use of Estimates*

The preparation of the financial statements requires the Company to make estimates and judgments that affect the reported amounts and disclosures of assets, liabilities and contingencies as of the date of the financial statements and accompanying notes. The Company evaluates its assumptions and estimates on an ongoing basis. The Company bases its estimates on historical experience and on various other assumptions that the Company believes to be reasonable under the circumstances. Additionally, application of the Company’s accounting policies involves exercising judgments regarding assumptions as to future uncertainties. Actual results may differ from these estimates under different assumptions or conditions. Significant estimates are used in the determination of fair value of investments. See Note 3 — *Fair Value Hierarchy for Investments* for a description of these estimates.

### *Investment Classification*

The Company classifies its investments in accordance with the requirements of the 1940 Act. Under the 1940 Act, (a) “Control” investments are defined as investments in companies in which the Company owns more than 25% of the voting securities or has rights to nominate greater than 50% of the directors or managers of the entity, (b) “Affiliate” investments are defined as investments in which between 5% and 25% of the voting securities are owned, or an investment in an investment company’s investment adviser, and the investments are not classified as Control investments and (c) “Non-Control/Non-Affiliate” investments are defined as investments that are neither Control investments nor Affiliated investments.

### *Valuation of Portfolio Investments*

The Company accounts for its portfolio investments at fair value under the provisions of ASC Topic 820, Fair Value Measurements and Disclosures (“ASC 820”). ASC 820 defines fair value, establishes a framework for measuring fair value, establishes a fair value hierarchy based on the quality of inputs used to measure fair value and enhances disclosure requirements for fair value measurements. ASC 820 requires the Company to assume that the portfolio investment is to be sold in the principal market to independent market participants, which may be a hypothetical market. Market participants are defined as buyers and sellers in the principal market that are independent, knowledgeable, and willing and able to transact.

LMM investments and Other Portfolio investments generally have no established trading market, while Middle Market securities generally have established markets that are not active. Private Loan investments may include investments which have no established trading market or have established markets that are not active. The Company determines in good faith the fair value of its investment portfolio pursuant to a valuation policy in accordance with ASC 820 and a valuation process approved by its board of directors and in accordance with the 1940 Act. The Company’s valuation policies and processes are intended to provide a consistent basis for determining the fair value of the portfolio.



For LMM portfolio investments, the Company generally reviews external events, including private mergers, sales and acquisitions involving comparable companies, and includes these events in the valuation process by using an enterprise value waterfall (“Waterfall”) for its LMM equity investments and an income approach using a yield-to-maturity model (“Yield-to-Maturity”) for its LMM debt investments. For Middle Market portfolio investments, the Company uses observable inputs such as quoted prices in the valuation process. The Company determines the appropriateness of the use of third-party broker quotes, if any, in determining fair value based on its understanding of the level of actual transactions used by the broker to develop the quote and whether the quote was an indicative price or binding offer, the depth and consistency of broker quotes and the correlation of changes in broker quotes with underlying performance of the portfolio company and other market indices. The Company often cannot observe the inputs considered by the third party in determining their quotes. For Middle Market and Private Loan portfolio investments in debt securities for which it has determined that third-party quotes or other independent pricing are not available or appropriate, the Company generally estimates the fair value based on the assumptions that it believes hypothetical market participants would use to value the investment in a current hypothetical sale using the Yield-to-Maturity valuation method. For its Other Portfolio equity investments, the Company generally calculates the fair value of the investment primarily based on the net asset value (“NAV”) of the fund. All of the valuation approaches for the Company’s portfolio investments estimate the value of the investment as if the Company was to sell, or exit, the investment as of the measurement date.

Under the Waterfall valuation method, the Company estimates the enterprise value of a portfolio company using a combination of market and income approaches or other appropriate valuation methods, such as considering recent transactions in the equity securities of the portfolio company or third-party valuations of the portfolio company, and then performs a Waterfall calculation by using the enterprise value over the portfolio company’s securities in order of their preference relative to one another. The enterprise value is the fair value at which an enterprise could be sold in a transaction between two willing parties, rather than through a forced or liquidation sale. Typically, private companies are bought and sold based on multiples of earnings before interest, taxes, depreciation and amortization (“EBITDA”), cash flows, net income, revenues, or in limited cases, book value. There is no single methodology for estimating enterprise value. For any one portfolio company, enterprise value is generally described as a range of values from which a single estimate of enterprise value is derived. In estimating the enterprise value of a portfolio company, the Company analyzes various factors including the portfolio company’s historical and projected financial results. The operating results of a portfolio company may include unaudited, projected, budgeted or pro forma financial information and may require adjustments for non-recurring items or to normalize the operating results that may require significant judgment in its determination. In addition, projecting future financial results requires significant judgment regarding future growth assumptions. In evaluating the operating results, the Company also analyzes the impact of exposure to litigation, loss of customers or other contingencies. After determining the appropriate enterprise value, the Company allocates the enterprise value to investments in order of the legal priority of the various components of the portfolio company’s capital structure. In applying the Waterfall valuation method, the Company assumes the loans are paid off at the principal amount in a change in control transaction and are not assumed by the buyer, which the Company believes is consistent with its past transaction history and standard industry practices.

Under the Yield-to-Maturity valuation method, the Company also uses the income approach to determine the fair value of debt securities based on projections of the discounted future free cash flows that the debt security will likely generate, including analyzing the discounted cash flows of interest and principal amounts for the debt security, as set forth in the associated loan agreements, as well as the financial position and credit risk of the portfolio investments. The Company’s estimate of the expected repayment date of its debt securities is generally the legal maturity date of the instrument, as the Company generally intends to hold its loans and debt securities to maturity. The Yield-to-Maturity analysis also considers changes in leverage levels, credit quality, portfolio company performance and other factors. The Company will generally use the value determined by the Yield-to-Maturity analysis as the fair value for that security. However, it is the Company’s position that assuming a borrower is outperforming underwriting expectations and because these respective investments do not generally contain pre-payment penalties, the borrower would most likely prepay or refinance the borrowing if the market interest rate, given the borrower’s credit quality, is lower than the stated loan interest rate. Therefore, the Company does not believe that a market participant would pay a premium for the investment, and because of the Company’s general intent to hold its loans to maturity, the Company generally does not believe that the fair value of the investment should be adjusted in excess of the face amount. A change in the assumptions that the Company uses to estimate the fair value of its debt securities using the Yield-to-Maturity valuation method could have a material impact on the determination of fair value. If there is deterioration in credit quality or if a debt security is in workout status, the Company may consider other factors in determining the fair value of the debt security, including the value attributable to the debt security from the enterprise value of the portfolio company or the proceeds that would most likely be received in a liquidation analysis.

Under the NAV valuation method, for an investment in an investment fund that does not have a readily determinable fair value, the Company measures the fair value of the investment predominately based on the NAV of the investment fund as of the measurement date. However, in determining the fair value of the investment, the Company may consider whether adjustments to the NAV are necessary in certain circumstances, based on the analysis of any restrictions on redemption of the Company’s investment as of the measurement date, recent actual sales or redemptions of interests in the investment fund, and expected future cash flows available to equity holders, including the rate of return on those cash flows compared to an implied market return on equity required

by market participants, or other uncertainties surrounding the Company's ability to realize the full NAV of its interests in the investment fund.

With respect to investments for which market quotations are not readily available, the Company's board of directors will undertake a multi-step valuation process, as described below:

- The Company's valuation process begins with each portfolio company or investment being initially valued by investment professionals of the Advisers responsible for credit monitoring.
- Preliminary valuation conclusions are then documented and discussed with the Company's senior management and the Advisers.
- The board of directors reviews these preliminary valuations.
- For the LMM portfolio companies and certain Private Loan portfolio companies, the Company has valuations reviewed by an independent valuation firm on a periodic basis.
- The board of directors discusses valuations and determines the fair value of each investment in the Company's portfolio in good faith.

Pursuant to its internal valuation process and the requirements under the 1940 Act, the Company performs valuation procedures on its investments in each LMM portfolio company and certain Private Loan portfolio companies (the "Internally Valued Investments") once a quarter. Among other things, the Company generally consults with a nationally recognized independent valuation firm on the Internally Valued Investments at least once in every calendar year, and for new Internally Valued Investments, at least once in the twelve-month period subsequent to the initial investment. In certain instances, the Company may determine that it is not cost-effective, and as a result is not in its stockholders' best interest, to consult with the nationally recognized independent valuation firm on its investments in one or more of these Internally Valued Investments. Such instances include situations where the fair value of the Company's investment is determined to be insignificant relative to the total investment portfolio. For the year ended December 31, 2016, the Company consulted with its independent valuation firm in arriving at the Company's determination of fair value on its investments in a total of 21 of the 23 LMM portfolio companies and in a total of 15 of the 29 Private Loan portfolio companies. For the year ended December 31, 2015, the Company consulted with its independent valuation firm in arriving at the Company's determination of fair value on its investments in a total of 11 of the 16 LMM portfolio companies and in a total of seven of the 20 Private Loan portfolio companies.

Due to the inherent uncertainty in the valuation process, the Company's estimate of fair value may differ materially from the values that would have been used had an active market for the securities existed. In addition, changes in the market environment, portfolio company performance and other events that may occur over the lives of the investments may cause the gains or losses ultimately realized on these investments to be materially different than the valuations currently assigned. The Company estimates the fair value of each individual investment and record changes in fair value as unrealized appreciation or depreciation in the Consolidated Statements of Operations.

#### *Cash and Cash Equivalents*

Cash and cash equivalents consist of cash and highly liquid investments with an original maturity of three months or less at the date of purchase. These highly liquid, short term investments are included in the Consolidated Schedule of Investments. Cash and cash equivalents are carried at cost, which approximates fair value.

#### *Security Transactions*

Security transactions are accounted for on the trade date. As of the trade date, the investment is derecognized for security sales and recognized for security purchases. As of December 31, 2016 and 2015, the Company had three and five investments at contract prices of \$11.0 million and \$11.7 million, respectively, under contract to purchase which had not yet settled. These investments have been recognized by the Company and are included in the Consolidated Schedule of Investments. The settlement obligations are presented in the line item "Payable for securities purchased" at the contract price. As of December 31, 2016 and 2015, the Company had two investments and one investment at contract prices of \$7.6 million and \$2.0 million, respectively, under contract to sell which had not yet settled. These investments were derecognized by the Company and are not included in the Consolidated Schedule of Investments. The sale trades are presented in the line item "Receivable for securities sold" at the contract price.

#### *Interest, Fee and Dividend Income*

Interest and dividend income is recorded on the accrual basis to the extent amounts are expected to be collected. Prepayment penalties received by the Company are recorded as income upon receipt. Dividend income is recorded when dividends are declared by the portfolio company or at the point an obligation exists for the portfolio company to make a distribution. Accrued interest

and dividend income are evaluated quarterly for collectability. When a debt security becomes 90 days or more past due and the Company does not expect the debtor to be able to service all of its debt or other obligations, the debt security will generally be placed on non-accrual status and the Company will cease recognizing interest income on that debt security until the borrower has demonstrated the ability and intent to pay contractual amounts due. If there is reasonable doubt that we will receive any previously accrued interest, then the interest income will be written off. Additionally, if a debt security has deferred interest payment terms and the Company becomes aware of a deterioration in credit quality, the Company will evaluate the collectability of the deferred interest payment. If it is determined that the deferred interest is unlikely to be collected, the Company will place the security on non-accrual status and cease recognizing interest income on that debt security until the borrower has demonstrated the ability and intent to pay the contractual amounts due. Payments received on non-accrual investments may be recognized as income or applied to principal depending upon the collectability of the remaining principal and interest. If a debt security's status significantly improves with respect to the debtor's ability to service the debt or other obligations, or if a debt security is fully impaired, sold or written off, it will be removed from non-accrual status.

As of December 31, 2016, the Company had five debt investments in four portfolio companies that were more than 90 days past due (two of which were in the oil and gas industry), including three debt investments in two portfolio companies that were on non-accrual status. Each of these portfolio companies experienced a significant decline in credit quality raising doubt regarding the Company's ability to collect the principal and interest contractually due. Given the credit deterioration, we ceased accruing interest income on the non-accrual debt investments and wrote off any previously accrued interest deemed uncollectible. Aside from these three investments on non-accrual status as of December 31, 2016, the Company is not aware of any material changes to the creditworthiness of the borrowers underlying its debt investments.

As of December 31, 2015, the Company had two debt investments in one portfolio company that were more than 90 days past due and had three debt investments in two portfolio company that were on non-accrual status. These portfolio companies experienced a significant decline in credit quality raising doubt regarding the Company's ability to collect the principal and interest contractually due. Given the credit deterioration, no interest income has been recognized on two of the three non-accrual debt investments during the year ended December 31, 2015. For the other non-accrual debt investment, an allowance of \$196,000 was booked for the interest income recognized during the three months ended December 31, 2015 though no allowance was booked for the interest income recognized during the nine months ended September 30, 2015 due to receipt of the related interest payments.

From time to time, the Company may hold debt instruments in its investment portfolio that contain a payment-in-kind ("PIK") interest provision. If these borrowers elect to pay or are obligated to pay interest under the optional PIK provision, and if deemed collectible in management's judgment, then the interest would be computed at the contractual rate specified in the investment's credit agreement, recorded as interest income and periodically added to the principal balance of the investment. Thus, the actual collection of this interest may be deferred until the time of debt principal repayment. The Company stops accruing PIK interest and writes off any accrued and uncollected interest in arrears when it determines that such PIK interest in arrears is no longer collectible.

As of December 31, 2016 and 2015, the Company held 19 and seven investments, respectively, which contained a PIK provision. As discussed above, two of the 19 investments with PIK provisions as of December 31, 2016 and two of the seven investments with PIK provisions as of December 31, 2015 were on non-accrual status and no PIK interest was recorded on these investments during the years ended December 31, 2016 and 2015. For the years ended December 31, 2016, 2015 and 2014, the Company recognized approximately \$469,000, \$1.2 million and \$274,000, respectively, of PIK interest. The Company stops accruing PIK interest and writes off any accrued and uncollected interest in arrears when it determines that such PIK interest in arrears is no longer collectible.

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

A presentation of the investment income the Company received from its investment portfolio in each of the periods presented (dollars in thousands) is as follows:

|  | Year Ended        |                   |                   |
|--|-------------------|-------------------|-------------------|
|  | December 31, 2016 | December 31, 2015 | December 31, 2014 |
| <b>Interest, Fee and Dividend Income</b>       |                   |                   |                   |
| Interest Income                                | \$ 86,008         | \$ 63,864         | \$ 18,885         |
| Fee Income                                     | 1,259             | 1,072             | 328               |
| Dividend Income                                | 2,132             | 453               | —                 |
| <b>Total Interest, Fee and Dividend Income</b> | <b>\$ 89,399</b>  | <b>\$ 65,389</b>  | <b>\$ 19,213</b>  |

#### *Unearned Income – Original Issue Discount / Premium to Par Value*

The Company purchased some of its debt investments for an amount different than their respective principal values. For purchases at less than par value, a discount is recorded at acquisition, which is accreted into interest income based on the effective interest method over the life of the debt investment. For purchases at greater than par value, a premium is recorded at acquisition, which is amortized as a reduction to interest income based on the effective interest method over the life of the investment. Upon repayment or sale, any unamortized discount or premium is also recognized into interest income. For the years ended December 31, 2016, 2015 and 2014 the Company accreted approximately a net \$11.9 million, \$4.4 million and \$1.1 million, respectively, into interest income.

#### *Net Realized Gains or Losses from Investments and Net Change in Unrealized Appreciation (Depreciation) from Investments*

Generally, net realized gains or losses are measured by the difference between the net proceeds from the sale or redemption of an investment and the principal amount, without regard to unrealized appreciation or depreciation previously recognized, and includes investments written-off during the period net of recoveries and realized gains or losses from in-kind redemptions. Net change in unrealized appreciation or depreciation from investments reflects the net change in the fair value of the investment portfolio and the reclassification of any prior period unrealized appreciation (depreciation) on exited investments to realized gains or losses.

#### *Deferred Financing Costs*

Deferred financing costs represent fees and other direct costs incurred in connection with arranging the Company's borrowings. These costs were incurred in connection with the Company's revolving credit facilities (see Note 5 — *Borrowings* for a discussion ) and have been capitalized. The deferred financing costs are being amortized to interest expense using the straight-line method over the life of the related credit facility, which the Company believes is materially consistent with the effective interest method. For the years ended December 31, 2016, 2015 and 2014, the Company amortized approximately \$1.5 million, \$1.2 million, and \$438,000, respectively, into interest expense related to deferred financing costs.

#### *Offering Costs*

In accordance with the Investment Advisory Agreement and the Sub-Advisory Agreement, the Company reimburses the Advisers for any offering costs that are paid on the Company's behalf, which consist of, among other costs, actual legal, accounting, bona fide out-of-pocket itemized and detailed due diligence costs, printing, filing fees, transfer agent costs, postage, escrow fees, data processing fees, advertising and sales literature and other offering costs. Pursuant to the terms of the Investment Advisory Agreement and Sub-Advisory Agreement, the Company expects to reimburse the Advisers for such costs incurred on its behalf on a monthly basis, up to a maximum aggregate amount of 1.5% of the gross stock offering proceeds. The Advisers are responsible for the payment of offering costs to the extent they exceed 1.5% of the aggregate gross stock offering proceeds.

Prior to January 1, 2016, offering costs were capitalized as incurred by the Advisers and such costs, up to 1.5% of the gross proceeds, were recorded as a charge to additional paid in capital and a reduction of deferred offering costs. Effective January 1, 2016, offering costs are capitalized as deferred offering costs as incurred by the Company and subsequently amortized to expense over a 12-month period to more closely track applicable guidance. Deferred offering costs related to an offering will be fully amortized to expense upon the expiration or earlier termination of an offering. The Company currently expects offering costs to be fully amortized by September 30, 2017, the anticipated date of the Closing. The Company evaluated this change in accounting treatment of offering costs and determined that it did not have a material impact on the Company's consolidated financial position, results of operations or cash flows for periods prior to January 1, 2016.

#### *Payable for Unsettled Trades*

The Company accepts stockholders' subscriptions on a weekly basis during the Offering. For subscriptions received, for which shares of common stock were not issued by December 31, 2016, the amounts of such subscriptions are presented as cash and as

a payable for unsettled trades. The shares issued in exchange for these subscriptions were issued and outstanding on January 7, 2017. The Company accepted stockholders' subscriptions on a weekly basis during the Initial Offering which terminated on December 1, 2015. Since the SEC had not declared the Offering effective as of December 31, 2015, there were no subscriptions received, for which shares of common stock were not issued by December 31, 2015.

#### *Per Share Information*

Net increase (decrease) in net assets resulting from operations per share, net investment income per share, and net realized income per share are calculated based upon the weighted average number of shares of common stock outstanding during the reporting period.

#### *Concentration of Credit Risk*

The Company has cash deposited in a financial institution in excess of federally insured levels. Management regularly monitors the financial stability of these financial institutions in an effort to manage the Company's exposure to any significant credit risk in cash. The Federal Deposit Insurance Corporation generally only insures limited amounts per depositor per insured bank.

#### *Fair Value of Financial Instruments*

Fair value estimates are made at discrete points in time based on relevant information. These estimates may be subjective in nature and involve uncertainties and matters of significant judgment and, therefore, cannot be determined with precision. The Company believes that the carrying amounts of its financial instruments, consisting of cash, accounts receivable from affiliates, interest payable to affiliates, other accrued expenses and liabilities, and notes payable approximate the fair values of such items due to the short term nature of these instruments.

#### *Income Taxes*

The Company has elected to be treated for U.S. federal income tax purposes as a RIC. As a RIC, the Company generally will not be subject to pay corporate-level U.S. federal income taxes on net ordinary income or capital gains that the Company timely distributes each taxable year as dividends to its stockholders from taxable earnings and profits. To qualify as a RIC in any taxable year, the Company must, among other things, satisfy certain source-of-income and asset diversification requirements. In addition, the Company must distribute in respect of each taxable year dividends of an amount generally at least equal to 90% of its investment company taxable income, determined without regard to any deduction for dividends paid, in order to maintain its ability to be subject to tax as a RIC (the "Annual Distribution Requirement"). As a part of maintaining our RIC status, undistributed taxable income (subject to a 4% excise tax) pertaining to a given taxable year may be distributed up to 12 months subsequent to the end of that taxable year, provided such distributions are declared prior to the earlier of eight-and-one-half months after the close of that taxable year or the filing of the federal income tax return for such prior taxable year. In order to avoid the imposition of this excise tax, the Company needs to distribute in respect of each calendar year dividends of an amount at least equal to the sum of (1) 98.0% of its net ordinary income (taking into account certain deferrals and elections) for the calendar year, (2) 98.2% of its capital gain in excess of capital loss, or capital gain net income, (adjusted for certain ordinary losses) for the one-year period ending October 31 in that calendar year (or, if we so elect, for that calendar year) and (3) any net ordinary income and capital gain net income for preceding years that was not distributed with respect to such years and on which the Company incurred no U.S. federal income tax (the "Excise Tax Avoidance Requirement").

The Company has formed wholly owned subsidiaries, HMS Equity Holding, LLC ("HMS Equity Holding") and HMS Equity Holding II, Inc. ("HMS Equity Holding II"), which have elected to be taxable entities. HMS Equity Holding and HMS Equity Holding II primarily hold equity investments in portfolio companies which are considered "pass through" entities for tax purposes. HMS Equity Holding and HMS Equity Holding II are consolidated for financial reporting purposes, and the portfolio investments held by each entity are included in the consolidated financial statements as portfolio investments recorded at fair value. HMS Equity Holding and HMS Equity Holding II are not consolidated with the Company for income tax purposes and may generate income tax expense, or benefit, and the related tax assets and liabilities, as a result of the Company's ownership of certain portfolio investments. This income tax expense, or benefit, if any, and the related tax assets and liabilities, are reflected in the Company's consolidated financial statements.

HMS Equity Holding and HMS Equity Holding II use the liability method in accounting for income taxes in accordance with ASC Topic 740, *Income Taxes*. Deferred tax assets and liabilities are recorded for temporary differences between the tax basis of assets and liabilities and their reported amounts in the financial statements, using statutory tax rates in effect for the year in which the temporary differences are expected to reverse. A valuation allowance is provided against deferred tax assets when it is more likely than not that some portion or all of the deferred tax asset will not be realized. Taxable income generally differs from net income

for financial reporting purposes due to temporary and permanent differences in the recognition of income and expenses. Taxable income generally excludes net unrealized appreciation or depreciation, as investment gains or losses are not included in taxable income until they are realized.

### *Uncertainty in Income Taxes*

The Company evaluates its tax positions to determine if the tax positions taken in accordance with ASC Topic 740, *Income Taxes* meet the minimum recognition threshold in connection with accounting for uncertainties in income tax positions taken or expected to be taken for the purposes of measuring and recognizing tax benefits or liabilities in the consolidated financial statements. Recognition of a tax benefit or liability with respect to an uncertain tax position is required only when the position is “more likely than not” to be sustained assuming examination by taxing authorities. The Company recognizes interest and penalties, if any, related to unrecognized tax liabilities as income tax expense in the consolidated statements of operations.

### *Recent Accounting Pronouncements*

In May 2014, the FASB issued Accounting Standards Update (“ASU”) 2014-09, *Revenue from Contracts with Customers (Topic 606)*. ASU 2014-09 supersedes the revenue recognition requirements under ASC 605, *Revenue Recognition*, and most industry-specific guidance throughout the Industry Topics of the ASC. The core principle of the guidance is that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which an entity expects to be entitled in exchange for those goods or services. Under the new guidance, an entity is required to perform the following five steps: (1) identify the contract(s) with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract, and (5) recognize revenue when (or as) the entity satisfies a performance obligation. The new guidance will significantly enhance comparability of revenue recognition practices across entities, industries, jurisdictions and capital markets. Additionally, the guidance requires improved disclosures as to the nature, amount, timing and uncertainty of revenue that is recognized. In March 2016, the FASB issued ASU 2016-08, *Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)*, which clarified the implementation guidance on principal versus agent considerations. In April 2016, the FASB issued ASU 2016-10, *Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing*, which clarified the implementation guidance regarding performance obligations and licensing arrangements. In May 2016, the FASB issued ASU No. 2016-12, *Revenue from Contracts with Customers (Topic 606)-Narrow-Scope Improvements and Practical Expedients*, which clarified guidance on assessing collectability, presenting sales tax, measuring non-cash consideration, and certain transition matters. The new guidance will be effective for the annual reporting period beginning after December 15, 2017, including interim periods within that reporting period. Early adoption would be permitted for annual reporting periods beginning after December 15, 2016. The Company expects to identify similar performance obligations under ASC 606 as compared with deliverables and separate units of account previously identified. As a result, the Company expects the timing of its revenue recognition to remain the same.

In February 2015, the FASB issued ASU No. 2015-02, *Consolidation: Amendments to the Consolidation Analysis* which amends the consolidation requirements under ASC 810. This guidance amends the criteria for determining which entities are considered variable interest entities (“VIEs”) and amends the criteria for determining if a service provider possesses a variable interest in a VIE. ASU No. 2015-02 also eliminates the deferral under ASU 2010-10 for application of the VIE consolidation model that was granted for investments in certain investment companies. The Company adopted this standard during the three months ended March 31, 2016. There was no impact on the Company’s consolidated financial statements from the adoption of this new accounting standard.

In April 2015, the FASB issued ASU No. 2015-03, *Interest—Imputation of Interest: Simplifying the Presentation of Debt Issuance Costs* which amends the required presentation of debt issuance costs on the balance sheet. The guidance will require that debt issuance costs related to a recognized debt liability be presented on the balance sheet as a direct deduction from the carrying amount of that debt liability, consistent with debt discounts. The recognition and measurement guidance for debt issuance costs are not affected by the ASU No. 2015-03. For public business entities, the guidance is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within those fiscal years. In August 2015, the FASB issued ASU No. 2015-15, *Interest—Imputation of Interest: Presentation and Subsequent Measurement of Debt Issuance Costs Associated with Line-of-Credit Arrangements* which clarified ASU 2015-03. This guidance allows an entity to defer and present debt issuance costs for line-of-credit arrangements as an asset and subsequently amortize these deferred costs over the term of the line-of-credit arrangement. The Company adopted this standard during the three months ended March 31, 2016. There was no impact on the Company’s consolidated financial statements from the adoption of this new accounting standard since the guidance allows the Company to continue to present its debt issuance costs for its line-of-credit arrangements as assets that are amortized over the term of the arrangements.

In May 2015, the FASB issued ASU 2015-07, Fair Value Measurements—*Disclosures for Certain Entities that Calculate Net Asset Value per Share*. This amendment updates guidance intended to eliminate the diversity in practice surrounding how investments measured at net asset value under the practical expedient with future redemption dates have been categorized in the fair value hierarchy. Under the updated guidance, investments for which fair value is measured at net asset value per share using the practical expedient should no longer be categorized in the fair value hierarchy, while investments for which fair value is measured at net asset value per share but the practical expedient is not applied should continue to be categorized in the fair value hierarchy. The updated guidance requires retrospective adoption for all periods presented and is effective for interim and annual reporting periods beginning after December 15, 2015, with early adoption permitted. The Company adopted this standard during the three months ended March 31, 2016. There was no impact on the Company's consolidated financial statements from the adoption of this new accounting standard as none of its investments are measured through the use of the practical expedient.

In January 2016, the FASB issued ASU 2016-01, Financial Instruments-Overall: *Recognition and Measurement of Financial Assets and Financial Liabilities* which amends the guidance related to the classification and measurement of investments in equity securities. The guidance requires equity investments (except those accounted for under the equity method of accounting or those that result in consolidation of the investee) to be measured at fair value with changes in fair value recognized in net income. The ASU will also amend the guidance related to the presentation of certain fair value changes for financial liabilities measured at fair value and certain disclosure requirements associated with the fair value of financial instruments. For public companies, this ASU is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The impact of the adoption of this new accounting standard on the Company's consolidated financial statements is not expected to be material.

In August 2016, the FASB issued ASU No. 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments," which addresses eight specific cash flow issues including, among other things, the classification of debt prepayment or debt extinguishment costs. ASU No. 2016-15 is effective for annual reporting periods, and the interim periods within those periods, beginning after December 15, 2017. Early adoption is permitted. The impact of the adoption of this new accounting standard on the Company's consolidated financial statements is not expected to be material.

In November 2016, the FASB issued ASU No. 2016-18, "Statement of Cash Flows (Topic 230)," which requires that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Therefore, amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The new guidance is effective for interim and annual periods beginning after December 15, 2017 and early adoption is permitted. The amendment should be adopted retrospectively. The impact of the adoption of this new accounting standard on the Company's consolidated financial statements is not expected to be material.

From time to time, new accounting pronouncements are issued by the FASB or other standards setting bodies that are adopted by the Company as of the specified effective date. The Company believes that the impact of recently issued standards and any that are not yet effective will not have a material impact on its financial statements upon adoption.

### **Note 3 — Fair Value Hierarchy for Investments**

#### *Fair Value Hierarchy*

ASC Topic 820 establishes a hierarchal disclosure framework which prioritizes and ranks the level of market price observability of inputs used in measuring investments at fair value. Market price observability is affected by a number of factors, including the type of investment and the characteristics specific to the investment. Investments with readily available active quoted prices or for which fair value can be measured from actively quoted prices generally will have a higher degree of market price observability and a lesser degree of judgment used in measuring fair value.

Based on the observability of the inputs used in the valuation techniques, the Company is required to provide disclosures on fair value measurements according to the fair value hierarchy. The fair value hierarchy ranks the observability of the inputs used to determine fair values. Investments carried at fair value are classified and disclosed in one of the following three categories:

- Level 1—Valuations based on quoted prices in active markets for identical assets or liabilities that the Company has the ability to access.
- Level 2—Valuations based on inputs other than quoted prices in active markets, which are either directly or indirectly observable for essentially the full term of the investment. Level 2 inputs include quoted prices for similar assets in active markets, quoted prices for identical or similar assets in non-active markets (for example, thinly traded public companies), pricing models whose inputs are observable for substantially the full term of the investment, and pricing



models whose inputs are derived principally from or corroborated by, observable market data through correlation or other means for substantially the full term of the investment.

- Level 3—Valuations based on inputs that are unobservable and significant to the overall fair value measurement. Such information may be the result of consensus pricing information or broker quotes for which sufficient observable inputs were not available.

As required by ASC Topic 820, when the inputs used to measure fair value fall within different levels of the hierarchy, the level within which the fair value measurement is categorized is based on the lowest level input that is significant to the fair value measurement in its entirety. For example, a Level 3 fair value measurement may include inputs that are observable (Levels 1 and 2) and unobservable (Level 3). Therefore, gains and losses for such investments categorized within the Level 3 table below may include changes in fair value that are attributable to both observable inputs (Levels 1 and 2) and unobservable inputs (Level 3). The Company conducts reviews of fair value hierarchy classifications on a quarterly basis. Changes in the observability of valuation inputs may result in a reclassification for certain investments.

As of December 31, 2016 and December 31, 2015, the Company's investment portfolio was comprised of debt securities, equity investments, and Other Portfolio investments. The fair value determination for these investments primarily consisted of unobservable (Level 3) inputs.

As of December 31, 2016 and December 31, 2015, all of the Company's LMM portfolio investments consisted of illiquid securities issued by private companies. The fair value determination for the LMM portfolio investments primarily consisted of unobservable inputs. As a result, all of the Company's LMM portfolio investments were categorized as Level 3 as of December 31, 2016 and December 31, 2015.

As of December 31, 2016 and December 31, 2015, the Company's Middle Market portfolio investments consisted primarily of Middle Market investments in secured and unsecured debt investments and independently rated debt investments. The fair value determination for these investments consisted of a combination of (1) observable inputs in non-active markets for which sufficient observable inputs were available to determine the fair value of these investments, (2) observable inputs in non-active markets for which sufficient observable inputs were not available to determine the fair value of these investments and (3) unobservable inputs. As a result, all of the Company's Middle Market portfolio investments were categorized as Level 3 as of December 31, 2016 and December 31, 2015.

As of December 31, 2016 and December 31, 2015, the Company's Private Loan portfolio investments primarily consisted of debt investments. The fair value determination for Private Loan investments consisted of a combination of observable inputs in non-active markets for which sufficient observable inputs were not available to determine the fair value of these investments and unobservable inputs. As a result, all of the Company's Private Loan portfolio investments were categorized as Level 3 as of December 31, 2016 and December 31, 2015.

As of December 31, 2016, the Company's Other Portfolio investments consisted of illiquid securities issued by private companies. The fair value determination for these investments primarily consisted of unobservable inputs. As a result, all of the Company's Other Portfolio equity investments were categorized as Level 3 as of December 31, 2016 and December 31, 2015.

The fair value determination of the Level 3 securities required one or more of the following unobservable inputs:

- Financial information obtained from each portfolio company, including unaudited statements of operations and balance sheets for the most recent period available as compared to budgeted numbers;
- Current and projected financial condition of the portfolio company;
- Current and projected ability of the portfolio company to service its debt obligations;
- Type and amount of collateral, if any, underlying the investment;
- Current financial ratios (e.g., fixed charge coverage ratio, interest coverage ratio, and net debt/EBITDA ratio) applicable to the investment;
- Current liquidity of the investment and related financial ratios (e.g., current ratio and quick ratio);
- Pending debt or capital restructuring of the portfolio company;
- Projected operating results of the portfolio company;
- Current information regarding any offers to purchase the investment;
- Current ability of the portfolio company to raise any additional financing as needed;
- Changes in the economic environment which may have a material impact on the operating results of the portfolio company;
- Internal occurrences that may have an impact (both positive and negative) on the operating performance of the portfolio company;
- Qualitative assessment of key management;

- Contractual rights, obligations or restrictions associated with the investment;
- Third party pricing for securities with limited observability of inputs determining the pricing; and
- Other factors deemed relevant.

The following table presents fair value measurements of the Company's investments, by major class, as of December 31, 2016 according to the fair value hierarchy (dollars in thousands):

|                                      | Fair Value Measurements |         |            |            |
|--------------------------------------|-------------------------|---------|------------|------------|
|                                      | Level 1                 | Level 2 | Level 3    | Total      |
| First lien secured debt investments  | \$ —                    | \$ —    | \$ 791,126 | \$ 791,126 |
| Second lien secured debt investments | —                       | —       | 114,652    | 114,652    |
| Unsecured debt investments           | —                       | —       | 16,074     | 16,074     |
| Equity investments                   | —                       | —       | 67,395     | 67,395     |
| Total                                | \$ —                    | \$ —    | \$ 989,247 | \$ 989,247 |

The following table presents fair value measurements of the Company's investments, by major class, as of December 31, 2015 according to the fair value hierarchy (dollars in thousands):

|                                      | Fair Value Measurements |         |            |            |
|--------------------------------------|-------------------------|---------|------------|------------|
|                                      | Level 1                 | Level 2 | Level 3    | Total      |
| First lien secured debt investments  | \$ —                    | \$ —    | \$ 676,437 | \$ 676,437 |
| Second lien secured debt investments | —                       | —       | 140,459    | 140,459    |
| Unsecured debt investments           | —                       | —       | 870        | 870        |
| Equity investments                   | —                       | —       | 35,222     | 35,222     |
| Total                                | \$ —                    | \$ —    | \$ 852,988 | \$ 852,988 |

The following table presents fair value measurements of the Company's investments, by investment classification, segregated by the level within the fair value hierarchy as of December 31, 2016 (dollars in thousands):

|                             | Fair Value Measurements |         |            |            |
|-----------------------------|-------------------------|---------|------------|------------|
|                             | Level 1                 | Level 2 | Level 3    | Total      |
| LMM portfolio investments   | \$ —                    | \$ —    | \$ 116,060 | \$ 116,060 |
| Private Loan investments    | —                       | —       | 211,357    | 211,357    |
| Middle Market investments   | —                       | —       | 643,464    | 643,464    |
| Other Portfolio investments | —                       | —       | 18,366     | 18,366     |
| Total                       | \$ —                    | \$ —    | \$ 989,247 | \$ 989,247 |

The following table presents fair value measurements of the Company's investments, by investment classification, segregated by the level within the fair value hierarchy as of December 31, 2015 (dollars in thousands):

|                             | Fair Value Measurements |         |            |            |
|-----------------------------|-------------------------|---------|------------|------------|
|                             | Level 1                 | Level 2 | Level 3    | Total      |
| LMM portfolio investments   | \$ —                    | \$ —    | \$ 85,460  | \$ 85,460  |
| Private Loan investments    | —                       | —       | 111,088    | 111,088    |
| Middle Market investments   | —                       | —       | 645,913    | 645,913    |
| Other Portfolio investments | —                       | —       | 10,527     | 10,527     |
| Total                       | \$ —                    | \$ —    | \$ 852,988 | \$ 852,988 |

The significant unobservable inputs used in the fair value measurement of the Company's LMM equity securities and Private Loan equity securities, which are generally valued through an average of the discounted cash flow technique and the market comparable/enterprise value technique (unless one of these approaches is not applicable), are (i) EBITDA multiples and (ii) the weighted average cost of capital ("WACC"). Increases (decreases) in EBITDA multiple inputs in isolation would result in a significantly higher (lower) fair value measurement. Conversely, increases (decreases) in WACC inputs in isolation would result in a significantly lower (higher) fair value measurement. The significant unobservable inputs used in the fair value measurement of the Company's LMM, Middle Market and Private Loan debt investments are (i) risk adjusted discount rates used in the Yield-to-Maturity valuation technique (described in Note 2 — *Basis of Presentation and Summary of Significant Accounting Policies* — *Valuation of Portfolio Investments*) and (ii) the percentage of expected principal recovery. Increases (decreases) in any of these discount rates in isolation would result in a significantly lower (higher) fair value measurement. Increases (decreases) in any of these expected principal

recovery percentages in isolation would result in a significantly higher (lower) fair value measurement. However, due to the nature of certain investments, fair value measurements may be based on other criteria, such as third-party appraisals of collateral and fair values as determined by independent third parties, which are not presented in the table below.

The following table, which is not intended to be all inclusive, presents the significant unobservable inputs of the Company's Level 3 investments as of December 31, 2016 (dollars in thousands):

|                                  | <b>Fair Value</b> | <b>Valuation Technique</b>           | <b>Significant Unobservable Inputs</b> | <b>Range</b>    | <b>Weighted Average <sup>(2)</sup></b> |
|----------------------------------|-------------------|--------------------------------------|--|-----------------|--|
| LMM equity investments           | \$ 37,616         | Discounted Cash Flows                | WACC                                   | 10.7% - 16.6%   | 12.7%                                  |
|                                  |                   | Market Approach/<br>Enterprise Value | EBITDA Multiples <sup>(1)</sup>        | 3.3x - 11.5x    | 6.9x                                   |
| LMM debt portfolio investments   | 78,444            | Discounted Cash Flows                | Expected Principal Recovery            | 100.0% - 100.0% | 100.0%                                 |
|                                  |                   |                                      | Risk Adjusted Discount Factor          | 8.5% - 21.0%    | 11.3%                                  |
| Private Loan debt investments    | 165,968           | Discounted Cash Flows                | Expected Principal Recovery            | 3.0% - 100.0%   | 99.9%                                  |
|                                  |                   |                                      | Risk Adjusted Discount Factor          | 4.8% - 14.2%    | 8.3%                                   |
|                                  | 39,066            | Market Approach                      | Third Party Quotes                     | 96.5% - 100.4%  | 99.7%                                  |
| Private Loan equity investments  | 6,323             | Market Approach/<br>Enterprise Value | EBITDA Multiples <sup>(1)</sup>        | 5.0x - 9.5x     | 8.3x                                   |
|                                  |                   | Discounted Cash Flows                | WACC                                   | 10.6% - 13.2%   | 11.8%                                  |
| Middle Market debt investments   | 638,374           | Market Approach                      | Third Party Quotes                     | 22.5% - 108.0%  | 95.7%                                  |
| Middle Market equity investments | 5,090             | Market Approach                      | Third Party Quotes                     | 75.0% - 337.5%  | 281.8%                                 |
| Other Portfolio investments      | 18,366            | Market Approach                      | NAV <sup>(1)</sup>                     | 92.5% - 101.0%  | 99.0%                                  |
|                                  | <u>\$ 989,247</u> |                                      |  |                 |  |

(1) May include pro forma adjustments and/or other add-backs based on specific circumstances related to each investment.

(2) Weighted average excludes investments for which the significant unobservable input was not utilized in the fair value determination.

The following table, which is not intended to be all inclusive, presents the significant unobservable inputs of the Company's Level 3 investments as of December 31, 2015 (dollars in thousands):

|                                 | <b>Fair Value</b> | <b>Valuation Technique</b>           | <b>Significant Unobservable Inputs</b> | <b>Range</b>   | <b>Weighted Average <sup>(2)</sup></b> |
|---------------------------------|-------------------|--------------------------------------|--|----------------|--|
| LMM equity investments          | \$ 24,165         | Discounted Cash Flows                | WACC                                   | 11.9% - 16.3%  | 13.9%                                  |
|                                 |                   | Market Approach/<br>Enterprise Value | EBITDA Multiples <sup>(1)</sup>        | 5.0x - 18.8x   | 10.8x                                  |
| LMM debt portfolio investments  | 61,295            | Discounted Cash Flows                | Expected Principal Recovery            | 100.0%         | 100.0%                                 |
|                                 |                   |                                      | Risk Adjusted Discount Factor          | 10.3% - 14.5%  | 12.7%                                  |
| Private Loan debt investments   | 60,173            | Market Approach                      | Third Party Quotes                     | 96.5% - 99.0%  | 97.7%                                  |
|                                 | 50,385            | Discounted Cash Flows                | Expected Principal Recovery            | 16.6% - 100.0% | 98.1%                                  |
|                                 |                   |                                      | Risk Adjusted Discount Factor          | 9.1% - 15.4%   | 10.5%                                  |
| Private Loan equity investments | 530               | Market Approach/<br>Enterprise Value | EBITDA Multiples <sup>(1)</sup>        | 4.5x - 10.8x   | 9.1x                                   |
|                                 |                   |                                      | WACC                                   | 12.5%          | 12.5%                                  |
| Middle Market investments       | 645,913           | Market Approach                      | Third Party Quotes                     | 12.1% - 100.1% | 91.5%                                  |
| Other Portfolio investments     | 10,527            | Market Approach                      | NAV <sup>(1)</sup>                     | 98.9%          | 98.9%                                  |
|                                 | <u>\$ 852,988</u> |                                      |  |                |  |

(1) May include pro forma adjustments and/or other add-backs based on specific circumstances related to each investment.

(2) Weighted average excludes investments for which the significant unobservable input was not utilized in the fair value determination.

The following table provides a summary of changes in fair value of the Company's Level 3 portfolio investments for the year ended December 31, 2016 (dollars in thousands):

| Type of Investment   | January 1, 2016 Fair Value | PIK Interest Accrual | New Investments <sup>(1)</sup> | Sales/ Repayments | Net Unrealized Appreciation (Depreciation) <sup>(2)</sup> | Net Realized Gain (Loss) | December 31, 2016 Fair Value |
|----------------------|----------------------------|----------------------|--------------------------------|-------------------|---|--------------------------|------------------------------|
| LMM Equity           | \$ 24,165                  | \$ (72)              | \$ 9,264                       | \$ —              | \$ 4,259  | \$ —                     | \$ 37,616                    |
| LMM Debt             | 61,295                     | 200                  | 24,343                         | (7,715)           | 321   | —                        | 78,444                       |
| Private Loan Equity  | 530                        | —                    | 4,602                          | —                 | 1,191   | —                        | 6,323                        |
| Private Loan Debt    | 110,558                    | 248                  | 164,902                        | (72,533)          | 2,156   | (297)                    | 205,034                      |
| Middle Market Debt   | 645,913                    | 93                   | 260,416                        | (275,787)         | 30,333  | (22,594)                 | 638,374                      |
| Middle Market Equity | —                          | —                    | 4,653                          | —                 | 437   | —                        | 5,090                        |
| Other Portfolio      | 10,527                     | —                    | 7,985                          | —                 | (146)   | —                        | 18,366                       |
| Total                | \$ 852,988                 | \$ 469               | \$ 476,165                     | \$ (356,035)      | \$ 38,551   | \$ (22,891)              | \$ 989,247                   |

(1) Column includes changes to investments due to the net accretion of discounts/premiums and amortization of fees.

(2) Column does not include unrealized appreciation (depreciation) on unfunded commitments.

The following table provides a summary of changes in fair value of the Company's Level 3 portfolio investments for the year ended December 31, 2015 (dollars in thousands):

| Type of Investment | January 1, 2015 Fair Value | PIK Interest Accrual | New Investments <sup>(1)</sup> | Sales/ Repayments | Net Unrealized Appreciation (Depreciation) | Net Realized Gain (Loss) | December 31, 2015 Fair Value |
|--------------------|----------------------------|----------------------|--------------------------------|-------------------|--|--------------------------|------------------------------|
| LMM Equity         | \$ 9,808                   | \$ 78                | \$ 12,111                      | \$ (15)           | \$ 2,183                                   | \$ —                     | \$ 24,165                    |
| LMM Debt           | 23,808                     | 30                   | 39,526                         | (2,144)           | 124  | (49)                     | 61,295                       |
| Private Loan Debt  | 47,655                     | 1,115                | 109,400                        | (40,927)          | (1,221)                                    | (5,464)                  | 110,558                      |
| Middle Market Debt | 391,016                    | —                    | 425,996                        | (132,234)         | (38,870)                                   | 5                        | 645,913                      |
| Other Portfolio    | 1,575                      | —                    | 9,082                          | —                 | (130)                                      | —                        | 10,527                       |
| Total              | \$ 473,862                 | \$ 1,223             | \$ 596,687                     | \$ (175,320)      | \$ (37,956)                                | \$ (5,508)               | \$ 852,988                   |

(1) Column includes changes to investments due to the net accretion of discounts/premiums and amortization of fees.

#### Portfolio Investment Composition

The composition of the Company's investments as of December 31, 2016, at cost and fair value, was as follows (dollars in thousands):

|                                      | December 31, 2016   |                                    |                           |  |
|--------------------------------------|---------------------|------------------------------------|---------------------------|--|
|                                      | Investments at Cost | Cost Percentage of Total Portfolio | Investments at Fair Value | Fair Value Percentage of Total Portfolio |
| First lien secured debt investments  | \$ 809,280          | 80.7%                              | \$ 791,126                | 80.0%                                    |
| Second lien secured debt investments | 117,339             | 11.7%                              | 114,652                   | 11.6%                                    |
| Unsecured debt investments           | 16,126              | 1.6%                               | 16,074                    | 1.6%                                     |
| Equity investments                   | 56,974              | 5.7%                               | 63,569                    | 6.4%                                     |
| Equity warrants                      | 2,676               | 0.3%                               | 3,826                     | 0.4%                                     |
| Total                                | \$ 1,002,395        | 100.0%                             | \$ 989,247                | 100.0%                                   |

The composition of the Company's investments as of December 31, 2015, at cost and fair value, was as follows (dollars in thousands):

| <b>December 31, 2015</b>             |                                |   |                                      |   |
|--------------------------------------|--------------------------------|---|--------------------------------------|---|
|                                      | <b>Investments<br/>at Cost</b> | <b>Cost Percentage<br/>of Total Portfolio</b> | <b>Investments<br/>at Fair Value</b> | <b>Fair Value Percentage of<br/>Total Portfolio</b> |
| First lien secured debt investments  | \$ 719,941                     | 79.6%   | \$ 676,437                           | 79.3%   |
| Second lien secured debt investments | 148,906                        | 16.5%   | 140,459                              | 16.5%   |
| Unsecured debt investments           | 2,630                          | 0.3%  | 870                                  | 0.1%  |
| Equity investments                   | 32,025                         | 3.5%  | 34,020                               | 4.0%  |
| Equity warrants                      | 1,187                          | 0.1%  | 1,202                                | 0.1%  |
| Total                                | <u>\$ 904,689</u>              | <u>100.0%</u>                                 | <u>\$ 852,988</u>                    | <u>100.0%</u>                                       |

The composition of the Company's investments by geographic region of the United States as of December 31, 2016, at cost and fair value, was as follows (dollars in thousands) (since the Other Portfolio investments do not represent a single geographic region, this information excludes Other Portfolio investments):

| <b>December 31, 2016</b> |                                |   |                                      |   |
|--------------------------|--------------------------------|---|--------------------------------------|---|
|                          | <b>Investments<br/>at Cost</b> | <b>Cost Percentage<br/>of Total Portfolio</b> | <b>Investments<br/>at Fair Value</b> | <b>Fair Value Percentage of<br/>Total Portfolio</b> |
| Northeast                | \$ 144,465                     | 14.6%   | \$ 141,637                           | 14.6%   |
| Southeast                | 185,803                        | 18.9%   | 193,616                              | 19.9%   |
| West                     | 177,572                        | 18.1%   | 167,544                              | 17.3%   |
| Southwest                | 188,455                        | 19.2%   | 181,894                              | 18.7%   |
| Midwest                  | 217,603                        | 22.1%   | 218,540                              | 22.5%   |
| Non-United States        | 69,854                         | 7.1%  | \$ 67,650                            | 7.0%  |
| Total                    | <u>\$ 983,752</u>              | <u>100.0%</u>                                 | <u>\$ 970,881</u>                    | <u>100.0%</u>                                       |

The composition of the Company's investments by geographic region of the United States as of December 31, 2015, at cost and fair value, was as follows (dollars in thousands) (since the Other Portfolio investments do not represent a single geographic region, this information excludes the Other Portfolio investments):

| <b>December 31, 2015</b> |                                |   |                                      |   |
|--------------------------|--------------------------------|---|--------------------------------------|---|
|                          | <b>Investments<br/>at Cost</b> | <b>Cost Percentage<br/>of Total Portfolio</b> | <b>Investments<br/>at Fair Value</b> | <b>Fair Value Percentage of<br/>Total Portfolio</b> |
| Northeast                | \$ 178,900                     | 20.0%   | \$ 171,284                           | 20.3%   |
| Southeast                | 188,237                        | 21.1%   | 188,401                              | 22.4%   |
| West                     | 140,576                        | 15.7%   | 127,353                              | 15.1%   |
| Southwest                | 159,579                        | 17.8%   | 135,473                              | 16.1%   |
| Midwest                  | 168,769                        | 18.9%   | 165,113                              | 19.6%   |
| Non-United States        | 57,971                         | 6.5%  | 54,837                               | 6.5%  |
| Total                    | <u>\$ 894,032</u>              | <u>100.0%</u>                                 | <u>\$ 842,461</u>                    | <u>100.0%</u>                                       |

The composition of the Company's total investments by industry as of December 31, 2016 and December 31, 2015, at cost and fair value was as follows (since the Other Portfolio investments do not represent a single industry, this information excludes Other Portfolio investments):

|  | Cost                 |                      | Fair Value           |                      |
|--|----------------------|----------------------|----------------------|----------------------|
|  | December 31,<br>2016 | December 31,<br>2015 | December 31,<br>2016 | December 31,<br>2015 |
| Commercial Services and Supplies               | 9.1%                 | 5.4%                 | 9.2%                 | 5.5%                 |
| Hotels, Restaurants, and Leisure               | 8.0%                 | 10.7%                | 8.1%                 | 11.2%                |
| Media  | 7.7%                 | 7.8%                 | 7.6%                 | 7.9%                 |
| Internet Software and Services                 | 5.1%                 | 4.2%                 | 5.2%                 | 4.4%                 |
| Communications Equipment                       | 4.7%                 | 0.6%                 | 4.9%                 | 0.6%                 |
| IT Services                                    | 4.6%                 | 5.4%                 | 4.7%                 | 5.5%                 |
| Construction and Engineering                   | 4.6%                 | 3.0%                 | 4.8%                 | 3.1%                 |
| Specialty Retail                               | 3.9%                 | 4.1%                 | 3.3%                 | 3.7%                 |
| Electronic Equipment, Instruments & Components | 3.7%                 | 2.8%                 | 3.7%                 | 2.8%                 |
| Energy Equipment and Services                  | 3.7%                 | 3.4%                 | 2.8%                 | 2.8%                 |
| Auto Components                                | 3.1%                 | 3.9%                 | 3.2%                 | 3.9%                 |
| Diversified Telecommunication Services         | 3.1%                 | 3.1%                 | 3.0%                 | 3.3%                 |
| Diversified Consumer Services                  | 2.8%                 | 4.7%                 | 2.7%                 | 4.5%                 |
| Food Products                                  | 2.7%                 | 3.1%                 | 2.5%                 | 2.2%                 |
| Software                                       | 2.6%                 | 2.4%                 | 2.7%                 | 2.6%                 |
| Health Care Equipment and Supplies             | 2.2%                 | 2.1%                 | 2.3%                 | 3.2%                 |
| Health Care Providers and Services             | 2.2%                 | 4.7%                 | 2.4%                 | 3.1%                 |
| Diversified Financial Services                 | 1.9%                 | 1.7%                 | 1.9%                 | 4.7%                 |
| Aerospace and Defense                          | 1.9%                 | 1.5%                 | 1.8%                 | —%                   |
| Distributors                                   | 1.6%                 | 1.2%                 | 1.7%                 | 2.3%                 |
| Machinery                                      | 1.5%                 | 1.6%                 | 1.9%                 | 1.8%                 |
| Food & Staples Retailing                       | 1.4%                 | 0.6%                 | 1.5%                 | 1.7%                 |
| Internet and Catalog Retail                    | 1.4%                 | 1.6%                 | 1.2%                 | 1.6%                 |
| Healthcare Technology                          | 1.3%                 | —%                   | 1.3%                 | 0.6%                 |
| Pharmaceuticals                                | 1.2%                 | 2.1%                 | 1.2%                 | —%                   |
| Capital Markets                                | 1.2%                 | 0.8%                 | 1.2%                 | 1.6%                 |
| Tobacco  | 1.1%                 | 1.3%                 | 1.1%                 | 0.6%                 |
| Professional Services                          | 1.0%                 | 1.0%                 | 1.0%                 | 1.3%                 |
| Construction Materials                         | 1.0%                 | —%                   | 1.1%                 | —%                   |
| Trading Companies and Distributors             | 1.0%                 | —%                   | 1.0%                 | —%                   |
| Computers and Peripherals                      | 1.0%                 | —%                   | 1.1%                 | 1.0%                 |
| Oil, Gas, and Consumable Fuels                 | 0.9%                 | 4.9%                 | 0.9%                 | 2.2%                 |
| Electrical Equipment                           | 0.9%                 | —%                   | 1.0%                 | 0.9%                 |
| Marine   | 0.9%                 | 0.9%                 | 0.9%                 | 1.0%                 |
| Leisure Equipment and Products                 | 0.8%                 | 2.1%                 | 0.8%                 | 1.3%                 |
| Personal Products                              | 0.8%                 | 0.8%                 | 0.8%                 | —%                   |
| Insurance                                      | 0.6%                 | 0.7%                 | 0.6%                 | 0.9%                 |
| Building Products                              | 0.6%                 | 0.8%                 | 0.6%                 | 0.9%                 |
| Textiles, Apparel & Luxury Goods               | 0.5%                 | 1.1%                 | 0.4%                 | 0.9%                 |
| Consumer Finance                               | 0.3%                 | 0.4%                 | 0.4%                 | 0.4%                 |
| Air Freight & Logistics                        | 0.3%                 | 0.3%                 | 0.4%                 | 0.5%                 |
| Publishing                                     | 0.3%                 | —%                   | 0.3%                 | —%                   |
| Containers and Packaging                       | 0.3%                 | 0.2%                 | 0.3%                 | —%                   |
| Chemicals                                      | 0.2%                 | 0.3%                 | 0.2%                 | 0.3%                 |
| Airlines                                       | 0.2%                 | 0.2%                 | 0.2%                 | 0.2%                 |
| Oil and Gas Exploration and Production         | 0.1%                 | —%                   | 0.1%                 | 0.2%                 |
| Automobiles                                    | —%                   | 0.6%                 | —%                   | 0.7%                 |
| Metals and Mining                              | —%                   | 0.8%                 | —%                   | 0.9%                 |
| Utilities                                      | —%                   | 1.1%                 | —%                   | 1.2%                 |
| Total  | 100.0%               | 100.0%               | 100.0%               | 100.0%               |

#### Note 4 — Unconsolidated Significant Subsidiaries

In accordance with Rules 3-09 and 4-08(g) of Regulation S-X, the Company must determine which of its unconsolidated controlled portfolio companies, if any, are considered "significant subsidiaries." After performing this analysis, the Company determined that GRT Rubber Technologies, LLC ("GRT") is a significant subsidiary for the year ended December 31, 2015, under at least one of the significance conditions of Rule 4-08(g) of Regulation S-X. The Company made its investment in GRT on December 19, 2014 and therefore amounts presented are for the period beginning on the date of investment through December 31, 2014. The Company had no "significant subsidiaries" under Rule 3-09 for the years ended December 31, 2016, 2015 and 2014, and under Rule 4-08(g) of Regulation S-X for the years ended December 31, 2016 and 2014.

The following tables show the summarized financial information for GRT (dollars in thousands):

|                         | As of December 31, |        |      |        |
|-------------------------|--------------------|--------|------|--------|
|                         | 2016               |        | 2015 |        |
| Balance Sheet Data      |                    |        |      |        |
| Current assets          | \$                 | 8,326  | \$   | 9,729  |
| Noncurrent assets       |                    | 32,107 |      | 36,129 |
| Current liabilities     |                    | 2,941  |      | 3,517  |
| Non Current liabilities |                    | 18,563 |      | 22,812 |

  

|                               | For the twelve months ended<br>December 31, |        | For the period ended<br>December 31, 2014 <sup>(1)</sup> |        |    |       |
|-------------------------------|---|--------|--|--------|----|-------|
|                               | 2016  |        | 2015   |        |    |       |
| Summary of Operations         |   |        |  |        |    |       |
| Total revenue                 | \$  | 26,140 | \$   | 29,838 | \$ | 477   |
| Gross profit (loss)           |   | 6,330  |  | 6,943  |    | (11)  |
| Income (loss) from operations |   | 2,154  |  | 2,900  |    | (125) |
| Net income (loss)             |   | (270)  |  | 86     |    | (557) |

(1) The Company made its investment in GRT on December 19, 2014 and therefore amounts presented are for the period beginning on the date of investment through December 31, 2014.

#### Note 5 — Borrowings

On March 11, 2014, the Company entered into a \$70.0 million senior secured revolving credit facility (as amended from time to time, the "Capital One Credit Facility") with Capital One, National Association ("Capital One"), as administrative agent, and other banks as participants (together with Capital One, the "Lenders"). The Capital One Credit Facility has subsequently been amended on multiple occasions, and as of December 31, 2016, the Capital One Credit Facility had revolver commitments of \$125.0 million, with an accordion provision allowing borrowing capacity to increase up to \$150.0 million. As of December 31, 2016, borrowings under the Capital One Credit Facility bore interest, subject to the Company's election, on a per annum basis equal to (i) the adjusted London Interbank Offered Rate ("LIBOR") rate plus 2.75% or (ii) the base rate plus 1.75%. The base rate is defined as the higher of (a) the prime rate or (b) the Federal Funds Rate (as defined in the credit agreement) plus 0.5%. The adjusted LIBOR rate is defined in the credit agreement for the Capital One Credit Facility as the one-month LIBOR rate plus such amount as adjusted for statutory reserve requirements for Eurocurrency liabilities. As of December 31, 2016, the one-month LIBOR rate was 0.8%. The Company pays an annual unused commitment fee of 0.25% on the unused revolver commitments if more than 50% of the revolver commitments are being used and an annual unused commitment fee of 0.375% on the unused revolver commitments if less than 50% of the revolver commitments are being used. As of December 31, 2016, the Capital One Credit Facility had a three-year term, maturing March 11, 2017, with two, one-year extension options, subject to approval of the Lenders. On March 6, 2017, the Capital One Credit Facility was amended and restated to, among other things, extend the maturity date to March 6, 2020, reduce revolver commitments to \$95.0 million, and assign Capital One's role as administrative agent to EverBank Commercial Finance, Inc. ("EverBank").

The Capital One Credit Facility, as amended on May 29, 2015, permits the creation of certain "Structured Subsidiaries," which are not guarantors under the Capital One Credit Facility and which are permitted to incur debt outside of the Capital One Credit Facility. Borrowings under the Capital One Credit Facility are secured by all of the Company's assets, other than the assets of Structured Subsidiaries, as well as all of the assets, and a pledge of equity ownership interests, of any future subsidiaries of the



Company (other than Structured Subsidiaries). As of December 31, 2016, the credit agreement for the Capital One Credit Facility contains affirmative and negative covenants usual and customary for credit facilities of this nature, including: (i) maintaining a minimum interest coverage ratio of at least 2.0 to 1.0; (ii) maintaining an asset coverage ratio of at least 2.25 to 1.0; and (iii) maintaining a minimum consolidated tangible net worth, excluding Structured Subsidiaries, of at least \$50.0 million. Further, the Capital One Credit Facility contains limitations on incurrence of other indebtedness (other than by the Structured Subsidiaries), limitations on industry concentration, and an anti-hoarding provision to protect the collateral under the Capital One Credit Facility. Additionally, the Company must provide information to Capital One on a regular basis, preserve its corporate existence, comply with applicable laws, including the 1940 Act, pay obligations when they become due, and invest the proceeds of the sales of common stock in accordance with its investment objectives and strategies (as set forth in the Capital One Credit Facility). Further, the credit agreement contains usual and customary default provisions including: (i) a default in the payment of interest and principal; (ii) insolvency or bankruptcy of the Company; (iii) a material adverse change in the Company's business; or (iv) breach of any covenant, representation or warranty in the loan agreement or other credit documents and failure to cure such breach within defined periods. Additionally, the Capital One Credit Facility requires the Company to obtain written approval from the administrative agent prior to entering into any material amendment, waiver or other modification of any provision of the Investment Advisory Agreement. As of December 31, 2016, the Company was not aware of any instances of noncompliance with covenants related to the Capital One Credit Facility.

On June 2, 2014, HMS Funding I LLC ("HMS Funding"), entered into a credit agreement (the "Deutsche Bank Credit Facility") among HMS Funding, as borrower, the Company, as equityholder and as servicer, Deutsche Bank AG, New York Branch ("Deutsche Bank"), as administrative agent, the financial institutions party thereto as lenders (together with Deutsche Bank, the "HMS Funding Lenders"), and U.S. Bank National Association, as collateral agent and collateral custodian. The Deutsche Bank Credit Facility provided for an initial borrowing capacity of \$50.0 million, subject to certain limitations, including limitations with respect to HMS Funding's investments, as more fully described in the Deutsche Bank Credit Facility. The Deutsche Bank Credit Facility was amended and restated on May 18, 2015 and subsequently has been amended on multiple occasions, most recently on February 9, 2016, increasing the revolver commitments to \$385.0 million. The Company contributes certain assets to HMS Funding from time to time, as permitted under the Capital One Credit Facility, as collateral to secure the Deutsche Bank Credit Facility.

Under the Deutsche Bank Credit Facility, interest is calculated as the sum of the index plus the applicable margin of 2.50%. If the Deutsche Bank Credit Facility is funded via an asset backed commercial paper conduit, the index will be the related commercial paper rate; otherwise, the index will be equal to one-month LIBOR. As of December 31, 2016, the one-month LIBOR rate was 0.8%. The Deutsche Bank Credit Facility provides for a revolving period until December 16, 2017, unless otherwise extended with the consent of the HMS Funding Lenders. The amortization period begins the day after the last day of the revolving period and ends on June 16, 2020, the maturity date. During the amortization period, the applicable margin will increase by 0.25%. During the revolving period, HMS Funding will pay a utilization fee equal to 2.50% of the undrawn amount of the required utilization, which is 75% of the loan commitment amount. HMS Funding will incur an undrawn fee equal to 0.40% per annum of the difference between the aggregate commitments and the outstanding advances under the facility, provided that the undrawn fee relating to any utilization shortfall will not be payable to the extent that the utilization fee relating to such utilization shortfall is incurred. Additionally, per the terms of a fee letter executed on May 18, 2015, HMS Funding pays Deutsche Bank an administrative agent fee of 0.25% of the aggregate revolver commitments.

HMS Funding's obligations under the Deutsche Bank Credit Facility are secured by a first priority security interest in its assets, including all of the present and future property and assets of HMS Funding. The Deutsche Bank Credit Facility contains affirmative and negative covenants usual and customary for credit facilities of this nature, including maintaining a positive tangible net worth, limitations on industry concentration and complying with all applicable laws. The Deutsche Bank Credit Facility contains usual and customary default provisions including: (i) a default in the payment of interest and principal; (ii) insolvency or bankruptcy of the Company; (iii) the occurrence of a change of control; or (iv) any uncured breach of a covenant, representation or warranty in the Deutsche Bank Credit Facility. As of December 31, 2016, the Company was not aware of any instances of noncompliance with covenants related to the Deutsche Bank Credit Facility.

As of December 31, 2016, the Company had borrowings of \$80.0 million outstanding on the Capital One Credit Facility, and had borrowings of \$333.0 million outstanding on the Deutsche Bank Credit Facility, both of which the Company estimated approximated fair value.

## Note 6 – Financial Highlights

The following is a schedule of financial highlights of the Company for the years ended December 31, 2016, 2015, 2014, 2013 and 2012.

|  | Year Ended December 31, |                |                |                |                |
|--|-------------------------|----------------|----------------|----------------|----------------|
| Per Share/Unit Data:   | 2016                    | 2015           | 2014           | 2013           | 2012           |
| <b>NAV at beginning of period</b>  | \$ 7.88                 | \$ 8.40        | \$ 8.91        | \$ 8.86        | \$ 9.02        |
| <b>Results from Operations</b>   |                         |                |                |                |                |
| Net investment income <sup>(1) (2)</sup>   | 0.75                    | 0.75           | 0.70           | 0.64           | 0.99           |
| Net realized appreciation (depreciation) <sup>(1) (2)</sup>                          | (0.34)                  | (0.11)         | —              | 0.01           | 0.01           |
| Net unrealized appreciation (depreciation) <sup>(1) (2)</sup>                        | 0.56                    | (0.78)         | (0.89)         | 0.16           | 0.08           |
| Net increase (decrease) in net assets resulting from operations                      | 0.97                    | (0.14)         | (0.19)         | 0.81           | 1.08           |
| <b>Stockholder distributions <sup>(1) (3)</sup></b>                                  |                         |                |                |                |                |
| Distributions from net investment income <sup>(1) (2)</sup>                          | (0.70)                  | (0.70)         | (0.70)         | (0.69)         | (0.94)         |
| Distributions from realized appreciation <sup>(1) (2)</sup>                          | —                       | —              | —              | (0.01)         | —              |
| Net decrease in net assets resulting from stockholder distributions                  | (0.70)                  | (0.70)         | (0.70)         | (0.70)         | (0.94)         |
| <b>Capital share transactions</b>  |                         |                |                |                |                |
| Issuance of membership units   | —                       | —              | —              | —              | —              |
| Issuance of common stock above (below) NAV, net of offering costs <sup>(1) (4)</sup> | —                       | 0.21           | 0.09           | (0.06)         | —              |
| Impact of stock dividend   | —                       | —              | —              | —              | (0.20)         |
| Impact of merger transaction   | —                       | —              | —              | —              | (0.10)         |
| Net increase (decrease) in net assets resulting from capital share transactions      | —                       | 0.21           | 0.09           | (0.06)         | (0.30)         |
| <b>Other <sup>(5)</sup></b>  | —                       | 0.11           | 0.29           | —              | —              |
| <b>NAV at end of the period</b>  | <u>\$ 8.15</u>          | <u>\$ 7.88</u> | <u>\$ 8.40</u> | <u>\$ 8.91</u> | <u>\$ 8.86</u> |
| Shares/units outstanding at end of period  | 73,382,971              | 62,382,044     | 30,967,120     | 5,396,967      | 1,289,472      |
| Weighted average shares/units outstanding  | 68,029,977              | 48,838,114     | 16,022,853     | 2,648,689      | 1,151,554      |

- (1) Based on weighted average number of shares of common stock outstanding for the period.
- (2) Change in net realized income and net unrealized appreciation (depreciation) from investments can change significantly from period to period.
- (3) The stockholder distributions represent the stockholder distributions declared for the period.
- (4) The continuous issuance of shares of common stock may cause an incremental increase in NAV per share due to the sale of shares at the then prevailing public offering price in excess of NAV per share on each subscription closing date. The per share data was derived by computing (i) the sum of (A) the number of shares issued in connection with subscriptions and/or distribution reinvestment on each share transaction date times (B) the differences between the net proceeds per share and the NAV per share on each share transaction date, divided by (ii) the weighted average shares of common stock outstanding for the period.
- (5) Includes the impact of the different share amounts as a result of calculating certain per share data based on the weighted average basic shares outstanding during the period and certain per share data based on the shares outstanding as of a period end or transaction date.

|   | Year Ended December 31, |            |            |           |           |
|---|-------------------------|------------|------------|-----------|-----------|
|   | 2016                    | 2015       | 2014       | 2013      | 2012      |
|   | (dollars in thousands)  |            |            |           |           |
| NAV at end of period  | \$ 597,833              | \$ 491,652 | \$ 260,063 | \$ 48,077 | \$ 11,423 |
| Average net assets  | \$ 535,175              | \$ 400,045 | \$ 142,603 | \$ 24,864 | \$ 10,488 |
| Average Credit Facilities borrowings                                | \$ 396,000              | \$ 304,973 | \$ 89,846  | \$ 9,660  | \$ 7,231  |
| <b>Ratios to average net assets:</b>                                |                         |            |            |           |           |
| Ratio of total expenses to average net assets <sup>(1)(2)</sup>     | 6.89%                   | 7.19%      | 5.62%      | 4.21%     | 6.97%     |
| Ratio of net investment income to average net assets <sup>(2)</sup> | 9.81%                   | 9.12%      | 7.85%      | 6.86%     | 10.81%    |
| Portfolio turnover ratio  | 39.01%                  | 24.23%     | 38.39%     | 49.37%    | 72.81%    |
| Total return <sup>(3)</sup>   | 12.31%                  | 2.14%      | 2.13%      | 8.47%     | 10.85%    |

(1) For the years ended December 31, 2016 and December 31, 2015, the Adviser did not waive base management fees but waived subordinated incentive fees of approximately \$1.7 million and \$2.6 million, respectively, and administrative services expenses of approximately \$2.3 million and \$2.0 million, respectively. The ratio is calculated by reducing the expenses to reflect the waiver of expenses and reimbursement of administrative services and to reflect the reduction of expenses for expense support provided by the Adviser in both periods presented. Excluding interest expense, the ratio of total expenses to average net assets for the years ended December 31, 2016, 2015, 2014, 2013 and 2012 was 4.25%, 4.44%, 3.29%, 2.55% and 4.03%, respectively. See Note 10 — *Related Party Transactions and Arrangements* for further discussion of fee waivers and expense support provided by the Advisers.

(2) Ratio is calculated excluding amortization of offering costs from total expenses.

(3) Total return is calculated on the change in NAV per share and stockholder distributions declared per share over the reporting period.

## Note 7 – Stockholder Distributions

The following table reflects the cash distributions per share that the Company declared on its common stock during the years ended December 31, 2016, 2015 and 2014 (dollars in thousands except per share amounts).

| For the Period Ended                  | Distributions |           |
|---------------------------------------|---------------|-----------|
|                                       | Per Share     | Amount    |
| <b>2016</b>                           |               |           |
| Three months ended December 31, 2016  | \$ 0.18       | \$ 12,767 |
| Three months ended September 30, 2016 | \$ 0.17       | \$ 12,307 |
| Three months ended June 30, 2016      | \$ 0.18       | \$ 11,650 |
| Three months ended March 31, 2016     | \$ 0.17       | \$ 11,037 |
| <b>2015</b>                           |               |           |
| Three months ended December 31, 2015  | \$ 0.18       | \$ 10,564 |
| Three months ended September 30, 2015 | \$ 0.17       | \$ 9,373  |
| Three months ended June 30, 2015      | \$ 0.18       | \$ 7,998  |
| Three months ended March 31, 2015     | \$ 0.17       | \$ 6,260  |
| <b>2014</b>                           |               |           |
| Three months ended December 31, 2014  | \$ 0.18       | \$ 4,658  |
| Three months ended September 30, 2014 | \$ 0.17       | \$ 3,234  |
| Three months ended June 30, 2014      | \$ 0.18       | \$ 2,049  |
| Three months ended March 31, 2014     | \$ 0.17       | \$ 1,276  |

On December 21, 2016, with the authorization of the Company's board of directors, the Company declared distributions to its stockholders for the period of January 2017 through March 2017. These distributions have been, or will be, calculated based on stockholders of record each day from January 1, 2017 through March 31, 2017 in an amount equal to \$0.00191781 per share, per day. Distributions are paid on the first business day following the completion of each month to which they relate.

The Company has adopted an “opt in” distribution reinvestment plan for its stockholders. As a result, if the Company makes a distribution, its stockholders will receive distributions in cash unless they specifically “opt in” to the distribution reinvestment plan so as to have their cash distributions reinvested in additional shares of the Company’s common stock.

The following table reflects the sources of the cash distributions that the Company declared and, in some instances, paid on its common stock during the years ended December 31, 2016, 2015 and 2014.

| Source of Distribution   | Year Ended<br>December 31, 2016 |               | Year Ended<br>December 31, 2015 |               | Year Ended<br>December 31, 2014 |               |
|--|---------------------------------|---------------|---------------------------------|---------------|---------------------------------|---------------|
|  | Distribution<br>Amount          | Percentage    | Distribution<br>Amount          | Percentage    | Distribution<br>Amount          | Percentage    |
| Net realized income from operations (before waiver of base management and incentive fees and expense support payment from Adviser) | \$ 26,689                       | 55.9%         | \$ 28,375                       | 83.0%         | \$ 8,615                        | 77.0%         |
| Waiver of base management and incentive fees   | 1,689                           | 3.5%          | 2,601                           | 7.6%          | 2,274                           | 20.0%         |
| Expense support payment from Adviser   | —                               | —%            | —                               | —%            | 328                             | 3.0%          |
| Prior period net investment income in excess of prior period distributions declared  | —                               | —%            | —                               | —%            | —                               | —%            |
| Distributions in excess of net investment income <sup>(1)</sup>  | 19,383                          | 40.6%         | 3,219                           | 9.4%          | —                               | —%            |
| Total  | <u>\$ 47,761</u>                | <u>100.0%</u> | <u>\$ 34,195</u>                | <u>100.0%</u> | <u>\$ 11,217</u>                | <u>100.0%</u> |

(1) Includes adjustments made to GAAP basis net investment income to arrive at taxable income available for distributions. See Note 8 for the sources of the Company’s cash distributions on a tax basis.

The Company may fund its cash distributions from all sources of funds legally available, including stock offering proceeds, borrowings, net investment income from operations, capital gains proceeds from the sale of assets, non-capital gains proceeds from the sale of assets, dividends or other distributions paid to us on account of preferred and common equity investments in portfolio companies, and fee and expense waivers from its Advisers. The Company has not established limits on the amount of funds that the Company may use from legally available sources to make distributions. The Company expects that for the foreseeable future, a portion of the distributions may be paid from sources other than net realized income from operations, which may include stock offering proceeds, borrowings, and fee and expense waivers from its Advisers. See Note 10 — *Related Party Transactions and Arrangements — Advisory Agreements and Conditional Fee Waiver*.

The Company’s distributions may exceed its earnings and, as a result, a portion of the distributions it makes may represent a return of capital for U.S. federal income tax purposes. The timing and amount of any future distributions to stockholders are subject to applicable legal restrictions and the sole discretion of the Company’s board of directors.

## Note 8 – Taxable Income

The Company has elected to be treated for U.S. federal income tax purposes as a RIC. As a RIC, the Company generally will not incur corporate-level U.S. federal income taxes on net ordinary income or capital gains that the Company timely distributes each taxable year as dividends to its stockholders. To qualify as a RIC in any taxable year, the Company must, among other things, satisfy certain source-of-income and asset diversification requirements. In addition, the Company must satisfy the Annual Distribution Requirement. As a part of maintaining its RIC status, undistributed taxable income (subject to a 4% excise tax) pertaining to a given taxable year may be distributed up to 12 months subsequent to the end of that taxable year, provided such distributions are declared prior to the earlier of eight-and-one-half months after the close of that taxable year or the filing of the federal income tax return for such prior taxable year. In order to avoid the imposition of the 4% excise tax, the Company needs to satisfy the Excise Tax Avoidance Requirement. For the taxable year ended December 31, 2014, no portion of the undistributed taxable income was subject to this 4% nondeductible U.S. federal excise tax. For the taxable year ended December 31, 2015, the Company distributed \$3.8 million, or \$0.0615 per share, of its taxable income in 2016, prior to the filing of its federal income tax return for the 2015 taxable year. As a result, the Company incurred a \$119,000 excise tax for the 2015 taxable year. In 2016, the Company distributed \$7.3 million, or \$0.099478 per share, of our taxable income in 2017, prior to the filing of our federal income tax return for our 2016 taxable year. As a result, we were subject to a 4% nondeductible federal excise tax liability of approximately \$246,000.

The Company accounts for income taxes in conformity with ASC Topic 740 - *Income Taxes*, which provides guidelines for how uncertain tax positions should be recognized, measured, presented and disclosed in financial statements. ASC Topic 740 requires the evaluation of tax positions taken in the course of preparing the Company's tax returns to determine whether the tax positions are "more-likely-than-not" to be sustained by the applicable tax authority. Tax benefits of positions not deemed to meet the more-likely-than-not threshold would be recorded as a tax expense in the current year. It is the Company's policy to recognize accrued interest and penalties related to uncertain tax benefits, if any, in income tax expense. There were no material uncertain income tax positions through December 31, 2016. The 2013 through 2015 tax years remain subject to examination by U.S. federal and most state tax authorities.

The Company has formed wholly owned subsidiaries, HMS Equity Holding and HMS Equity Holding II, which have elected to be taxable entities. HMS Equity Holding and HMS Equity Holding II primarily hold equity investments in portfolio companies which are treated as "pass through" entities for tax purposes. HMS Equity Holding and HMS Equity Holding II are consolidated for financial reporting purposes, and the portfolio investments held by each entity are included in the consolidated financial statements as portfolio investments recorded at fair value. HMS Equity Holding and HMS Equity Holding II are not consolidated with the Company for income tax purposes and may generate income tax expense, or benefit, and the related tax assets and liabilities, as a result of its ownership of certain portfolio investments. This income tax expense, or benefit, if any, and the related tax assets and liabilities, are reflected in the Company's consolidated financial statements.

Listed below is a reconciliation of "Net increase (decrease) in net assets resulting from operations" to taxable income and to total distributions declared to common stockholders for the years ended December 31, 2016, 2015 and 2014 (dollars in thousands).

|  | Year Ended<br>December 31,<br>2016 | Year Ended<br>December 31,<br>2015 | Year Ended<br>December 31,<br>2014 |
|--|------------------------------------|------------------------------------|------------------------------------|
| Net increase (decrease) in net assets resulting from operations  | \$ 66,584                          | \$ (6,980)                         | \$ (2,997)                         |
| Net change in unrealized (appreciation) depreciation   | (38,206)                           | 37,956                             | 14,214                             |
| Income tax (benefit) provision   | 336                                | 127                                | (3)                                |
| Pre-tax book (income) loss not consolidated for tax purposes   | 21,353                             | 5,862                              | 50                                 |
| Book income and tax income differences, including debt origination, structuring fees, dividends, realized gains and changes in estimates | 1,093                              | 1,024                              | (10)                               |
| Estimated taxable income <sup>(1)</sup>  | 51,160                             | 37,989                             | 11,254                             |
| Taxable income earned in prior year and carried forward for distribution in current year   | 3,839                              | 45                                 | 8                                  |
| Taxable income earned prior to period end and carried forward for distribution next period   | (11,592)                           | (7,556)                            | (1,805)                            |
| Dividend accrued as of period end and paid-in the following period   | 4,354                              | 3,717                              | 1,760                              |
| Taxable income earned to be carried forward  | \$ (7,238)                         | \$ (3,839)                         | \$ (45)                            |
| Total distributions accrued or paid to common stockholders   | \$ 47,761                          | \$ 34,195                          | \$ 11,217                          |

(1) The Company's taxable income for each period is an estimate and will not be finally determined until the Company files its tax return for each year. Therefore, the final taxable income, and the taxable income earned in each period and carried forward for distribution in the following period, may be different than this estimate.

The income tax expense, or benefit, and the related tax assets and liabilities generated by HMS Equity Holding and HMS Equity Holding II, if any, are reflected in the Company's Consolidated Statement of Operations. For the years ended December 31, 2016, 2015 and 2014, the Company recognized a net income tax (benefit) provision of \$336,000, \$127,000 and \$(3,000), respectively, which was comprised of (i) deferred taxes of \$(5.1) million, \$(4.4) million and \$0, respectively, offset by a valuation allowance of \$5.1 million, \$4.4 million and \$0, respectively, and (ii) other taxes of \$336,000, \$127,000 and \$(3,000), respectively. For the years ended December 31, 2016, 2015 and 2014, the other taxes included \$256,000, \$108,000 and \$1,000, respectively, related to an accrual for excise tax on the Company's estimated spillover taxable income and \$80,000, \$19,000 and \$(4,000), respectively, related to accruals for state and other taxes.

As of December 31, 2016, the cost of investments for federal income tax purposes was \$1.0 billion, with such investments having a gross unrealized appreciation of \$20.3 million and gross unrealized depreciation of \$33.5 million.

The net deferred tax asset at both December 31, 2016 and December 31, 2015 was \$0, of which \$7.9 million and \$4.8 million, respectively, related to current year net loss on portfolio investments and unrealized appreciation/depreciation held by HMS Equity

Holding and HMS Equity Holding II, and \$1.8 million and \$187,000, respectively, related to net operating loss carryforwards from historical realized losses on portfolio investments held by HMS Equity Holding and HMS Equity Holding II, and \$878,000 and \$0, respectively, related to net capital loss carryforward from historical realized losses on portfolio investments held by HMS Equity Holding offset by \$(1.1) million and \$(599,000), respectively, related to basis differences of portfolio investments held by HMS Equity Holding and HMS Equity Holding II which are “pass through” entities for tax purposes, and \$(9.5) million and \$(4.4) million, respectively, related to a valuation allowance. Based on HMS Equity Holding’s and HMS Equity Holding II’s short operating history, management believes it is more likely than not that there will be inadequate profits in HMS Equity Holding and HMS Equity Holding II against which the deferred tax assets can be offset. Accordingly, the Company recorded a Valuation Allowance against such deferred tax asset.

The following table sets forth the significant components of net deferred tax assets and liabilities as of December 31, 2016, 2015 and 2014 (amounts in thousands):

|  | Year Ended<br>December 31, 2016 | Year Ended<br>December 31, 2015 | Year Ended<br>December 31, 2014 |
|--|---------------------------------|---------------------------------|---------------------------------|
| <b>Deferred tax assets:</b>                          |                                 |                                 |                                 |
| Net operating loss carryforwards                     | \$ 2,258                        | \$ 2,869                        | \$ —                            |
| Capital loss carryforwards                           | 8,366                           |                                 |                                 |
| Net basis differences in portfolio investments       | —                               | —                               | —                               |
| Net unrealized depreciation of portfolio investments | 20                              | 2,143                           | —                               |
| Total deferred tax assets                            | 10,644                          | 5,012                           | —                               |
| <b>Deferred tax liabilities:</b>                     |                                 |                                 |                                 |
| Net basis differences in portfolio investments       | (1,119)                         | (599)                           | —                               |
| Net unrealized appreciation of portfolio investments | —                               | —                               | —                               |
| Other  | —                               | —                               | —                               |
| Total deferred tax liabilities                       | (1,119)                         | (599)                           | —                               |
| Valuation allowance                                  | (9,525)                         | (4,413)                         | —                               |
| Total net deferred tax assets (liabilities)          | \$ —                            | \$ —                            | \$ —                            |

For federal income tax purposes, the net operating loss carryforwards expire in various taxable years from 2034 through 2035 and the net capital loss carryforwards expire in taxable years 2020 and 2021. The timing and manner in which HMS Equity Holding will utilize any net loss carryforwards in such taxable years, or in total, may be limited in the future under the provisions of the Code.

The determination of the tax attributes of the Company’s distributions is made annually at the end of the Company’s taxable year based upon the Company’s taxable income for the full taxable year and distributions paid for the full taxable year. The actual tax characteristics of distributions to stockholders will be reported to stockholders subject to information reporting shortly after the close of each calendar year on Form 1099-DIV.

For the years ended December 31, 2016, 2015 and 2014, respectively, the tax characteristics of distributions paid to shareholders were as follows. No portion of the distributions paid during the years ended December 31, 2016, 2015 and 2014 represented a return of capital.

| Tax Characteristics of Distributions | Year Ended December 31, |                |                  |                |                  |                |
|--------------------------------------|-------------------------|----------------|------------------|----------------|------------------|----------------|
|                                      | 2016                    |                | 2015             |                | 2014             |                |
| Ordinary Income                      | \$ 44,848               | 93.90%         | \$ 34,085        | 99.68%         | \$ 11,162        | 99.51%         |
| Capital Gain Distributions           | 2,913                   | 6.10%          | 110              | 0.32%          | 55               | 0.49%          |
| <b>Total Distributions</b>           | <b>\$ 47,761</b>        | <b>100.00%</b> | <b>\$ 34,195</b> | <b>100.00%</b> | <b>\$ 11,217</b> | <b>100.00%</b> |

Dividends from net investment income and distributions from net realized capital gains are determined in accordance with U.S. federal tax regulations, which may differ from amounts determined in accordance with GAAP and those differences could be material. These book-to-tax differences are either temporary or permanent in nature. Reclassifications due to permanent book-tax differences, such as the nondeductible excise tax, have no impact on net assets.



## Note 9 – Supplemental Cash Flow Disclosures

Listed below are the supplemental cash flow disclosures for the years ended December 31, 2016, 2015 and 2014 (dollars in thousands):

| Supplemental Disclosure of Cash Flow Information            | Year Ended<br>December 31, 2016 | Year Ended<br>December 31, 2015 | Year Ended<br>December 31, 2014 |
|---|---------------------------------|---------------------------------|---------------------------------|
| Interest Paid   | \$ 13,560                       | \$ 9,877                        | \$ 2,795                        |
| Taxes Paid  | \$ 287                          | \$ 81                           | \$ 1                            |
| <b>Supplemental Disclosure of Non-Cash Flow Information</b> |                                 |                                 |                                 |
| Stockholder distributions declared and unpaid               | \$ 4,354                        | \$ 3,717                        | \$ 1,760                        |
| Stockholder distributions reinvested                        | \$ 24,769                       | \$ 16,939                       | \$ 4,630                        |
| Change in unpaid deferred offering costs                    | \$ 1,129                        | \$ 1,281                        | \$ 1,302                        |
| Unpaid deferred financing costs                             | \$ 4                            | \$ 70                           | \$ 10                           |
| Unpaid sales commissions and dealer manager fees            | \$ 86                           | \$ —                            | \$ —                            |

## Note 10 — Related Party Transactions and Arrangements

### *Advisory Agreements and Conditional Fee Waiver*

As described in Note 1 — *Principal Business and Organization*, the business of the Company is managed by the Adviser (an affiliate of Hines), pursuant to the Investment Advisory Agreement. This agreement states that the Adviser will oversee the management of the Company's activities and is responsible for making investment decisions with respect to, and providing day-to-day management and administration of, the Company's investment portfolio. Additionally, the Company and the Adviser have engaged the Sub-Adviser pursuant to the Sub-Advisory Agreement to identify, evaluate, negotiate and structure the Company's prospective investments, make investment and portfolio management recommendations for approval by the Adviser, monitor the Company's investment portfolio and provide certain ongoing administrative services to the Adviser in exchange for which the Adviser will pay the Sub-Adviser fifty percent (50%) of the base management fee and incentive fees described below as compensation for its services.

Pursuant to the Investment Advisory Agreement, the Company pays the Adviser a base management fee and incentive fees as compensation for the services described above. The base management fee is calculated at an annual rate of 2% of the Company's average gross assets. The term "gross assets" means total assets of the Company as disclosed on the Company's balance sheet. "Average gross assets" are calculated based on the Company's gross assets at the end of the two most recently completed calendar quarters. The base management fee is payable quarterly in arrears. The base management fee is expensed as incurred.

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

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

The second part of the incentive fee, referred to as the incentive fee on capital gains, is an incentive fee on realized capital gains earned from the portfolio of the Company and is determined and payable in arrears as of the end of each calendar year (or upon



termination of the Investment Advisory Agreement). This fee equals 20.0% of the Company's incentive fee capital gains, which equals the Company's realized capital gains on a cumulative basis from inception, calculated as of the end of each calendar year, computed net of all realized capital losses and unrealized capital depreciation on a cumulative basis, less the aggregate amount of any previously paid capital gain incentive fees. At the end of each reporting period, the Company estimates the incentive fee on capital gains and accrues the fee based on a hypothetical liquidation of its portfolio. Therefore the accrual includes both net realized gains and net unrealized gains (the net unrealized difference between the fair value and the par value of its portfolio), if any. The incentive fee accrued pertaining to the unrealized gain is neither earned nor payable to the Advisers until such time it is realized.

The Company and the Adviser have entered into two expense support and conditional reimbursement agreements (as amended from time to time, the "2013 and 2014 Expense Reimbursement Agreements"), pursuant to which the Adviser could pay the Company up to 100% of its operating expenses through December 31, 2014 (the "Expense Support Payment") in order to achieve a reasonable level of expenses relative to its investment income (the "Operating Expense Objective"). The Company's board of directors, in its sole discretion, may approve the repayment of unreimbursed Expense Support Payments upon a determination by the board of directors that the Company has achieved the Operating Expense Objective in any quarter following receipt by the Company of an Expense Support Payment. The Company may reimburse any unreimbursed Expense Support Payments for up to three years from the date each respective Expense Support Payment was determined. Any Expense Support Payments that remain unreimbursed three years after such payment will be permanently waived.

The Company and the Advisers entered into a conditional fee waiver agreement (as amended from time to time, the "Conditional Fee Waiver Agreement"), pursuant to which the Advisers could waive certain fees through December 31, 2015 upon the occurrence of any event that, in the Advisers' sole discretion, causes such waivers to be deemed necessary. The previously waived fees are potentially subject to repayment by the Company, if at all, within a period not to exceed three years from the date of each respective fee waiver.

The Company and the Advisers entered into three conditional income incentive fee waiver agreements (the "2016 Conditional Income Incentive Fee Waiver Agreements") on May 9, 2016, October 7, 2016 and December 13, 2016, respectively, pursuant to which, for a period from January 1, 2016 to December 31, 2016, the Advisers could waive the "subordinated incentive fee on income," as such term is defined in the Investment Advisory Agreement, upon the occurrence of any event that, in the Advisers' sole discretion, causes such waiver to be deemed necessary. The 2016 Conditional Income Incentive Fee Waiver Agreements may require the Company to repay the Advisers for previously waived reimbursement of Expense Support Payments or waived base management fees or incentive fees under certain circumstances.

The previously waived fees are potentially subject to repayment by the Company, if at all, within a period not to exceed three years from the date of each respective fee waiver. Thus, in any quarter where a surplus exists, that surplus will be available, subject to approval of the board of directors, to reimburse waived fees and Expense Support Payments as follows:

1. First, to reimburse Expense Support Payments, beginning with the earliest year eligible for reimbursement; and
2. Second, to reimburse all waived fees, beginning with the earliest year eligible for reimbursement.

Reimbursement of previously waived fees will only be permitted with the approval of the board of directors and if the operating expense ratio is equal to or less than the operating expense ratio at the time the corresponding fees were waived and if the annualized rate of regular cash distributions to stockholders is equal to or greater than the annualized rate of the regular cash distributions at the time the corresponding fees were waived.

For the years ended December 31, 2016, 2015, and 2014, the Company incurred base management fees of approximately \$19.2 million, \$15.5 million and \$5.6 million, respectively. The Advisers did not waive base management fees in the years ended December 31, 2016 and 2015 and waived \$1.8 million of base management fees in the year ended December 31, 2014. Accordingly, net of fee waivers, the Company paid base management fees of \$19.2 million for the year ended December 31, 2016, \$15.5 million for the year ended December 31, 2015 and \$3.8 million for the year ended December 31, 2014. For the years ended December 31, 2016, 2015 and 2014, the Company incurred no capital gains incentive fees, and incurred subordinated incentive fees on income of \$1.7 million, \$2.6 million and \$451,000, respectively. For the years ended December 31, 2016, 2015 and 2014, the Advisers waived subordinated incentive fees on income of \$1.7 million, \$2.6 million and \$451,000, respectively.

During the years ended December 31, 2016, 2015 and 2014, the Company did not record an accrual for any previously waived fees. Any reimbursement of previously waived fees to the Advisers will not be accrued until the reimbursement of the waived fees become probable and estimable, which will be upon approval of the Company's board of directors. To date, none of the previously waived fees has been approved by the board of directors for reimbursement.

The table below presents the fees waived by the Advisers and the timing of potential reimbursement of waived fees (dollars in thousands). Previously waived fees will only be reimbursed with the approval of the Company's board of directors and if the "Operating Expense Ratio" (as described in footnote 3 to the table below) is equal to or less than the Company's operating expense ratio at the time the corresponding fees were waived and if the annualized rate of the Company's regular cash distributions to stockholders is equal to or greater than the annualized rate of the Company's regular cash distributions at the time the corresponding fees were waived.

| Quarter Ended | Management Fee <sup>(1)</sup> |                                  | Subordinated Incentive Fee <sup>(1)</sup> |                                  | Capital Gain Incentive Fee <sup>(1)</sup> |                                  | Expense Support <sup>(1)</sup> |                                  | Operating Expense Ratio <sup>(3)</sup> | Annualized Distribution Rate <sup>(4)</sup> | Eligible to be Repaid Through |
|---------------|-------------------------------|----------------------------------|---|----------------------------------|---|----------------------------------|--------------------------------|----------------------------------|--|---|-------------------------------|
|               | Waivers                       | Repaid to Adviser <sup>(2)</sup> | Waivers                                   | Repaid to Adviser <sup>(2)</sup> | Waivers                                   | Repaid to Adviser <sup>(2)</sup> | Payments                       | Repaid to Adviser <sup>(2)</sup> |  |   |                               |
| 6/30/2012     | \$ 31                         | \$ —                             | \$ 18                                     | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.35%                                  | 7.00%                                       | Expired                       |
| 9/30/2012     | \$ 97                         | \$ —                             | \$ 52                                     | \$ —                             | \$ 3                                      | \$ —                             | \$ —                           | \$ —                             | 1.97%                                  | 7.00%                                       | Expired                       |
| 12/31/2012    | \$ 104                        | \$ —                             | \$ 53                                     | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 2.96%                                  | 7.00%                                       | Expired                       |
| 3/31/2013     | \$ 84                         | \$ —                             | \$ —                                      | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.86%                                  | 7.00%                                       | Expired                       |
| 6/30/2013     | \$ 118                        | \$ —                             | \$ —                                      | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.36%                                  | 7.00%                                       | Expired                       |
| 9/30/2013     | \$ 268                        | \$ —                             | \$ —                                      | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.22%                                  | 7.00%                                       | Expired                       |
| 12/31/2013    | \$ 309                        | \$ —                             | \$ —                                      | \$ —                             | \$ 5                                      | \$ —                             | \$ 153                         | \$ —                             | 0.49%                                  | 7.00%                                       | Expired                       |
| 3/31/2014     | \$ 306                        | \$ —                             | \$ —                                      | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.28%                                  | 7.00%                                       | 3/31/2017                     |
| 6/30/2014     | \$ 548                        | \$ —                             | \$ —                                      | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.28%                                  | 7.00%                                       | 6/30/2017                     |
| 9/30/2014     | \$ 821                        | \$ —                             | \$ —                                      | \$ —                             | \$ —                                      | \$ —                             | \$ 328                         | \$ —                             | 1.23%                                  | 7.00%                                       | 9/30/2017                     |
| 12/31/2014    | \$ 148                        | \$ —                             | \$ 451                                    | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.70%                                  | 7.00%                                       | 12/31/2017                    |
| 3/31/2015     | \$ —                          | \$ —                             | \$ 358                                    | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.78%                                  | 7.18%                                       | 3/31/2018                     |
| 6/30/2015     | \$ —                          | \$ —                             | \$ 930                                    | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.69%                                  | 7.07%                                       | 6/30/2018                     |
| 9/30/2015     | \$ —                          | \$ —                             | \$ 155                                    | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 2.11%                                  | 7.07%                                       | 9/30/2018                     |
| 12/31/2015    | \$ —                          | \$ —                             | \$ 1,159                                  | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 2.27%                                  | 7.78%                                       | 12/31/2018                    |
| 3/31/2016     | \$ —                          | \$ —                             | \$ 493                                    | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.83%                                  | 8.14%                                       | 3/31/2019                     |
| 6/30/2016     | \$ —                          | \$ —                             | \$ —                                      | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.76%                                  | 7.95%                                       | 6/30/2019                     |
| 9/30/2016     | \$ —                          | \$ —                             | \$ —                                      | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.73%                                  | 7.87%                                       | 9/30/2019                     |
| 12/31/2016    | \$ —                          | \$ —                             | \$ 1,196                                  | \$ —                             | \$ —                                      | \$ —                             | \$ —                           | \$ —                             | 1.63%                                  | 7.69%                                       | 12/31/2019                    |

- (1) Fees waived pursuant to the Conditional Fee Waiver Agreement and the 2016 Conditional Income Incentive Fee Waiver Agreements and Expense Support Payments pursuant to the 2013 and 2014 Expense Reimbursement Agreements.
- (2) Subject to the approval of the Company's board of directors, in future periods, previously waived fees may be paid to the Advisers, if the Company's cumulative net increase in net assets resulting from operations exceeds the amount of cumulative distributions paid to stockholders. The previously waived fees are potentially subject to repayment by the Company, if at all, within a period not to exceed three years from the date of each respective fee waiver. To date, none of the previously waived fees and Expense Support Payments have been approved for reimbursement by the Company's board of directors.
- (3) The "Operating Expense Ratio" is calculated on a quarterly basis as a percentage of average net assets and includes all expenses borne by the Company, except for base management and incentive fees and administrative expenses waived by the Advisers and organizational and offering expenses. For the quarter ended December 31, 2013, expenses have been reduced by \$153,000, the amount of the Expense Support Payment received in 2013 from the Adviser. For the quarter ended September 30, 2014, expenses have been reduced by \$328,000, which Expense Support Payment was received from the Adviser on October 30, 2014.
- (4) "Annualized Distribution Rate" equals \$0.00191781 per share, per day. "Annualized Distribution Rate" does not include the special stock dividend paid to stockholders on September 14, 2012 and was based on the Company's offering price per share as of the final day of the quarter.

### Administration

Pursuant to the Investment Advisory Agreement and Sub-Advisory Agreement, the Company is required to pay or reimburse the Advisers for administrative services expenses, which include all costs and expenses related to the Company's day-to-day administration and management not related to advisory services. The Advisers do not earn any profit under their provision of administrative services to the Company. For the years ended December 31, 2016, 2015 and 2014, the Company incurred, and the Advisers waived the reimbursement of, administrative services expenses of approximately \$2.3 million, \$2.0 million and \$1.5 million, respectively. On May 9, 2016 and October 7, 2016, the Company and the Advisers agreed to amendments to the 2014 Expense Reimbursement Agreement, which collectively extended the period for waiver of reimbursement of administrative services expenses accrued pursuant to the Investment Advisory Agreement and the Sub-Advisory Agreement from January 1, 2016 through December 31, 2016. The waiver of the reimbursement of administrative services expenses is not subject to future reimbursement.

The table below presents the administrative services expenses waived by the Advisers (dollars in thousands).

| Quarter Ended | Administrative Services |                   | Operating Expense Ratio <sup>(1)</sup> | Annualized Distribution Rate <sup>(2)</sup> | Eligible to be Repaid Through <sup>(3)</sup> |
|---------------|-------------------------|-------------------|--|---|--|
|               | Waivers                 | Repaid to Adviser |  |   |  |
| 6/30/2012     | \$ 25                   | \$ —              | 1.35%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 9/30/2012     | \$ 129                  | \$ —              | 1.97%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 12/31/2012    | \$ 284                  | \$ —              | 2.96%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 3/31/2013     | \$ 233                  | \$ —              | 1.86%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 6/30/2013     | \$ 222                  | \$ —              | 1.36%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 9/30/2013     | \$ 234                  | \$ —              | 1.22%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 12/31/2013    | \$ 329                  | \$ —              | 0.49%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 3/31/2014     | \$ 329                  | \$ —              | 1.28%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 6/30/2014     | \$ 385                  | \$ —              | 1.28%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 9/30/2014     | \$ 371                  | \$ —              | 1.23%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 12/31/2014    | \$ 412                  | \$ —              | 1.70%                                  | 7.00%                                       | Not Eligible to be Repaid                    |
| 3/31/2015     | \$ 437                  | \$ —              | 1.78%                                  | 7.18%                                       | Not Eligible to be Repaid                    |
| 6/30/2015     | \$ 480                  | \$ —              | 1.69%                                  | 7.07%                                       | Not Eligible to be Repaid                    |
| 9/30/2015     | \$ 517                  | \$ —              | 2.11%                                  | 7.07%                                       | Not Eligible to be Repaid                    |
| 12/31/2015    | \$ 603                  | \$ —              | 2.27%                                  | 7.78%                                       | Not Eligible to be Repaid                    |
| 3/31/2016     | \$ 533                  | \$ —              | 1.83%                                  | 8.14%                                       | Not Eligible to be Repaid                    |
| 6/30/2016     | \$ 574                  | \$ —              | 1.76%                                  | 7.95%                                       | Not Eligible to be Repaid                    |
| 9/30/2016     | \$ 529                  | \$ —              | 1.73%                                  | 7.87%                                       | Not Eligible to be Repaid                    |
| 12/31/2016    | \$ 679                  | \$ —              | 1.63%                                  | 7.69%                                       | Not Eligible to be Repaid                    |

- (1) The “Operating Expense Ratio” is calculated on a quarterly basis as a percentage of average net assets and includes all expenses borne by the Company, except for base management and incentive fees and administrative expenses waived by the Advisers and organizational and offering expenses. For the quarter ended December 31, 2013, expenses have been reduced by \$153,000, the amount of the Expense Support Payment received in 2013 from the Adviser. For the quarter ended September 30, 2014, expenses have been reduced by \$328,000, which Expense Support Payment was received from the Adviser on October 30, 2014.
- (2) “Annualized Distribution Rate” equals \$0.00191781 per share, per day. “Annualized Distribution Rate” does not include the special stock dividend paid to stockholders on September 14, 2012 and was based on the Company’s offering price per share as of the last day of the quarter.
- (3) The Advisers have agreed to permanently waive reimbursement by the Company of administrative expenses through December 31, 2016. The administrative expenses are waived on a quarterly basis and are not eligible for future reimbursement from the Company to the Advisers.

As of December 31, 2016 and 2015, the Advisers have incurred approximately \$12.0 million and \$10.1 million, respectively, of offering costs on the Company’s behalf. As of December 31, 2016 and 2015, approximately \$10.6 million and \$9.0 million, respectively, of offering costs have been reimbursed to the Advisers. The Company expects to reimburse the Advisers for the balance of such costs incurred on its behalf on a monthly basis up to a maximum aggregate amount of 1.5% of the gross stock offering proceeds.

The table below outlines fees incurred and expense reimbursements payable to Hines, Main Street and their affiliates for the years ended December 31, 2016, 2015 and 2014 and amounts unpaid as of December 31, 2016 and 2015 (dollars in thousands).

| Type and Recipient  | Incurred                           |                                    |                                    | Unpaid as of         |                      |
|---|------------------------------------|------------------------------------|------------------------------------|----------------------|----------------------|
|   | Year Ended<br>December<br>31, 2016 | Year Ended<br>December<br>31, 2015 | Year Ended<br>December<br>31, 2014 | December<br>31, 2016 | December<br>31, 2015 |
| Incentive Fees on Income <sup>(1)</sup> - the Adviser, Sub-Adviser    | \$ —                               | \$ —                               | \$ —                               | \$ —                 | \$ —                 |
| Capital Gains Incentive Fee <sup>(1)</sup> - the Adviser, Sub-Adviser | —                                  | —                                  | —                                  | —                    | —                    |
| Offering Costs - the Adviser, Sub-Adviser                             | 1,581                              | 3,309                              | 2,495                              | (23)                 | 1,107                |
| Expense Support from Adviser  | —                                  | —                                  | (328)                              | —                    | —                    |
| Other <sup>(2)</sup> - the Adviser                                    | 458                                | 463                                | 402                                | 121                  | 95                   |
| Selling Commissions - Dealer Manager                                  | 4,772                              | 17,489                             | 15,538                             | 92                   | —                    |
| Dealer Manager Fee - Dealer Manager                                   | 2,348                              | 8,210                              | 7,437                              | (6)                  | —                    |
| <b>Due to Affiliates</b>  |                                    |                                    |                                    | <u>\$ 184</u>        | <u>\$ 1,202</u>      |
| Base Management Fees <sup>(1)</sup> - the Adviser, Sub-Adviser        | \$ 19,151                          | \$ 15,541                          | \$ 3,755                           | \$ 5,054             | \$ 4,521             |

(1) Net of amounts waived by the Advisers.

(2) Includes amounts the Adviser paid on behalf of the Company such as general and administrative services expenses.

### Note 11 – Share Repurchase Plan

The Company conducts quarterly tender offers pursuant to its share repurchase program. Under the terms of the plan, the Company will offer to purchase shares at the estimated NAV per share, as determined within 48 hours prior to the repurchase date. The Company currently limits the number of shares to be repurchased (i) during any calendar year to the proceeds it receives from the issuance of shares of its common stock under its distribution reinvestment plan during the trailing four quarters and (ii) in any calendar quarter to 2.5% of the weighted average number of shares of common stock outstanding during the trailing four quarters. At the discretion of the Company's board of directors, the Company may also use cash on hand, cash available from borrowings and cash from the sale of investments as of the end of the applicable period to repurchase shares. The Company's board of directors may amend, suspend or terminate the share repurchase program upon 30 days' notice. The Company's first repurchase date was October 1, 2013. Since inception of our share repurchase program, the Company funded the repurchase of \$14.0 million in shares. For the years ended December 31, 2016 and 2015, the Company funded approximately \$10.9 million and \$3.0 million, respectively, for shares tendered for repurchase under the plan approved by the board of directors. Since inception of the share repurchase program, the Company has funded all redemption requests validly tendered and not withdrawn.

Repurchases of our common stock pursuant to our tender offer are as follows:

| For the Three Months<br>Ended | Repurchase Date            | Shares<br>Repurchased | Percentage of Shares<br>Tendered that were<br>Repurchased | Repurchase<br>Price<br>per Share | Aggregate<br>Consideration for<br>Repurchased Shares |
|-------------------------------|----------------------------|-----------------------|---|----------------------------------|--|
| September 30, 2013            | —                          | —                     | 100%  | \$ —                             | \$ —   |
| December 31, 2013             | 12/31/2013                 | 395                   | 100%  | 8.89                             | 3,512  |
| March 31, 2014                | 3/31/2014                  | 1,667                 | 100%  | 8.85                             | 14,753   |
| June 30, 2014                 | 6/30/2014                  | 9,763                 | 100%  | 8.87                             | 86,598   |
| September 30, 2014            | 9/30/2014                  | 6,093                 | 100%  | 8.82                             | 53,740   |
| December 31, 2014             | 12/17/2014                 | 340                   | 100%  | 8.51                             | 2,893  |
| March 31, 2015                | 3/25/2015                  | 33,842                | 100%  | 8.54                             | 289,011  |
| June 30, 2015                 | 6/24/2015                  | 52,799                | 100%  | 8.71                             | 459,879  |
| September 30, 2015            | 9/23/2015                  | 82,165                | 100%  | 8.48                             | 696,759  |
| December 31, 2015             | 12/23/2015                 | 191,534               | 100%  | 7.88                             | 1,509,288  |
| March 31, 2016                | 3/30/2016 and<br>3/31/2016 | 200,508               | 100%  | 7.62                             | 1,527,873  |
| June 30, 2016                 | 6/23/2016                  | 639,880               | 100%  | 7.81                             | 4,997,465  |
| September 30, 2016            | 9/22/2016                  | 239,605               | 100%  | 7.92                             | 1,897,674  |
| December 31, 2016             | 12/22/2016                 | 306,426               | 100%  | 8.08                             | 2,475,925  |
|                               |                            | <u>1,765,017</u>      |   |                                  | <u>\$ 14,015,370</u>                                 |

## Note 12 – Commitments and Contingencies

At December 31, 2016, the Company had a total of approximately \$42.7 million in outstanding commitments comprised of (i) 22 commitments to fund revolving loans that had not been fully drawn or term loans that had not been funded and (ii) three capital commitments that had not been fully called. The Company recognized unrealized depreciation of \$266,000 on the outstanding unfunded loan commitments and unrealized appreciation of \$14,000 on the outstanding unfunded capital commitments during the year ended December 31, 2016. At December 31, 2015, the Company had a total of approximately \$34.1 million in outstanding commitments comprised of (i) 14 commitments to fund revolving loans that had not been fully drawn or term loans that had not been funded and (ii) three capital commitment that had not been fully called. The Company recognized unrealized depreciation of \$79,000 on the outstanding unfunded loan commitments and unrealized depreciation of \$14,000 on the outstanding unfunded capital commitments during the year ended December 31, 2015.

|                                       |    | Commitments and Contingencies<br>(dollars in thousands) |                   |
|---------------------------------------|----|---|-------------------|
|                                       |    | December 31, 2016                                       | December 31, 2015 |
| Unfunded Loan Commitments             |    |   |                   |
| AccuMed Corp.                         | \$ | —   | \$ 875            |
| Apex Linen Services, Inc.             |    | 397   | 1,003             |
| Arcus Hunting, LLC                    |    | 2,136   | 1,196             |
| BarFly Ventures, LLC                  |    | 881   | 1,531             |
| Buca C, LLC                           |    | 1,548   | 1,780             |
| CapFusion Holding, LLC                |    | 394   | —                 |
| CDHA Management, LLC                  |    | 3,259   | —                 |
| Datacom, LLC                          |    | 1,302   | 1,500             |
| Gamber-Johnson                        |    | 300   | —                 |
| Guerdon Modular Holdings, Inc.        |    | 400   | 400               |
| Hawk Ridge Systems, LLC               |    | 400   | —                 |
| Hojeij Branded Foods, Inc.            |    | 2,000   | 2,143             |
| HW Temps LLC                          |    | 50  | 200               |
| Jackmont Hospitality, Inc.            |    | 1,200   | 1,333             |
| LaMi Products, LLC                    |    | 1,729   | 1,521             |
| Minute Key, Inc.                      |    | 197   | 500               |
| Mystic Logistics, Inc.                |    | 194   | 200               |
| Pardus Oil & Gas, LLC                 |    | 357   | —                 |
| Permian Holdco 2                      |    | 290   | —                 |
| PPC/Shift, LLC                        |    | 500   | —                 |
| Strike, LLC                           |    | 2,475   | —                 |
| Unirush, LLC                          |    | 980   | —                 |
| Volusion, LLC                         |    | 2,955   | 3,000             |
| Unfunded Capital Commitments          |    |   |                   |
| Brightwood Capital Fund III, LP       |    | 1,000   | 1,250             |
| Brightwood Capital Fund IV, LP        |    | 10,000  | —                 |
| EIG Traverse Co-Investment, LP        |    | —   | 5,245             |
| Freeport First Lien Loan Fund III, LP |    | 7,737   | 10,423            |
| Total                                 | \$ | 42,681  | \$ 34,100         |

## Note 13 – Subsequent Events

From January 1, 2017 through March 3, 2017, the Company has raised approximately \$19.5 million in the Offering including proceeds from the distribution reinvestment plan of approximately \$6.6 million. During this period, the Company funded approximately \$34.2 million in investments and received proceeds from repayments and dispositions of approximately \$94.4 million.

On January 12, 2017 and January 18, 2017, the Company increased its public offering price per share to \$9.15 and \$9.30, respectively, which was effective as of the Company's weekly close on January 12, 2017 and January 19, 2017, respectively.

On February 3, 2017, the Company filed a tender offer statement on Schedule TO with the SEC, to commence an offer by the Company to purchase, as approved by the Company's board of directors, 1,700,749.42 shares of the Company's issued and outstanding common stock, par value \$0.001 per share. The offer is for cash at a purchase price equal to the NAV per share to be determined within 48 hours of the repurchase date.

On February 22, 2017, the Company's board of directors, after determining that it would be in the best interests of the Company and its stockholders to do so, decided to continue the Offering until September 30, 2017 and authorized the closing of the Offering to new investors (the "Closing") to occur on or about such date. The Company's board of directors previously authorized the Closing to occur on or about March 31, 2017, subject to the board of directors' final approval. The board of directors retained its right to provide final approval on the specific terms of the Closing, including its right to accelerate the Closing or to further continue the Company's Offering if the board of directors determines that it is in the best interests of the Company and its stockholders to do so.

On March 6, 2017, the Company, together with HMS Equity Holding, HMS Equity Holding II, EverBank and certain financial institutions as lenders, amended and restated the Capital One Credit Facility to, among other things, (i) extend the maturity date to March 6, 2020, (ii) reduce revolver commitments to \$95.0 million and (iii) assign Capital One's role as administrative agent to EverBank. This description of the amended and restated credit facility does not purport to be complete and is qualified in its entirety by reference to the amended and restated credit facility, filed as Exhibit 10.40 to this Annual Report on Form 10-K and incorporated herein by reference.

## Note 14 – Quarterly Financial Data (UNAUDITED)

The following table presents selected unaudited quarterly financial data for each quarter during the years ended December 31, 2016, 2015 and 2014 (dollars in thousands except per share amounts):

|   | Quarter Ended     |               |                       |                      |
|---|-------------------|---------------|-----------------------|----------------------|
|   | March 31,<br>2016 | June 30, 2016 | September 30,<br>2016 | December 31,<br>2016 |
| Total interest, fee and dividend income   | \$ 21,259         | \$ 21,201     | \$ 22,234             | \$ 24,705            |
| Net investment income   | \$ 12,240         | \$ 12,048     | \$ 12,518             | \$ 14,463            |
| Net realized loss from investments  | \$ (646)          | \$ (9,369)    | \$ (1,949)            | \$ (10,927)          |
| Net unrealized appreciation (depreciation)  | \$ (14,263)       | \$ 15,416     | \$ 11,776             | \$ 25,277            |
| Net increase (decrease) in net assets resulting from operations                               | \$ (2,669)        | \$ 18,095     | \$ 22,345             | \$ 28,813            |
| Net investment income per share – basic and diluted   | \$ 0.19           | \$ 0.18       | \$ 0.18               | \$ 0.20              |
| Net increase (decrease) in net assets resulting from operations per share – basic and diluted | \$ (0.04)         | \$ 0.27       | \$ 0.32               | \$ 0.42              |

|   | Quarter Ended     |               |                       |                      |
|---|-------------------|---------------|-----------------------|----------------------|
|   | March 31,<br>2015 | June 30, 2015 | September 30,<br>2015 | December 31,<br>2015 |
| Total interest, fee and dividend income   | \$ 11,793         | \$ 15,381     | \$ 17,325             | \$ 20,890            |
| Net investment income   | \$ 6,327          | \$ 8,791      | \$ 9,543              | \$ 11,823            |
| Net realized gain (loss) from investments   | \$ 20             | \$ 127        | \$ (17)               | \$ (5,638)           |
| Net unrealized appreciation (depreciation)  | \$ 3,840          | \$ 3,967      | \$ (19,324)           | \$ (26,439)          |
| Net increase (decrease) in net assets resulting from operations                               | \$ 10,187         | \$ 12,885     | \$ (9,798)            | \$ (20,254)          |
| Net investment income per share – basic and diluted   | \$ 0.17           | \$ 0.19       | \$ 0.18               | \$ 0.20              |
| Net increase (decrease) in net assets resulting from operations per share – basic and diluted | \$ 0.28           | \$ 0.28       | \$ (0.18)             | \$ (0.34)            |

|   | Quarter Ended     |               |                       |                      |
|---|-------------------|---------------|-----------------------|----------------------|
|   | March 31,<br>2014 | June 30, 2014 | September 30,<br>2014 | December 31,<br>2014 |
| Total interest, fee and dividend income   | \$ 1,661          | \$ 3,210      | \$ 5,647              | \$ 8,695             |
| Net investment income   | \$ 824            | \$ 1,845      | \$ 3,673              | \$ 4,855             |
| Net realized gain (loss) from investments   | \$ 69             | \$ 82         | \$ 65                 | \$ (196)             |
| Net unrealized appreciation (depreciation)  | \$ 228            | \$ 44         | \$ (1,900)            | \$ (12,586)          |
| Net increase (decrease) in net assets resulting from operations                               | \$ 1,121          | \$ 1,971      | \$ 1,838              | \$ (7,927)           |
| Net investment income per share – basic and diluted   | \$ 0.11           | \$ 0.16       | \$ 0.20               | \$ 0.18              |
| Net increase (decrease) in net assets resulting from operations per share – basic and diluted | \$ 0.15           | \$ 0.17       | \$ 0.10               | \$ (0.30)            |



## **Report of Independent Registered Public Accounting Firm**

Board of Directors and Stockholders  
HMS Income Fund, Inc.

We have audited in accordance with the standards of the Public Company Accounting Oversight Board (United States) the consolidated financial statements of HMS Income Fund, Inc. (a Maryland corporation) and subsidiaries (the “Company”) referred to in our report dated March 7, 2017, which is included in the annual report on Form 10-K. Our audits of the basic consolidated financial statements included the financial statement schedule listed in the index appearing under Item 15(b), which is the responsibility of the Company’s management. In our opinion, this financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ GRANT THORNTON LLP

Houston, Texas  
March 7, 2017

**HMS Income Fund, Inc.**  
**Consolidated Schedule of Investments in and Advances to Affiliates**  
**Year Ended December 31, 2016**  
**(dollars in thousands)**

| Company                                      | Investments <sup>(1)</sup>  | Amount of Interest or Dividends Credited to Income <sup>(2)</sup> | December 31, 2015 Value | Gross Additions <sup>(3)</sup> | Gross Deletions <sup>(4)</sup> | December 31, 2016 Value |
|--|---|---|-------------------------|--------------------------------|--------------------------------|-------------------------|
| <b>Control Investments</b>                   |   |   |                         |                                |                                |                         |
| <b>GRT Rubber Technologies, LLC</b>          | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt       | \$ 742  | \$ 7,806                | \$ 147                         | \$ (1,415)                     | \$ 6,538                |
|  | Member Units (2,896 shares)   | 106   | 7,674                   | 2,330                          | —                              | 10,004                  |
|  | <b>Total Control</b>  | <b>\$ 848</b>   | <b>\$ 15,480</b>        | <b>\$ 2,477</b>                | <b>\$ (1,415)</b>              | <b>\$ 16,542</b>        |
| <b>Affiliate Investments</b>                 |   |   |                         |                                |                                |                         |
| <b>AFG Capital Group, LLC</b>                | 11.00% Secured Debt   | \$ 362  | \$ 3,197                | \$ 114                         | \$ (3,311)                     | \$ —                    |
|  | Member Units (46 shares)  | —   | 505                     | 182                            | —                              | 687                     |
|  | Warrants (10 equivalent shares)   | —   | 123                     | 44                             | —                              | 167                     |
| <b>Clad-Rex Steel, LLC</b>                   | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt       | 13  | —                       | 3,449                          | —                              | 3,449                   |
|  | LIBOR Plus 9.50% (Floor 1.00%), Current Coupon 10.50%, Secured Debt       | —   | —                       | 99                             | —                              | 99                      |
|  | Member Units (179 shares)   | —   | —                       | 1,820                          | —                              | 1,820                   |
|  | 10.00% Secured Debt (Clad-Rex Steel RE Investor, LLC)                     | 1   | —                       | 298                            | —                              | 298                     |
|  | Member Units (Clad-Rex Steel RE Investor, LLC) (200 shares)               | —   | —                       | 53                             | —                              | 53                      |
| <b>EIG Traverse Co-Investment, LP</b>        | LP Interests (EIG Traverse Co-Investment LP) (Fully diluted 22.2%)        | 944   | 4,755                   | 5,273                          | (123)                          | 9,905                   |
| <b>Freeport First Lien Loan Fund III, LP</b> | LP Interests (Freeport First Lien Loan Fund III, LP) (Fully diluted 5.6%) | 402   | 2,077                   | 2,686                          | —                              | 4,763                   |
| <b>Gamber-Johnson Holdings, LLC</b>          | LIBOR Plus 11.00% (Floor 1.00%) Current Coupon 12.00% Secured Debt        | 328   | —                       | 5,964                          | —                              | 5,964                   |
|  | Member Units (2,155 units)  | —   | —                       | 4,730                          | —                              | 4,730                   |
| <b>Guerdon Modular Holdings, Inc.</b>        | 9.00% Current / 4.00% PIK Secured Debt                                    | 390   | —                       | 2,651                          | (9)                            | 2,642                   |
|  | Common Stock (53,008 shares)  | —   | —                       | 303                            | (283)                          | 20                      |
|  | Class B Preferred Stock (101,250 shares)                                  | —   | —                       | 285                            | —                              | 285                     |
| <b>Gulf Publishing Holdings, LLC</b>         | 12.50% Secured Debt   | 219   | —                       | 2,455                          | —                              | 2,455                   |
|  | Member Units (781 shares)   | —   | —                       | 781                            | —                              | 781                     |
| <b>Hawk Ridge Systems, LLC</b>               | 10.00% Secured Debt   | 22  | —                       | 2,451                          | —                              | 2,451                   |
|  | Preferred Member Units (56 shares)  | —   | —                       | 713                            | —                              | 713                     |
|  | Preferred Member Units (HRS Services, ULC) (56 shares)                    | —   | —                       | 38                             | —                              | 38                      |
| <b>HW Temps LLC</b>                          | LIBOR Plus 13.00% (Floor 1.00%), Current Coupon 14.00%, Secured Debt      | 283   | 2,430                   | 211                            | (50)                           | 2,591                   |
|  | Member Units (800 shares)   | 108   | 986                     | 252                            | (253)                          | 985                     |

| Company                         | Investments <sup>(1)</sup>  | Amount of Interest or Dividends Credited to Income <sup>(2)</sup> | December 31, 2015 Value | Gross Additions <sup>(3)</sup> | Gross Deletions <sup>(4)</sup> | December 31, 2016 Value |
|---------------------------------|---|---|-------------------------|--------------------------------|--------------------------------|-------------------------|
| M.H. Corbin LLC                 | 10.00% Secured Debt   | 351   | 3,467                   | 4                              | (172)                          | 3,299                   |
|                                 | Member Units (1,000 shares)   | —   | 1,500                   | —                              | —                              | 1,500                   |
| Mystic Logistics, Inc.          | 12.00% Secured Debt   | 301   | 2,361                   | 4                              | (71)                           | 2,294                   |
|                                 | Common Stock (1,468 shares)   | —   | 1,492                   | 157                            | (204)                          | 1,445                   |
| SoftTouch Medical Holdings, LLC | LIBOR Plus 9.00% (Floor 1.00%), Current Coupon 10.00%, Secured Debt | 143   | 1,402                   | 24                             | (166)                          | 1,260                   |
|                                 | Member Units (785 shares)   | 65  | 1,008                   | 610                            | —                              | 1,618                   |
| <b>Total Affiliate</b>          |   | <b>\$ 3,932</b>   | <b>\$ 25,303</b>        | <b>\$ 35,651</b>               | <b>\$ (4,642)</b>              | <b>\$ 56,312</b>        |

This schedule should be read in conjunction with the Company's Consolidated Financial Statements, including the Consolidated Schedule of Investments and Notes to the Consolidated Financial Statements.

- (1) The principal amount, the ownership detail for equity investments and if the investment is income producing is shown in the Consolidated Schedule of Investments.
- (2) Represents the total amount of interest, fees or dividends credited to income for the portion of the year an investment was included in Control or Affiliate categories, respectively. For investments transferred between Control and Affiliate categories during the year, any income related to the time period it was in the category other than the one shown at year end is included in "Income from investments transferred from Control during the year" or "Income from investments transferred from Affiliate during the year".
- (3) Gross additions include increases in the cost basis of investments resulting from new portfolio investment, follow on investments and accrued PIK interest, and the exchange of one or more existing securities for one or more new securities. Gross Additions also include net increases in unrealized appreciation or net decreases in unrealized depreciation as well as the movement of an existing portfolio company into this category and out of a different category.
- (4) Gross reductions include decreases in the cost basis of investments resulting from principal repayments or sales and the exchange of one or more existing securities for one or more new securities. Gross reductions also include net increases in unrealized depreciation or net decreases in unrealized appreciation as well as the movement of an existing portfolio company out of this category and into a different category.

## **Item 9. *Changes in and Disagreements With Accountants on Accounting and Financial Disclosure***

None.

### **Item 9A. *Controls and Procedures***

#### **Evaluation of Disclosure Controls and Procedures**

In accordance with Exchange Act Rules 13a-15 and 15d-15, we carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2016, to provide reasonable assurance that information required to be disclosed in our reports filed or submitted under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and (ii) accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Notwithstanding the foregoing, a control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that it will detect or uncover our failures to disclose material information otherwise required to be set forth in our periodic reports.

#### **Management's Annual Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Our system of internal control over financial reporting is designed to provide reasonable assurance to our management and board of directors regarding the reliability of financial reporting and the preparation and fair presentation of published financial statements for external purposes in accordance with GAAP. Our internal control over financial reporting includes those policies and procedures that:

- (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets;

- (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and

- (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control, no matter how well designed, over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management's assessment of the effectiveness of our internal control system as of December 31, 2016 was based on the criteria for effective internal control over financial reporting described in the 2013 *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Based on our evaluation under the framework in the 2013 *Internal Control - Integrated Framework* issued by COSO, our management concluded that our system of internal control over financial reporting was effective as of December 31, 2016.

This annual report does not include an attestation report of the Company's independent registered public accounting firm regarding control over financial reporting. Management's report was not subject to attestation by the Company's independent registered public accounting firm pursuant to Section 989G of the Dodd-Frank Act, which exempts non-accelerated filers from the auditor attestation requirement of Section 404(b) of the Sarbanes-Oxley Act.

March 7, 2017

#### **Changes in Internal Control Over Financial Reporting**

During the quarter ended December 31, 2016, there were no changes in our internal control over financial reporting identified in connection with the evaluation required by paragraph (d) of Rule 13a-15 or Rule 15d-15 under the Exchange Act that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**Item 9B. *Other Information***

None.

### **PART III**

Certain information required by Part III has been omitted under General Instruction G(3) to Form 10-K. Only those sections of our definitive Proxy Statement that specifically address the items set forth herein are incorporated by reference.

#### **Item 10. *Directors, Executive Officers and Corporate Governance***

The information required by this Item is incorporated by reference to our definitive Proxy Statement relating to our 2017 Annual Meeting of Stockholders, to be filed with the SEC within 120 days following the end of our fiscal year.

#### **Item 11. *Executive Compensation***

The information required by this Item is incorporated by reference to our definitive Proxy Statement relating to our 2017 Annual Meeting of Stockholders, to be filed with the SEC within 120 days following the end of our fiscal year.

#### **Item 12. *Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters***

The information required by this Item is incorporated by reference to our definitive Proxy Statement relating to our 2017 Annual Meeting of Stockholders, to be filed with the SEC within 120 days following the end of our fiscal year.

#### **Item 13. *Certain Relationships and Related Transactions, and Director Independence***

The information required by this Item is incorporated by reference to our definitive Proxy Statement relating to our 2017 Annual Meeting of Stockholders, to be filed with the SEC within 120 days following the end of our fiscal year.

#### **Item 14. *Principal Accounting Fees and Services***

The information required by this Item is incorporated by reference to our definitive Proxy Statement relating to our 2017 Annual Meeting of Stockholders, to be filed with the SEC within 120 days following the end of our fiscal year.

## PART IV

### Item 15. Exhibits, Financial Statement Schedules

#### a. Consolidated Financial Statements

The following financial statements are set forth in Item 8:

|   |    |
|---|----|
| Report of Independent Registered Public Accounting Firm   | 62 |
| Audited Financial Statements  |    |
| Consolidated Balance Sheets as of December 31, 2016 and 2015  | 63 |
| Consolidated Statements of Operations for the years ended December 31, 2016, 2015 and 2014            | 64 |
| Consolidated Statements of Changes in Net Assets for the years ended December 31, 2016, 2015 and 2014 | 65 |
| Consolidated Statements of Cash Flows for the years ended December 31, 2016, 2015 and 2014            | 66 |
| Consolidated Schedules of Investments as of December 31, 2016 and 2015                                | 67 |
| Notes to the Consolidated Financial Statements  | 83 |

#### b. Consolidated Financial Statement Schedules

Report of Independent Registered Public Accounting Firm

Consolidated Schedule of Investments in and Advances to Affiliates for the Year Ended December 31, 2016

#### c. Exhibits

The following exhibits are filed as part of this Form 10-K or hereby incorporated by reference to exhibits previously filed with the SEC:

- 2.1 Agreement and Plan of Merger (filed as Exhibit (k)(3) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).
- 3.1 Articles of Amendment and Restatement of the Registrant (filed as Exhibit 3.1 to the Registrant's current report on Form 8-K, filed on December 21, 2016 (File No. 814-00939) and incorporated herein by reference).
- 3.2 Amended and Restated Bylaws of the Registrant (filed as Exhibit 3.1 to the Registrant's current report on Form 8-K, filed on September 24, 2015 (File No. 814-00939) and incorporated herein by reference).
- 4.1 Distribution Reinvestment Plan (filed as Exhibit (e) to Pre-Effective Amendment No. 2 to the Registrant's Registration Statement on Form N-2, filed on November 23, 2015 (File No. 333-204659) and incorporated herein by reference).
- 4.2 Form of Subscription Agreement (filed as Appendix A to the Supplement on Form 497 to the Registrant's Registration Statement on Form N-2, filed on October 6, 2016 (File No. 333-204659) and incorporated herein by reference).
- 10.1 Loan and Security Agreement (filed as Exhibit (k)(2) to the Registrant's Registration Statement on Form N-2, filed on December 16, 2011 (File No. 333-178548) and incorporated herein by reference).
- 10.2 Investment Advisory and Administrative Services Agreement by and between the Registrant and HMS Adviser LP (filed as Exhibit (g)(1) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).
- 10.3 Investment Sub-Advisory Agreement by and among the Registrant, HMS Adviser LP, Main Street Capital Partners, LLC and Main Street Capital Corporation (filed as Exhibit (g)(2) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).
- 10.4 Assignment and Assumption of Investment Sub-Advisory Agreement by and among Main Street Capital Partners, LLC, Main Street Capital Corporation and MSC Adviser I, LLC (filed as Exhibit (g)(3) to the Registrant's Post-Effective Amendment No. 6 to the Registration Statement on Form N-2 filed with the SEC on March 17, 2014 (File No. 333-178548) and incorporated herein by reference).
- 10.5 Dealer Manager Agreement by and between the Registrant and Hines Securities, Inc. (filed as Exhibit (h)(1) to Pre-Effective Amendment No. 2 to the Registrant's Registration Statement on Form N-2, filed on November 23, 2015 (File No. 333-204659) and incorporated herein by reference).
- 10.6 Form of Indemnification for Affiliated Directors and Officers (filed as Exhibit (k)(5) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).
- 10.7 Form of Indemnification for Independent Directors (filed as Exhibit (k)(6) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).



- 10.8 Escrow Agreement by and among the Registrant, Hines Securities, Inc. and UMB Bank, N.A. (filed as Exhibit (k)(7) to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2, filed on June 25, 2012 (File No. 333-178548) and incorporated herein by reference).
- 10.9 Amended and Restated Conditional Fee Waiver Agreement, dated as of March 26, 2013, by and among the Registrant, HMS Adviser LP, Main Street Capital Corporation and Main Street Capital Partners, LLC (filed as Exhibit 10.11 to the Registrant's annual report on Form 10-K, filed on March 27, 2013 (File No. 814-00939) and incorporated herein by reference).
- 10.10 First Amendment to Amended and Restated Conditional Fee Waiver Agreement, dated as of May 14, 2013, by and among the Registrant, HMS Adviser LP, Main Street Capital Corporation and Main Street Capital Partners, LLC (filed as Exhibit (k)(8) to Post-Effective Amendment No. 5 to the Registrant's Registration Statement on Form N-2, filed on May 14, 2013 (File No. 333-178548) and incorporated herein by reference).
- 10.11 Second Amendment to Amended and Restated Conditional Fee Waiver Agreement, dated as of June 28, 2013, by and among the Registrant, HMS Adviser LP, Main Street Capital Corporation and Main Street Capital Partners, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on June 28, 2013 (File No. 814-00939) and incorporated herein by reference).
- 10.12 Expense Support and Conditional Reimbursement Agreement by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on November 12, 2013 (File No. 814-00939) and incorporated herein by reference).
- 10.13 Third Amendment to Amended and Restated Conditional Fee Waiver Agreement, dated as of December 30, 2013, by and among the Registrant, HMS Adviser LP, Main Street Capital Corporation and Main Street Capital Partners, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on January 6, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.14 Expense Support and Conditional Reimbursement Agreement by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.2 to the Registrant's current report on Form 8-K, filed on January 6, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.15 Senior Secured Revolving Credit Agreement, dated as of March 11, 2014, by and among the Registrant, Capital One, National Association and the financial institutions party thereto (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed March 14, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.16 Amendment dated March 31, 2014 to Expense Support and Conditional Reimbursement Agreement by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on April 2, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.17 First Amendment to Senior Secured Revolving Credit Agreement, dated as of May 30, 2014, by and among the Registrant, Capital One, National Association, and the financial institutions party thereto (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on June 5, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.18 Loan Financing and Servicing Agreement, dated as of June 2, 2014, by and among HMS Funding I, LLC, the Registrant, the financial institutions party thereto, and Deutsche Bank AG, New York branch (filed as Exhibit 10.2 to the Registrant's current report on Form 8-K, filed on June 5, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.19 Second Amended and Restated Custody Agreement, dated May 29, 2014, by and among the Registrant, HMS Equity Holding, LLC and Amegy Bank National Association (Filed as Exhibit (j)(2) to the Registrant's Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 filed with the SEC on July 17, 2015 (File No. 333-204659) and incorporated herein by reference).
- 10.20 Securities Account Control Agreement, dated June 2, 2014, by and between HMS Funding I LLC, as pledgor, and U.S. Bank National Association, as collateral agent and securities intermediary (Filed as Exhibit (j)(3) to the Registrant's Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 filed with the SEC on July 17, 2015 (File No. 333-204659) and incorporated herein by reference).
- 10.21 Second Amendment to the Expense Support and Conditional Reimbursement Agreement, dated June 30, 2014, by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K filed on June 30, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.22 Amendment No. 1 to the Loan Financing and Servicing Agreement, dated as of June 2, 2014, by and among HMS Funding I, LLC, the Registrant, the financial institutions party thereto, and Deutsche Bank AG, New York branch (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on July 25, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.23 Second Amendment to Senior Secured Revolving Credit Agreement, dated as of September 22, 2014, by and among the Registrant, Capital One, National Association, and the financial institutions party thereto and HMS Equity Holding, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on September 25, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.24 Third Amendment to the Expense Support and Conditional Reimbursement Agreement, dated September 30, 2014, by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on September 30, 2014 (File No. 814-00939) and incorporated herein by reference).

- 10.25 Amendment No. 2 to the Loan Financing and Servicing Agreement, dated as of December 3, 2014, by and among HMS Funding I, LLC, the Registrant, the financial institutions party thereto, and Deutsche Bank AG, New York branch (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on December 8, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.26 Amendment No. 3 to the Loan Financing and Servicing Agreement, dated as of February 4, 2015, by and among HMS Funding I, LLC, the Registrant, the financial institutions party thereto, and Deutsche Bank AG, New York branch (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on February 9, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.27 Fourth Amendment to Amended and Restated Conditional Fee Waiver Agreement, dated April 15, 2015, by and among HMS Income Fund, Inc., HMS Adviser LP, and MSC Adviser I, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on April 21, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.28 Amendment to Expense Support and Conditional Reimbursement Agreement, dated April 15, 2015, by and between HMS Income Fund, Inc. and HMS Adviser LP (filed as Exhibit 10.2 to the Registrant's current report on Form 8-K, filed on April 21, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.29 Fourth Amendment to Expense Support and Conditional Reimbursement Agreement, dated April 15, 2015, by and between HMS Income Fund, Inc. and HMS Adviser LP (filed as Exhibit 10.3 to the Registrant's current report on Form 8-K, filed on April 21, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.30 Amendment No. 4 to the Loan Financing and Servicing Agreement by and among HMS Funding I LLC, as Borrower, HMS Income Fund, Inc., as Equityholder and Servicer, the financial institutions party thereto as lenders, Deutsche Bank AG, New York branch as Administrative Agent and as a lender and U.S. Bank National Association, as Collateral Agent and Collateral Custodian (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on May 8, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.31 Third Amendment to Senior Secured Revolving Credit Agreement, dated as of May 13, 2015, by and among HMS Income Fund, Inc., as borrower, the financial institutions party thereto as lenders, Capital One, National Association, as Lead Arranger, Sole Book Runner and Administrative Agent, and HMS Equity Holding, LLC as Guarantor (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on May 15, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.32 Amended and Restated Loan Financing and Servicing Agreement, dated as of May 18, 2015, by and between HMS Funding I LLC, as Borrower, HMS Income Fund, Inc. as Equityholder and Servicer, the financial institutions party thereto as lenders, Deutsche Bank AG, New York branch, as Administrative Agent and as a lender, and U.S. Bank National Association, as Collateral Agent and Collateral Custodian (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on May 22, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.33 Fourth Amendment to Senior Secured Revolving Credit Agreement, dated as of May 29, 2015, by and among HMS Income Fund, Inc., as borrower, the financial institutions party thereto as lenders, Capital One, National Association, as Lead Arranger, Sole Book Runner and Administrative Agent, and HMS Equity Holding, LLC as Guarantor (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on June 2, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.34 First Amendment to the Amended and Restated Loan Financing and Servicing Agreement, dated as of June 17, 2015, by and among HMS Funding I, LLC, as Borrower, HMS Income Fund, Inc., as Equityholder and Servicer, the financial institutions party thereto as Lenders, U.S. Bank National Association, as Collateral Agent and Deutsche Bank AG, New York Branch, as Administrative Agent (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on June 23, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.35 Second Amendment to the Amended and Restated Loan Financing and Servicing Agreement, dated as of September 23, 2015, by and among HMS Funding I LLC, as Borrower, HMS Income Fund, Inc., as Equityholder and Servicer, the financial institutions party thereto as Lenders, U.S. Bank National Association, as Collateral Agent and Deutsche Bank AG, New York Branch, as Administrative Agent (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on September 24, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.36 Third Amendment to the Amended and Restated Loan Financing and Servicing Agreement, dated as of February 9, 2016, by and among HMS Funding I LLC, as borrower, HMS Income Fund, Inc., as Equityholder and Servicer, the financial institutions party thereto as lenders, Deutsche Bank AG, New York Branch, as administrative agent, and U.S. Bank National Association, as collateral agent (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on February 11, 2016 (File No. 814-00939) and incorporated herein by reference).
- 10.37 Conditional Income Incentive Fee Waiver Agreement, dated as of May 9, 2016, by and among the Registrant, HMS Adviser LP and MSC Adviser I, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on May 13, 2016 (File No. 814-00939) and incorporated herein by reference).
- 10.38 Third Quarter 2016 Conditional Income Incentive Fee Waiver Agreement, dated as of October 7, 2016, by and among the Registrant, HMS Adviser LP and MSC Adviser I, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on October 11, 2016 (File No. 814-00939) and incorporated herein by reference).
- 10.39 Fourth Quarter 2016 Conditional Income Incentive Fee Waiver Agreement, dated as of December 13, 2016, by and among the Registrant, HMS Adviser LP and MSC Adviser I, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on December 14, 2016 (File No. 814-00939) and incorporated herein by reference).

- 10.40 Amended and Restated Senior Secured Revolving Credit Agreement, dated as of March 6, 2017, by and among the Registrant, HMS Equity Holding, LLC, HMS Equity Holding II, Inc., the financial institutions party thereto and EverBank Commercial Finance, Inc. (filed herewith).
- 11.1 Computation of per share earnings (included in the notes to the audited financial statements included in this report).
- 14.1 Code of Ethics of the Registrant (filed as Exhibit (r)(1) to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2 (File No. 333-204659), filed on August 12, 2016 and incorporated herein by reference).
- 14.2 Code of Ethics of HMS Adviser LP (filed as Exhibit (r)(2) to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2 (File No. 333-204659), filed on August 12, 2016 and incorporated herein by reference).
- 14.3 Amended and Restated Code of Ethics of Main Street Capital Corporation and MSC Adviser I, LLC (filed as Exhibit (r)(3) to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2 (File No. 333-204659), filed on August 12, 2016 and incorporated herein by reference).
- 14.4 Code of Ethics of Hines Securities, Inc. (filed as Exhibit (r)(4) to the Registrant's Registration Statement on Form N-2 (File No. 333-204659), filed on June 3, 2015 and incorporated herein by reference).
- 21.1 List of Subsidiaries (filed herewith).
- 31.1 Certification of President and Chief Executive Officer of the Registrant, pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
- 31.2 Certification of Chief Financial Officer of the Registrant, pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
- 32.1 Certification of President and Chief Executive Officer and Chief Financial Officer of the Registrant, pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).

\* \* \* \* \*

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

HMS INCOME FUND, INC.

Date: March 7, 2017

By: /s/ SHERRI W. SCHUGART

Sherri W. Schugart

Chairman, Chief Executive Officer and  
President

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated on the dates indicated.

| Signature   | Title  | Date          |
|---|--|---------------|
| <u>/s/ Sherri W. Schugart</u><br>Sherri W. Schugart     | Chairman, Chief Executive Officer, President and Director<br>(Principal Executive Officer) | March 7, 2017 |
| <u>/s/ Ryan T. Sims</u><br>Ryan T. Sims                 | Chief Financial Officer and Secretary<br>(Principal Financial Officer)                     | March 7, 2017 |
| <u>/s/ David M. Covington</u><br>David M. Covington     | Chief Accounting Officer and Treasurer<br>(Principal Accounting Officer)                   | March 7, 2017 |
| <u>/s/ John O. Niemann, Jr.</u><br>John O. Niemann, Jr. | Director   | March 7, 2017 |
| <u>/s/ Peter Shaper</u><br>Peter Shaper                 | Director   | March 7, 2017 |
| <u>/s/ Gregory Geib</u><br>Gregory Geib                 | Director   | March 7, 2017 |
| <u>/s/ Nicholas T. Meserve</u><br>Nicholas T. Meserve   | Director   | March 7, 2017 |

## EXHIBIT INDEX

| <b><u>Exhibit No.</u></b> | <b><u>Description</u></b>  |
|---------------------------|--|
| 2.1                       | Agreement and Plan of Merger (filed as Exhibit (k)(3) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).  |
| 3.1                       | Articles of Amendment and Restatement of the Registrant (filed as Exhibit 3.1 to the Registrant's current report on Form 8-K, filed on December 21, 2016 (File No. 814-00939) and incorporated herein by reference).   |
| 3.2                       | Amended and Restated Bylaws of the Registrant (filed as Exhibit 3.1 to the Registrant's current report on Form 8-K, filed on September 24, 2015 (File No. 814-00939) and incorporated herein by reference).  |
| 4.1                       | Distribution Reinvestment Plan (filed as Exhibit (e) to Pre-Effective Amendment No. 2 to the Registrant's Registration Statement on Form N-2, filed on November 23, 2015 (File No. 333-204659) and incorporated herein by reference).  |
| 4.2                       | Form of Subscription Agreement (filed as Appendix A to the Supplement on Form 497 to the Registrant's Registration Statement on Form N-2, filed on October 6, 2016 (File No. 333-204659) and incorporated herein by reference).  |
| 10.1                      | Loan and Security Agreement (filed as Exhibit (k)(2) to the Registrant's Registration Statement on Form N-2, filed on December 16, 2011 (File No. 333-178548) and incorporated herein by reference).   |
| 10.2                      | Investment Advisory and Administrative Services Agreement by and between the Registrant and HMS Adviser LP (filed as Exhibit (g)(1) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).  |
| 10.3                      | Investment Sub-Advisory Agreement by and among the Registrant, HMS Adviser LP, Main Street Capital Partners, LLC and Main Street Capital Corporation (filed as Exhibit (g)(2) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).  |
| 10.4                      | Assignment and Assumption of Investment Sub-Advisory Agreement by and among Main Street Capital Partners, LLC, Main Street Capital Corporation and MSC Adviser I, LLC (filed as Exhibit (g)(3) to the Registrant's Post-Effective Amendment No. 6 to the Registration Statement on Form N-2 filed with the SEC on March 17, 2014 (File No. 333-178548) and incorporated herein by reference).                                |
| 10.5                      | Dealer Manager Agreement by and between the Registrant and Hines Securities, Inc. (filed as Exhibit (h)(1) to Pre-Effective Amendment No. 2 to the Registrant's Registration Statement on Form N-2, filed on November 23, 2015 (File No. 333-204659) and incorporated herein by reference).  |
| 10.6                      | Form of Indemnification for Affiliated Directors and Officers (filed as Exhibit (k)(5) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).   |
| 10.7                      | Form of Indemnification for Independent Directors (filed as Exhibit (k)(6) to Pre-Effective Amendment No. 3 to the Registrant's Registration Statement on Form N-2, filed on May 31, 2012 (File No. 333-178548) and incorporated herein by reference).   |
| 10.8                      | Escrow Agreement by and among the Registrant, Hines Securities, Inc. and UMB Bank, N.A. (filed as Exhibit (k)(7) to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2, filed on June 25, 2012 (File No. 333-178548) and incorporated herein by reference).   |
| 10.9                      | Amended and Restated Conditional Fee Waiver Agreement, dated as of March 26, 2013, by and among the Registrant, HMS Adviser LP, Main Street Capital Corporation and Main Street Capital Partners, LLC (filed as Exhibit 10.11 to the Registrant's annual report on Form 10-K, filed on March 27, 2013 (File No. 814-00939) and incorporated herein by reference).  |
| 10.10                     | First Amendment to Amended and Restated Conditional Fee Waiver Agreement, dated as of May 14, 2013, by and among the Registrant, HMS Adviser LP, Main Street Capital Corporation and Main Street Capital Partners, LLC (filed as Exhibit (k)(8) to Post-Effective Amendment No. 5 to the Registrant's Registration Statement on Form N-2, filed on May 14, 2013 (File No. 333-178548) and incorporated herein by reference). |
| 10.11                     | Second Amendment to Amended and Restated Conditional Fee Waiver Agreement, dated as of June 28, 2013, by and among the Registrant, HMS Adviser LP, Main Street Capital Corporation and Main Street Capital Partners, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on June 28, 2013 (File No. 814-00939) and incorporated herein by reference).   |
| 10.12                     | Expense Support and Conditional Reimbursement Agreement by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on November 12, 2013 (File No. 814-00939) and incorporated herein by reference).   |

- 10.13 Third Amendment to Amended and Restated Conditional Fee Waiver Agreement, dated as of December 30, 2013, by and among the Registrant, HMS Adviser LP, Main Street Capital Corporation and Main Street Capital Partners, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on January 6, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.14 Expense Support and Conditional Reimbursement Agreement by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.2 to the Registrant's current report on Form 8-K, filed on January 6, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.15 Senior Secured Revolving Credit Agreement, dated as of March 11, 2014, by and among the Registrant, Capital One, National Association and the financial institutions party thereto (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed March 14, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.16 Amendment dated March 31, 2014 to Expense Support and Conditional Reimbursement Agreement by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on April 2, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.17 First Amendment to Senior Secured Revolving Credit Agreement, dated as of May 30, 2014, by and among the Registrant, Capital One, National Association, and the financial institutions party thereto (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on June 5, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.18 Loan Financing and Servicing Agreement, dated as of June 2, 2014, by and among HMS Funding I, LLC, the Registrant, the financial institutions party thereto, and Deutsche Bank AG, New York branch (filed as Exhibit 10.2 to the Registrant's current report on Form 8-K, filed on June 5, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.19 Second Amended and Restated Custody Agreement, dated May 29, 2014, by and among the Registrant, HMS Equity Holding, LLC and Amegy Bank National Association (Filed as Exhibit (j)(2) to the Registrant's Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 filed with the SEC on July 17, 2015 (File No. 333-204659) and incorporated herein by reference).
- 10.20 Securities Account Control Agreement, dated June 2, 2014, by and between HMS Funding I LLC, as pledgor, and U.S. Bank National Association, as collateral agent and securities intermediary (Filed as Exhibit (j)(3) to the Registrant's Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 filed with the SEC on July 17, 2015 (File No. 333-204659) and incorporated herein by reference).
- 10.21 Second Amendment to the Expense Support and Conditional Reimbursement Agreement, dated June 30, 2014, by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K filed on June 30, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.22 Amendment No. 1 to the Loan Financing and Servicing Agreement, dated as of June 2, 2014, by and among HMS Funding I, LLC, the Registrant, the financial institutions party thereto, and Deutsche Bank AG, New York branch (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on July 25, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.23 Second Amendment to Senior Secured Revolving Credit Agreement, dated as of September 22, 2014, by and among the Registrant, Capital One, National Association, and the financial institutions party thereto and HMS Equity Holding, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on September 25, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.24 Third Amendment to the Expense Support and Conditional Reimbursement Agreement, dated September 30, 2014, by and between the Registrant and HMS Adviser LP (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on September 30, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.25 Amendment No. 2 to the Loan Financing and Servicing Agreement, dated as of December 3, 2014, by and among HMS Funding I, LLC, the Registrant, the financial institutions party thereto, and Deutsche Bank AG, New York branch (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on December 8, 2014 (File No. 814-00939) and incorporated herein by reference).
- 10.26 Amendment No. 3 to the Loan Financing and Servicing Agreement, dated as of February 4, 2015, by and among HMS Funding I, LLC, the Registrant, the financial institutions party thereto, and Deutsche Bank AG, New York branch (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on February 9, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.27 Fourth Amendment to Amended and Restated Conditional Fee Waiver Agreement, dated April 15, 2015, by and among HMS Income Fund, Inc., HMS Adviser LP, and MSC Adviser I, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on April 21, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.28 Amendment to Expense Support and Conditional Reimbursement Agreement, dated April 15, 2015, by and between HMS Income Fund, Inc. and HMS Adviser LP (filed as Exhibit 10.2 to the Registrant's current report on Form 8-K, filed on April 21, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.29 Fourth Amendment to Expense Support and Conditional Reimbursement Agreement, dated April 15, 2015, by and between HMS Income Fund, Inc. and HMS Adviser LP (filed as Exhibit 10.3 to the Registrant's current report on Form 8-K, filed on April 21, 2015 (File No. 814-00939) and incorporated herein by reference).

- 10.30 Amendment No. 4 to the Loan Financing and Servicing Agreement by and among HMS Funding I LLC, as Borrower, HMS Income Fund, Inc., as Equityholder and Servicer, the financial institutions party thereto as lenders, Deutsche Bank AG, New York branch as Administrative Agent and as a lender and U.S. Bank National Association, as Collateral Agent and Collateral Custodian (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on May 8, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.31 Third Amendment to Senior Secured Revolving Credit Agreement, dated as of May 13, 2015, by and among HMS Income Fund, Inc., as borrower, the financial institutions party thereto as lenders, Capital One, National Association, as Lead Arranger, Sole Book Runner and Administrative Agent, and HMS Equity Holding, LLC as Guarantor (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on May 15, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.32 Amended and Restated Loan Financing and Servicing Agreement, dated as of May 18, 2015, by and between HMS Funding I LLC, as Borrower, HMS Income Fund, Inc. as Equityholder and Servicer, the financial institutions party thereto as lenders, Deutsche Bank AG, New York branch, as Administrative Agent and as a lender, and U.S. Bank National Association, as Collateral Agent and Collateral Custodian (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on May 22, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.33 Fourth Amendment to Senior Secured Revolving Credit Agreement, dated as of May 29, 2015, by and among HMS Income Fund, Inc., as borrower, the financial institutions party thereto as lenders, Capital One, National Association, as Lead Arranger, Sole Book Runner and Administrative Agent, and HMS Equity Holding, LLC as Guarantor (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on June 2, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.34 First Amendment to the Amended and Restated Loan Financing and Servicing Agreement, dated as of June 17, 2015, by and among HMS Funding I, LLC, as Borrower, HMS Income Fund, Inc., as Equityholder and Servicer, the financial institutions party thereto as Lenders, U.S. Bank National Association, as Collateral Agent and Deutsche Bank AG, New York Branch, as Administrative Agent (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on June 23, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.35 Second Amendment to the Amended and Restated Loan Financing and Servicing Agreement, dated as of September 23, 2015, by and among HMS Funding I LLC, as Borrower, HMS Income Fund, Inc., as Equityholder and Servicer, the financial institutions party thereto as Lenders, U.S. Bank National Association, as Collateral Agent and Deutsche Bank AG, New York Branch, as Administrative Agent (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on September 24, 2015 (File No. 814-00939) and incorporated herein by reference).
- 10.36 Third Amendment to the Amended and Restated Loan Financing and Servicing Agreement, dated as of February 9, 2016, by and among HMS Funding I LLC, as borrower, HMS Income Fund, Inc., as Equityholder and Servicer, the financial institutions party thereto as lenders, Deutsche Bank AG, New York Branch, as administrative agent, and U.S. Bank National Association, as collateral agent (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on February 11, 2016 (File No. 814-00939) and incorporated herein by reference).
- 10.37 Conditional Income Incentive Fee Waiver Agreement, dated as of May 9, 2016, by and among the Registrant, HMS Adviser LP and MSC Adviser I, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on May 13, 2016 (File No. 814-00939) and incorporated herein by reference).
- 10.38 Third Quarter 2016 Conditional Income Incentive Fee Waiver Agreement, dated as of October 7, 2016, by and among the Registrant, HMS Adviser LP and MSC Adviser I, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on October 11, 2016 (File No. 814-00939) and incorporated herein by reference).
- 10.39 Fourth Quarter 2016 Conditional Income Incentive Fee Waiver Agreement, dated as of December 13, 2016, by and among the Registrant, HMS Adviser LP and MSC Adviser I, LLC (filed as Exhibit 10.1 to the Registrant's current report on Form 8-K, filed on December 14, 2016 (File No. 814-00939) and incorporated herein by reference).
- 10.40 Amended and Restated Senior Secured Revolving Credit Agreement, dated as of March 6, 2017, by and among the Registrant, HMS Equity Holding, LLC, HMS Equity Holding II, Inc., the financial institutions party thereto and EverBank Commercial Finance, Inc. (filed herewith).
- 11.1 Computation of per share earnings (included in the notes to the audited financial statements included in this report).
- 14.1 Code of Ethics of the Registrant (filed as Exhibit (r)(1) to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2 (File No. 333-204659), filed on August 12, 2016 and incorporated herein by reference).
- 14.2 Code of Ethics of HMS Adviser LP (filed as Exhibit (r)(2) to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2 (File No. 333-204659), filed on August 12, 2016 and incorporated herein by reference).
- 14.3 Amended and Restated Code of Ethics of Main Street Capital Corporation and MSC Adviser I, LLC (filed as Exhibit (r)(3) to Post-Effective Amendment No. 1 to the Registrant's Registration Statement on Form N-2 (File No. 333-204659), filed on August 12, 2016 and incorporated herein by reference).
- 14.4 Code of Ethics of Hines Securities, Inc. (filed as Exhibit (r)(4) to the Registrant's Registration Statement on Form N-2 (File No. 333-204659), filed on June 3, 2015 and incorporated herein by reference).



- 21.1 List of Subsidiaries (filed herewith).
- 31.1 Certification of President and Chief Executive Officer of the Registrant, pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
- 31.2 Certification of Chief Financial Officer of the Registrant, pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
- 32.1 Certification of President and Chief Executive Officer and Chief Financial Officer of the Registrant, pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).

AMENDED AND RESTATED SENIOR SECURED REVOLVING CREDIT AGREEMENT

dated as of March 11, 2014 and  
amended and restated as of March 6, 2017

among

HMS INCOME FUND, INC.,

as Borrower,

HMS EQUITY HOLDING, LLC and HMS EQUITY HOLDING II, INC.

as Guarantors,

The Lenders Listed Herein,

as Lenders,

EVERBANK COMMERCIAL FINANCE, INC.,

as Administrative Agent,

and

EVERBANK COMMERCIAL FINANCE, INC.,

as Sole Lead Arranger and Sole Bookrunner

## TABLE OF CONTENTS

ARTICLE I  
DEFINITIONS

|               |   |    |
|---------------|---|----|
| SECTION 1.01. | <u>Definitions.</u>                         | 1  |
| SECTION 1.02. | <u>Accounting Terms and Determinations.</u> | 46 |
| SECTION 1.03. | <u>Use of Defined Terms.</u>                | 46 |
| SECTION 1.04. | <u>Terms Generally.</u>                     | 46 |

ARTICLE II  
THE CREDIT

|               |  |    |
|---------------|--|----|
| SECTION 2.01. | <u>Commitments to Make Advances.</u>                     | 47 |
| SECTION 2.02. | <u>Method of Borrowing Advances.</u>                     | 48 |
| SECTION 2.03. | <u>Continuation and Conversion Elections</u>             | 49 |
| SECTION 2.04. | <u>Notes.</u>  | 49 |
| SECTION 2.05. | <u>Maturity of Advances.</u>                             | 50 |
| SECTION 2.06. | <u>Interest Rates.</u>                                   | 50 |
| SECTION 2.07. | <u>Fees.</u>   | 51 |
| SECTION 2.08. | <u>Optional Termination or Reduction of Commitments.</u> | 51 |
| SECTION 2.09. | <u>Termination of Commitments.</u>                       | 52 |
| SECTION 2.10. | <u>Optional Prepayments.</u>                             | 52 |
| SECTION 2.11. | <u>Mandatory Prepayments.</u>                            | 53 |
| SECTION 2.12. | <u>General Provisions as to Payments.</u>                | 54 |
| SECTION 2.13. | <u>Computation of Interest and Fees.</u>                 | 58 |
| SECTION 2.14. | <u>Increase in Commitments.</u>                          | 58 |
| SECTION 2.15. | <u>Extension Options.</u>                                | 61 |
| SECTION 2.16. | <u>Lender Consent.</u>                                   | 61 |

ARTICLE III  
CONDITIONS TO BORROWINGS

|               |   |    |
|---------------|---|----|
| SECTION 3.01. | <u>Conditions to Restatement and First Borrowing.</u> | 61 |
| SECTION 3.02. | <u>Conditions to All Borrowings.</u>                  | 64 |

ARTICLE IV  
REPRESENTATIONS AND WARRANTIES

|               |   |    |
|---------------|---|----|
| SECTION 4.01. | <u>Existence and Power.</u>   | 65 |
| SECTION 4.02. | <u>Organizational and Governmental Authorization; No Contravention.</u> | 65 |
| SECTION 4.03. | <u>Binding Effect.</u>  | 65 |
| SECTION 4.04. | <u>Financial Information.</u>   | 65 |
| SECTION 4.05. | <u>Litigation.</u>  | 65 |
| SECTION 4.06. | <u>Compliance with ERISA.</u>   | 66 |

|               |   |    |
|---------------|---|----|
| SECTION 4.07. | <u>Payment of Taxes.</u>                                | 66 |
| SECTION 4.08. | <u>Subsidiaries.</u>                                    | 66 |
| SECTION 4.09. | <u>Investment Company Act, Etc.</u>                     | 66 |
| SECTION 4.10. | <u>All Contents Required.</u>                           | 66 |
| SECTION 4.11. | <u>Ownership of Property; Liens.</u>                    | 67 |
| SECTION 4.12. | <u>No Default.</u>                                      | 67 |
| SECTION 4.13. | <u>Full Disclosure.</u>                                 | 67 |
| SECTION 4.14. | <u>Environmental Matters.</u>                           | 67 |
| SECTION 4.15. | <u>Compliance with Laws.</u>                            | 67 |
| SECTION 4.16. | <u>Capital Securities.</u>                              | 67 |
| SECTION 4.17. | <u>Margin Stock.</u>                                    | 67 |
| SECTION 4.18. | <u>Insolvency.</u>                                      | 68 |
| SECTION 4.19. | <u>Collateral Documents.</u>                            | 68 |
| SECTION 4.20. | <u>Labor Matters.</u>                                   | 68 |
| SECTION 4.21. | <u>Patents, Trademarks, Etc.</u>                        | 68 |
| SECTION 4.22. | <u>Insurance.</u>                                       | 68 |
| SECTION 4.23. | <u>Anti-Terrorism Laws.</u>                             | 69 |
| SECTION 4.24. | <u>Ownership Structure.</u>                             | 69 |
| SECTION 4.25. | <u>Reports. Accurate; Disclosure.</u>                   | 69 |
| SECTION 4.26. | <u>Location of Offices.</u>                             | 70 |
| SECTION 4.27. | <u>Affiliate Transactions.</u>                          | 70 |
| SECTION 4.28. | <u>Broker's Fees.</u>                                   | 70 |
| SECTION 4.29. | <u>Survival of Representations and Warranties, Etc.</u> | 70 |
| SECTION 4.30. | <u>Loans and Investments.</u>                           | 70 |
| SECTION 4.31. | <u>No Default or Event of Default.</u>                  | 70 |
| SECTION 4.32. | <u>USA Patriot Act; OFAC.</u>                           | 70 |
| SECTION 4.33. | <u>Material Contracts.</u>                              | 71 |
| SECTION 4.34. | <u>Collateral Mortgage Property.</u>                    | 71 |
| SECTION 4.35. | <u>Mortgaged Properties.</u>                            | 71 |
| SECTION 4.36. | <u>Common Enterprise.</u>                               | 71 |
| SECTION 4.37. | <u>Investment Policies.</u>                             | 71 |
| SECTION 4.38. | <u>Eligibility of Portfolio Investments.</u>            | 72 |
| SECTION 4.39. | <u>Portfolio Investments.</u>                           | 72 |
| SECTION 4.40. | <u>Selection Procedures.</u>                            | 72 |
| SECTION 4.41. | <u>Coverage Requirement.</u>                            | 72 |
| SECTION 4.42. | <u>Foreign Corrupt Practices.</u>                       | 72 |
| SECTION 4.43. | <u>Structured Subsidiaries.</u>                         | 72 |
| SECTION 4.44. | <u>Volcker Rule.</u>                                    | 73 |

## ARTICLE V COVENANTS

|               |   |    |
|---------------|---|----|
| SECTION 5.01. | <u>Information.</u>                               | 73 |
| SECTION 5.02. | <u>Inspection of Property, Books and Records.</u> | 75 |

|               |   |    |
|---------------|---|----|
| SECTION 5.03. | <u>Maintenance of RIC Status and Business Development Company</u>   | 76 |
| SECTION 5.04. | <u>Minimum Liquidity.</u>   | 76 |
| SECTION 5.05. | <u>Capital Expenditures.</u>  | 76 |
| SECTION 5.06. | <u>Sale/Leasebacks.</u>   | 76 |
| SECTION 5.07. | <u>Minimum Consolidated Tangible Net Worth.</u>                     | 76 |
| SECTION 5.08. | <u>Acquisitions.</u>  | 76 |
| SECTION 5.09. | <u>Interest Coverage Ratio.</u>                                     | 76 |
| SECTION 5.10. | <u>Asset Coverage Ratio.</u>  | 76 |
| SECTION 5.11. | <u>Loans or Advances.</u>   | 76 |
| SECTION 5.12. | <u>Restricted Payments.</u>   | 77 |
| SECTION 5.13. | <u>Investments.</u>   | 77 |
| SECTION 5.14. | <u>Negative Pledge.</u>   | 77 |
| SECTION 5.15. | <u>Maintenance of Existence, etc.</u>                               | 79 |
| SECTION 5.16. | <u>Dissolution.</u>   | 79 |
| SECTION 5.17. | <u>Consolidations, Mergers and Sales of Assets.</u>                 | 79 |
| SECTION 5.18. | <u>Use of Proceeds.</u>   | 80 |
| SECTION 5.19. | <u>Compliance with Laws; Payment of Taxes.</u>                      | 80 |
| SECTION 5.20. | <u>Insurance.</u>   | 80 |
| SECTION 5.21. | <u>Change in Fiscal Year.</u>                                       | 81 |
| SECTION 5.22. | <u>Maintenance of Property.</u>                                     | 81 |
| SECTION 5.23. | <u>Environmental Notices.</u>                                       | 81 |
| SECTION 5.24. | <u>Environmental Matters.</u>                                       | 81 |
| SECTION 5.25. | <u>Environmental Release.</u>                                       | 81 |
| SECTION 5.26. | <u>Depository Accounts.</u>   | 81 |
| SECTION 5.27. | <u>Transactions with Affiliates.</u>                                | 81 |
| SECTION 5.28. | <u>Joinder of Subsidiaries.</u>                                     | 81 |
| SECTION 5.29. | <u>No Restrictive Agreement.</u>                                    | 83 |
| SECTION 5.30. | <u>Partnerships and Joint Ventures.</u>                             | 83 |
| SECTION 5.31. | <u>Additional Debt.</u>   | 83 |
| SECTION 5.32. | <u>Post-closing Termination of Accounts.</u>                        | 83 |
| SECTION 5.33. | <u>Modifications of Organizational Documents.</u>                   | 84 |
| SECTION 5.34. | <u>ERISA Exemptions.</u>  | 84 |
| SECTION 5.35. | <u>Hedge Transactions.</u>  | 84 |
| SECTION 5.36. | <u>Performance of Loan Documents.</u>                               | 84 |
| SECTION 5.37. | <u>Operating Leases.</u>  | 84 |
| SECTION 5.38. | <u>[Intentionally omitted].</u>                                     | 84 |
| SECTION 5.39. | <u>Compliance with Investment Policies and Investment Documents</u> | 84 |
| SECTION 5.40. | <u>Delivery of Collateral to Collateral Custodian.</u>              | 85 |
| SECTION 5.41. | <u>Custody Agreements.</u>  | 85 |
| SECTION 5.42. | <u>Adviser Information Reports.</u>                                 | 85 |
| SECTION 5.43. | <u>Notice of Adviser Events and Certain Breaches.</u>               | 85 |
| SECTION 5.44. | <u>Custodial Agreements.</u>  | 86 |

|               |   |    |
|---------------|---|----|
| SECTION 5.45. | <u>Amendments, Waivers, and Termination of the Advisory Agreement and Sub-Advisory Agreement.</u> | 86 |
| SECTION 5.46. | <u>Anti-Hoarding of Assets at Structured Subsidiaries.</u>  | 86 |

## ARTICLE VI DEFAULTS

|               |                                |    |
|---------------|--------------------------------|----|
| SECTION 6.01. | <u>Events of Default.</u>      | 86 |
| SECTION 6.02. | <u>Notice of Default.</u>      | 90 |
| SECTION 6.03. | [Intentionally omitted.]       | 90 |
| SECTION 6.04. | <u>Allocation of Proceeds.</u> | 90 |

## ARTICLE VII THE ADMINISTRATIVE AGENT

|               |  |    |
|---------------|--|----|
| SECTION 7.01. | <u>Appointment and Authority.</u>                                      | 90 |
| SECTION 7.02. | <u>Rights as a Lender.</u>   | 91 |
| SECTION 7.03. | <u>Exculpatory Provisions.</u>   | 91 |
| SECTION 7.04. | <u>Reliance by Administrative Agent.</u>                               | 92 |
| SECTION 7.05. | <u>Delegation of Duties.</u>   | 92 |
| SECTION 7.06. | <u>Resignation of Administrative Agent.</u>                            | 92 |
| SECTION 7.07. | <u>Non-Reliance on Administrative Agent and Other Lenders.</u>         | 93 |
| SECTION 7.08. | [Intentionally omitted.]   | 93 |
| SECTION 7.09. | <u>Other Agents.</u>   | 93 |
| SECTION 7.10. | <u>Hedging Agreements, Cash Management Services and Bank Products.</u> | 93 |

## ARTICLE VIII CHANGE IN CIRCUMSTANCES; COMPENSATION

|               |  |    |
|---------------|--|----|
| SECTION 8.01. | <u>Basis for Determining Interest Rate Inadequate or Unfair.</u>   | 93 |
| SECTION 8.02. | <u>Illegality.</u>   | 94 |
| SECTION 8.03. | <u>Increased Cost and Reduced Return.</u>                          | 94 |
| SECTION 8.04. | <u>ABR Advances Substituted for Affected Euro-Dollar Advances.</u> | 95 |
| SECTION 8.05. | <u>Compensation.</u>   | 96 |

## ARTICLE IX MISCELLANEOUS

|               |   |     |
|---------------|---|-----|
| SECTION 9.01. | <u>Notices Generally.</u>                                     | 96  |
| SECTION 9.02. | <u>No Waivers.</u>  | 97  |
| SECTION 9.03. | <u>Expenses; Indemnity; Damage Waiver.</u>                    | 98  |
| SECTION 9.04. | <u>Setoffs; Sharing of Set-Offs; Application of Payments.</u> | 99  |
| SECTION 9.05. | <u>Amendments and Waivers.</u>                                | 100 |
| SECTION 9.06. | <u>Margin Stock Collateral.</u>                               | 102 |
| SECTION 9.07. | <u>Successors and Assigns.</u>                                | 102 |
| SECTION 9.08. | <u>Defaulting Lenders.</u>                                    | 104 |

|               |   |     |
|---------------|---|-----|
| SECTION 9.09. | <u>Confidentiality.</u>   | 106 |
| SECTION 9.10. | <u>Representation by Lenders.</u>   | 106 |
| SECTION 9.11. | <u>Obligations Several.</u>   | 106 |
| SECTION 9.12. | <u>Survival of Certain Obligations.</u>   | 107 |
| SECTION 9.13. | <u>Governing Law.</u>   | 107 |
| SECTION 9.14. | <u>Severability.</u>  | 107 |
| SECTION 9.15. | <u>Interest.</u>  | 107 |
| SECTION 9.16. | <u>Interpretation.</u>  | 107 |
| SECTION 9.17. | <u>Counterparts; Integration; Effectiveness; Electronic Execution.</u>          | 107 |
| SECTION 9.18. | <u>Jurisdiction; Waiver of Venue; Service of Process; Waiver by Jury Trial.</u> | 108 |
| SECTION 9.19. | <u>Independence of Covenants.</u>   | 108 |
| SECTION 9.20. | <u>Concerning Certificates.</u>   | 109 |
| SECTION 9.21. | <u>Renewal and Restatement.</u>   | 109 |

## ARTICLE X GUARANTY

|                |   |     |
|----------------|---|-----|
| SECTION 10.01. | <u>Unconditional Guaranty.</u>                | 109 |
| SECTION 10.02. | <u>Obligations Absolute.</u>                  | 109 |
| SECTION 10.03. | <u>Continuing Obligations; Reinstatement.</u> | 111 |
| SECTION 10.04. | <u>Additional Security, Etc.</u>              | 111 |
| SECTION 10.05. | <u>Information Concerning the Borrower.</u>   | 112 |
| SECTION 10.06. | <u>Guarantors' Subordination.</u>             | 112 |
| SECTION 10.07. | <u>Waivers.</u>                               | 112 |
| SECTION 10.08. | <u>Enforcement.</u>                           | 112 |
| SECTION 10.09. | <u>Miscellaneous.</u>                         | 113 |



Schedules:

|               |   |                             |
|---------------|---|-----------------------------|
| Schedule A    | - | Designation Notice          |
| Schedule B    | - | Revolver Commitment         |
| Schedule 1.01 | - | Mortgaged Properties        |
| Schedule 4.8  | - | Subsidiaries                |
| Schedule 4.24 | - | Subsidiaries and Affiliates |
| Schedule 4.30 | - | Investments                 |
| Schedule 4.33 | - | Contracts                   |
| Schedule 5.11 | - | Loans and Advances          |
| Schedule 5.14 | - | Principal Amounts           |
| Schedule 5.31 | - | Debt                        |
| Schedule 5.37 | - | Operating Leases            |

Exhibits:

|                          |   |   |
|--------------------------|---|---|
| Exhibit A                | - | Form of Notice of Borrowing                           |
| Exhibit B-1              | - | Form of Revolver Note                                 |
| Exhibit B-2              | - | Form of Swing Advance Note                            |
| Exhibit C                | - | Form of Notice of Conversion                          |
| Exhibit D                | - | Form of Borrowing Base Certification Report           |
| Exhibit E                | - | Form of Opinion of Borrower's and Guarantors' Counsel |
| Exhibit F                | - | Form of Closing Certificate                           |
| Exhibit G                | - | Form of Officer's Certificate                         |
| Exhibit H                | - | Form of Compliance Certificate                        |
| Exhibit I                | - | Form of Joinder and Reaffirmation Agreement           |
| Exhibit J                | - | Form of General Security Agreement                    |
| Exhibit K                | - | Form of Equity Pledge Agreement                       |
| Exhibit L                | - | Form of Assignment and Assumption                     |
| Exhibits M-1 through M-4 | - | Form of Tax Certificates                              |

**AMENDED AND RESTATED  
SENIOR SECURED REVOLVING CREDIT AGREEMENT**

THIS AMENDED AND RESTATED SENIOR SECURED REVOLVING CREDIT AGREEMENT is dated as of March 11, 2014 (and amended and restated as of March 6, 2017, this “**Agreement**”) among HMS INCOME FUND, INC., a Maryland corporation as Borrower, HMS EQUITY HOLDING, LLC, as a Guarantor, HMS EQUITY HOLDING II, INC., as a Guarantor, the LENDERS listed on the signature pages hereof, as Lenders and EVERBANK COMMERCIAL FINANCE, INC., a Delaware corporation (“**EverBank**”), as Administrative Agent (the “**Administrative Agent**”), Sole Lead Arranger and Sole Bookrunner.

**R E C I T A L S:**

WHEREAS, the Borrower, Capital One, National Association, as Administrative Agent (the “**Original Agent**”) and certain Lenders are parties to that certain Credit Agreement dated as of May 24, 2012, whereby the lenders therein have extended credit to the Borrower, as amended by that certain First Amendment to Credit Agreement dated as of August 16, 2013 and as further amended by that certain Second Amendment to Credit Agreement dated as of November 19, 2013 (collectively, the “**Original Agreements**”);

WHEREAS, the Borrower, the Original Agent and certain Lenders are parties to that certain Senior Secured Revolving Credit Agreement dated as of March 11, 2014, (as supplemented by that certain Joinder and Reaffirmation Agreement dated as of April 15, 2014 (the “**Joinder Agreement**”) executed by HMS Equity Holding, LLC, a Delaware limited liability company) which amended, restated and otherwise superseded the Original Agreements, as amended by that certain First Amendment to Credit Agreement dated as of May 30, 2014 and as further amended by that certain Second Amendment to Credit Agreement dated as of September 22, 2014, that certain Third Amendment to Credit Agreement dated as of May 13, 2015 and that certain Fourth Amendment to Credit Agreement dated as of May 29, 2015 (collectively, the “**Existing Credit Agreement**”);

WHEREAS, the parties hereto desire to enter into this Agreement, which shall amend and restate and otherwise supersede the Existing Credit Agreement and provide that the Lenders may continue to extend credit to the Borrower as provided in this Agreement;

WHEREAS, the Borrower has requested that the Lenders provide revolver commitments pursuant to which loans will be made from time to time prior to the Termination Date (as defined below);

WHEREAS, the Lenders are willing, on the terms and subject to the conditions hereinafter set forth, to extend the revolver commitments and make loans to the Borrower; and

NOW THEREFORE, in consideration of the premises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE I  
DEFINITIONS**

SECTION 1.01. **Definitions.** The terms as defined in this **Section 1.01** shall, for all purposes of this Agreement and any amendment hereto (except as otherwise expressly provided or unless the context otherwise requires), have the meanings set forth herein:

“**ABR**” means the greatest of (i) the Prime Rate, (ii) the federal funds effective rate from time to time plus 0.5% and (iii) the Adjusted LIBO Rate for a one-month interest period on the applicable date plus 1.0%.

“**ABR Borrowing**” has the meaning set forth in the definition of “**Borrowing**”.

“**ABR Advance**” means, with respect to any Advance, such Advance when such Advance bears or is to bear interest at a rate based upon the ABR.

“**Acquisition**” means any transaction or series of related transactions (other than a Portfolio Investment) for the purpose of, or resulting in, directly or indirectly, (a) the acquisition by the Borrower or any Subsidiary of all or substantially all of the assets of a Person (other than a Subsidiary) or of any business or division of a Person (other than a Subsidiary), (b) the acquisition by the Borrower or any Subsidiary of more than 50% of any class of Voting Stock (or similar ownership interests) of any Person (provided that formation or organization of any Wholly Owned Subsidiary shall not constitute an “Acquisition” to the extent that the amount of the Investment in such entity is permitted under **Sections 5.08 and 5.12**), or (c) a merger, consolidation, amalgamation or other combination by the Borrower or any Subsidiary with another Person (other than a Subsidiary) if the Borrower or such Subsidiary is the surviving entity; provided that in any merger involving the Borrower, the Borrower must be the surviving entity.

“**Adjusted Borrowing Base**” means the Borrowing Base as set forth in the most recent Borrowing Base Certification Report minus the aggregate amount of Cash and Cash Equivalents included in such Borrowing Base.

“**Adjusted LIBO Rate**” applicable to any Interest Period means a rate per annum equal to the quotient obtained (rounded upwards, if necessary, to the next higher 1/100th of 1%) by dividing (i) the applicable LIBO Rate for such Interest Period by (ii) 1.00 minus the Euro-Dollar Reserve Percentage.

“**Administrative Agent**” means EverBank, in its capacity as administrative agent for the Lenders, and its successors and permitted assigns in such capacity.

“**Administrative Questionnaire**” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“**Advance Rate**” means, as to any Eligible Investment and subject to adjustment as provided in the definition of Borrowing Base, the following percentages with respect to such Eligible Investment:

| Portfolio Investment  | Advance Rate |
|---|--------------|
| Cash and Cash Equivalents   | 100%         |
| Eligible Quoted Senior Bank Loan Investments (with a Value of at least 85% of par value of such Investments)                        | 80%          |
| Eligible Quoted Senior Bank Loan Investments (with a Value of less than 85% and greater than 65% of par value of such Investments)  | 40%          |
| Eligible Investment Grade Debt Securities (with a Value of at least 85% of par value of such Debt Securities)                       | 80%          |
| Eligible Investment Grade Debt Securities (with a Value of less than 85% and greater than 65% of par value of such Debt Securities) | 40%          |
| Eligible Core Portfolio Investments   | 70%          |
| Eligible Unquoted Senior Bank Loan Investments and Eligible Non-Investment Grade Debt Securities                                    | 65%          |

**“Advances”** means collectively the Revolver Advances and the Swing Advances.  
**“Advance”** means any one of such Advances, as the context may require.

**“Adviser”** means HMS Adviser LP, a Texas limited partnership or any permitted assignee approved by the Administrative Agent pursuant to **Section 5.45** hereof.

**“Adviser Event”** means the occurrence of any one or more of the following events:  
(a) any failure by the Adviser to make any payment, transfer or deposit required to be made by the Borrower into an account established and maintained by the Collateral Custodian in the name of the Borrower (and any sub-accounts related thereto) which is subject to a Custodial Agreement, which failure continues unremedied for a period of two Business Days; or (b) the occurrence of any of the events listed in Sections 9(b)(i)-9(b)(v) of the Advisory Agreement.

**“Advisers Act”** means the Investment Advisers Act of 1940, as amended from time to time.

**“Adviser Termination Notice”** has the meaning set forth in **Section 5.43**.

**“Advisory Agreement”** means the Investment Advisory and Administrative Services Agreement, executed by and between Borrower, or any successor-in-interest to the Borrower, and the Adviser, or any permitted assignee to such Adviser, and any and all amendments, supplements, modifications or replacements thereto as approved by the Administrative Agent pursuant to the terms of this Agreement.

**“Affiliate”** of any Person means (i) any other Person which directly, or indirectly through one or more intermediaries, controls such Person, (ii) any other Person which directly, or indirectly through one or more intermediaries, is controlled by or is under common control with such Person, or (iii) any other Person of which such Person owns, directly or indirectly, 10% or more of the common stock or equivalent equity interests. As used herein, the term “control” means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, the term **“Affiliate”** shall not include any Person that is an **“Affiliate”** solely by reason of the Borrower or any Subsidiary’s investment therein in connection with a Core Portfolio Investment in the ordinary course of business and consistent with the Investment Policies.

**“Agent Parties”** has the meaning set forth in **Section 9.01(d)**.

**“Agreement”** means this Credit Agreement, together with all amendments and supplements hereto.

**“Anti-Money Laundering Laws”** means applicable laws or regulations in any jurisdiction in which the Borrower or any Loan Party is located or doing business that relates to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.

**“Applicable Laws”** means all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes, executive orders, and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

**“Applicable Margin”** has the meaning set forth in **Section 2.06(a)**.

**“Applicable Percentage”** means with respect to any Lender, the percentage of the total Revolver Commitments represented by such Lender’s Revolver Commitment. If the Revolver Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Revolver Commitments most recently in effect, giving effect to any assignments.

**“Approved Dealer”** means a broker-dealer acceptable to the Administrative Agent in its sole discretion. The Administrative Agent acknowledges and agrees that the following broker-dealers are acceptable as Approved Dealers: Credit Suisse Group AG, Bank of America, Wells Fargo & Company, Citigroup, Inc., Goldman Sachs & Co., Deutsche Bank AG, UBS AG, Toronto Dominion Bank, Jefferies Group, Inc., Macquarie Group, Ltd., Barclays PLC, Royal Bank of Scotland, Bank of New York, Royal Bank of Canada, JP Morgan Chase & Co. and Morgan Stanley.

**“Approved Fund”** means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“**Approved Pricing Service**” means a pricing or quotation service acceptable to the Administrative Agent in its sole discretion. The Administrative Agent acknowledges and agrees that the following pricing and quotation services are acceptable as an Approved Pricing Service: (i) Markit; (ii) Loan Pricing Corporation (LPC); (iii) LoanX, Inc.; and (iv) IDC.

“**Asset Coverage Ratio**” means the ratio of Consolidated Tangible Net Worth plus aggregate Debt of the Borrower and its Consolidated Subsidiaries (“**Consolidated Debt**”) to outstanding Consolidated Debt.

“**Assignment and Assumption**” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by **Section 9.07**), and accepted by the Administrative Agent, in substantially the form of **Exhibit L** or any other form approved by the Administrative Agent.

“**Assignment of Mortgage**” means, as to each Portfolio Investment secured by an interest in real property, one or more assignments, notices of transfer or equivalent instruments, each in recordable form and sufficient under the laws of the relevant jurisdiction to reflect the transfer of the related mortgage, deed of trust, security deed or similar security instrument and all other documents related to such Portfolio Investment and, to the extent requested by the Administrative Agent, to grant a perfected lien thereon by the Borrower in favor of the Administrative Agent on behalf of the Secured Parties, each such Assignment of Mortgage to be in form and substance acceptable to the Administrative Agent.

“**Authority**” has the meaning set forth in **Section 8.02**.

“**Bailee Agreement**” means an agreement in form and substance reasonably acceptable to the Administrative Agent and executed by a Person (other than an Obligor, a Loan Party or any of their respective Affiliates) that is in possession of any Collateral pursuant to which such Person acknowledges the Lien of the Administrative Agent for the benefit of the Secured Parties.

“**Bank Products**” means any: (a) Hedging Agreements; and (b) other services or facilities provided to any Loan Party by any Lender that provides the initial funding of any Revolver Commitment on the Restatement Date or any Additional Lender that provides the funding of a Revolver Commitment on any Commitment Increase Date (but not any assignee of any of the foregoing Lenders) or any of their respective Affiliates, in each case solely until such Person has assigned all of its interests under this Agreement (each, in such capacity, a “**Bank Product Bank**”) (but excluding Cash Management Services) with respect to (i) credit cards, (ii) purchase cards, (iii) merchant services constituting a line of credit, and (iv) leasing.

“**Bankruptcy Code**” means the United States Bankruptcy Reform Act of 1978 (11 U.S.C. §§101, et. seq.), as amended from time to time.

“**Borrower**” means HMS Income Fund, Inc., a Maryland corporation (successor-by-merger to HMS Income LLC) and its successors and its permitted assigns.

“**Borrowing**” means a borrowing hereunder consisting of Revolver Advances made to the Borrower at the same time by all of the Lenders pursuant to **Article II**. “**ABR Borrowing**”

means a Borrowing if such Advances are ABR Advances. “**Euro-Dollar Borrowing**” means a Borrowing if such Advances are Euro-Dollar Advances.

“**Borrowing Base**” means, based on the most recent Borrowing Base Certification Report which as of the date of a determination of the Borrowing Base has been received by the Administrative Agent, the lesser of (x) the sum of the applicable Advance Rates of the aggregate Value of each Eligible Investment identified in the definition of “Advance Rate” in this **Section 1.01** (including Pre-Positioned Investments) and (y) the aggregate Values of each Eligible Investment, excluding Cash and Cash Equivalents, multiplied by the Maximum Portfolio Advance Rate, plus the Value of Cash and Cash Equivalents included in such Borrowing Base Certification Report; provided, however, that:

(a) in no event shall more than 25% of the aggregate value of the Borrowing Base consist of Eligible Non-Investment Grade Debt Securities and Eligible Unquoted Senior Bank Loan Investments (in each case after giving effect to Advance Rates);

(b) in no event shall more than 15% of the aggregate value of the Borrowing Base consist of debtor-in-possession Investments (in each case after giving effect to Advance Rates);

(c) for purposes of calculating the Borrowing Base, no single Portfolio Investment (excluding Cash and Cash Equivalents) shall be included in the Borrowing Base at a Value in excess of 10% of the Borrowing Base;

(d) all filings and other actions required to perfect the first-priority security interest of the Administrative Agent on behalf of the Secured Parties in the Portfolio Investments comprising the Borrowing Base have been made or taken (and any Portfolio Investment for which all perfection steps have not been completed, including without limitation notes, equities and securities perfected by possession that have not yet been delivered to the Collateral Custodian or a bailee that has delivered a valid, binding and effective Bailee Agreement to the Administrative Agent in accordance with **Section 5.40**, shall be excluded from the Borrowing Base until such collateral has been perfected);

(e) in no event shall more than: (i) 20% of the aggregate value of the Borrowing Base consist of Eligible Investments (excluding Cash and Cash Equivalents) in the Largest Industry Classification Group, (ii) 15% of the aggregate value of the Borrowing Base consist of Eligible Investments (excluding Cash and Cash Equivalents) in the Second Largest Industry Classification Group, (iii) 12.5% of the aggregate value of the Borrowing Base consist of Eligible Investments (excluding Cash and Cash Equivalents) in any single Industry Classification Group (other than the Largest Industry Classification Group or the Second Largest Industry Classification Group), in each case, without duplication, after giving effect to Advance Rates, (iv) 5% of the aggregate value of the Borrowing Base consist of Eligible Investments (excluding Cash and Cash Equivalents) in the Industry Classification Group of “Energy: Oil & Gas” and (v) 5% of the aggregate value of the Borrowing Base consist of Eligible Investments (excluding Cash and Cash Equivalents) in the Industry Classification Group of “Metals & Mining”;



(f) no more than 20% of the Borrowing Base shall consist of loans with Net Senior Leverage Ratio exceeding 6.25x;

(g) if the Weighted Average Net Senior Leverage Ratio of loans in the collateral pool exceeds 5.0x, then amounts of the most highly leveraged loans (excluding, from this calculation, LTV Investments and loans with negative EBITDA) will be excluded from the Borrowing Base until the ratio no longer exceeds 5.0x;

(h) in no event shall more than 10% of the aggregate value of the Borrowing Base consist of (i) LTV Investments (for the avoidance of doubt, whether such LTV Investment has positive or negative EBITDA) plus (ii) loans with negative EBITDA (in each case after giving effect to Advance Rates); and

(i) if the Weighted Average Yield Test of loans in the collateral pool is less than the sum of the LIBO Rate plus 3.75% per annum, then amounts of the loans with the lowest rate per annum of current cash interest will be excluded from the Borrowing Base until such test is equal to or exceeds the sum of the LIBO Rate plus 3.75% per annum.

**“Borrowing Base Certification Report”** means a report in the form attached hereto as Exhibit D, and otherwise reasonably satisfactory to the Administrative Agent, certified by the chief financial officer or other authorized officer of the Borrower regarding the Eligible Investments, and including or attaching a list of all Portfolio Investments included in the Borrowing Base and the most recent Value (and the source of determination of the Value) for each. Upon receipt by the Administrative Agent, a Borrowing Base Certification Report shall be subject to the Administrative Agent’s satisfactory review, acceptance or correction, in the exercise of its reasonable discretion.

**“Business Day”** means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, the State of New York and, if such day relates to any Euro-Dollar Borrowing, means any Euro-Dollar Business Day.

**“Capital Expenditures”** means for any period the sum of all capital expenditures incurred during such period by the Borrower and its Consolidated Subsidiaries, as determined in accordance with GAAP; provided that in no event shall a Portfolio Investment be considered a Capital Expenditure.

**“Capital One”** means Capital One, National Association, and its successors.

**“Capital Securities”** means, with respect to any Person, any and all shares, interests (including membership interests and partnership interests), participations or other equivalents (however designated, whether voting or non-voting) of such Person’s capital (including any instruments convertible into equity), whether now outstanding or issued after the Closing Date.

**“Cash”** means money, currency or a credit balance in any demand or deposit account with a United States federal or state chartered commercial bank of recognized standing having capital and surplus in excess of \$500 million, so long as such bank has not been a Defaulting Lender for more than three (3) business days after notice to Borrower, or its Subsidiary, as applicable, (which notice may be given by telephone or e-mail), which bank or its holding company has a short-term commercial paper rating of: (a) at least A-1 or the equivalent by Standard & Poor’s Rating

Services or at least P-1 or the equivalent by Moody's Investors Service, Inc., or (b) at least A-2 or the equivalent by Standard & Poor's Rating Services or at least P-2 or the equivalent by Moody's Investors Service, Inc. (or, in the case of a current Lender only, if not rated by Standard & Poor's Rating Services or Moody's Investor's Service, Inc., such Lender is rated by another rating agency acceptable to the Administrative Agent and such Lender's rating by such rating agency is not lower than its rating by such rating agency on the Restatement Date) and (i) all amounts and assets credited to such account are directly and fully guaranteed or insured by the United States of America or any agency thereof (provided that the full faith and credit of the United States is pledged in support thereof) or (ii) such bank is otherwise acceptable at all times and from time to time to the Administrative Agent in its sole discretion. The Administrative Agent acknowledges that, on the Restatement Date, Amegy Bank, a division of ZB, National Association (formerly known as Amegy Bank National Association), and each current Lender hereunder are acceptable banks within the meaning of clause (b)(ii) of this definition.

**"Cash Equivalents"** means (a) securities issued or directly and fully guaranteed or insured by the United States of America or any agency thereof (provided that the full faith and credit of the United States is pledged in support thereof) with maturities of not more than one year from the date acquired; (b) time deposits and certificates of deposit with maturities of not more than one (1) year from the date acquired issued by a United States federal or state chartered commercial bank of recognized standing having capital and surplus in excess of \$500 million, and which bank or its holding company has a short-term commercial paper rating of at least A-1 or the equivalent by Standard & Poor's Ratings Services or at least P-1 or the equivalent by Moody's Investors Service, Inc.; and (c) investments in money market funds (i) which mature not more than ninety (90) days from the date acquired and are payable on demand, (ii) with respect to which there has been no failure to honor a request for withdrawal, (iii) which are registered under the Investment Company Act of 1940, as amended, (iv) which have net assets of at least \$500,000,000 and (v) which maintain a stable share price of not less than One Dollar (\$1.00) per share and are either (A) directly and fully guaranteed or insured by the United States of America or any agency thereof (provided that the full faith and credit of the United States is pledged in support thereof) or (B) maintain a rating of at least A-2 or better by Standard & Poor's Rating Services and are maintained with an investment fund manager that is otherwise acceptable at all times and from time to time to the Administrative Agent in its sole discretion; provided that, notwithstanding the foregoing, no asset, agreement, or investment maintained or entered into with, or issued, guaranteed by, or administered by a Lender that has been a Defaulting Lender for more than three (3) business days after notice to Borrower, or its Subsidiary, as applicable, (which notice may be given by telephone or e-mail) shall be a **"Cash Equivalent"** hereunder. The Administrative Agent acknowledges that, on the Restatement Date, Fidelity Investments is an acceptable investment fund manager within the meaning of the foregoing clause (B).

**"Cash Interest Coverage Ratio"** means with respect to a Debt Security or a Senior Bank Loan Investment, either (a) the "Cash Interest Coverage Ratio" or comparable definition set forth in the underlying Investment Documents for such Debt Security or Senior Bank Loan Investment, or (b) in the case of any Debt Security or Senior Bank Loan Investment with respect to which the related underlying Investment Documents do not include a definition of "Cash Interest Coverage Ratio" or comparable definition, the ratio of (i) EBITDA to (ii) Cash Interest Expense of such Obligor with respect to the applicable Relevant Test Period, as calculated by the Borrower in good faith.

**“Cash Interest Expense”** means with respect to any Obligor, the amount which, in conformity with GAAP, would be set forth opposite the caption “interest expense” or any like caption reflected on the most recent financial statements delivered by such Obligor to the Borrower for such period, excluding any amortization of financing costs, any interest paid-in-kind, and any original issue discount.

**“Cash Management Services”** means any one or more of the following types of services or facilities provided to any Loan Party by any Lender that provides the initial funding of any Revolver Commitment on the Restatement Date or any Additional Lender that provides the funding of a Revolver Commitment on any Commitment Increase Date (but not any assignee of any of the foregoing Lenders) or any of their respective Affiliates, in each case solely until such Person has assigned all of its interests under this Agreement (each, in such capacity, a **“Cash Management Bank”**): (a) ACH transactions, (b) cash management services, including, without limitation, controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) foreign exchange facilities, (d) credit or debit cards, and (e) merchant services not constituting a Bank Product.

**“CERCLA”** means the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §9601 et seq. and its implementing regulations and amendments.

**“CERCLIS”** means the Comprehensive Environmental Response Compensation and Liability Information System established pursuant to CERCLA.

**“Change in Control”** means the occurrence after the Restatement Date of any of the following: (i) any Person or two or more Persons acting in concert (excluding the Persons that are officers and directors of the Borrower on the Restatement Date) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934) of more than 50% of the outstanding shares of the voting stock of the Borrower; (ii) as of any date a majority of the board of directors of the Borrower consists of individuals who were not either (A) directors of the Borrower as of the corresponding date of the previous year, (B) selected or nominated to become directors by the board of directors of the Borrower of which a majority consisted of individuals described in clause (A), or (C) selected or nominated to become directors by the board of directors of the Borrower of which a majority consisted of individuals described in clause (A) and individuals described in clause (B); or (iii) a representative from each of Main Street Capital Corporation and Hines are not on the board of the directors of the Borrower.

**“Change in Law”** means (a) the adoption of any law, rule, regulation or treaty (including any rules or regulations issued under or implementing any existing law) after the date of this Agreement, (b) any change in any law, rule, regulation or treaty or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking

Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities, shall in each case be deemed to be a “**Change in Law**”, regardless of the date enacted, adopted, issued or implemented.

“**Chapter 303**” has the meaning set forth in **Section 9.15**.

“**Closing Certificate**” has the meaning set forth in **Section 3.01(d)**.

“**Closing Date**” means March 11, 2014.

“**Code**” means the Internal Revenue Code of 1986, as amended, or any successor Federal tax code. Any reference to any provision of the Code shall also be deemed to be a reference to any successor provision or provisions thereof.

“**Collateral**” means collectively: (1) (i) 100% of the Capital Securities of the Guarantors and of the current and future Domestic Subsidiaries (other than a Structured Subsidiary) of the Borrower and Guarantors; (ii) 65% of the voting and non-voting Capital Securities of any current or future Foreign Subsidiaries (other than a Structured Subsidiary) and (iii) all of the other present and future property and assets of the Borrower and each Guarantor including, but not limited to, machinery and equipment, inventory and other goods, accounts, accounts receivable, bank accounts, brokerage accounts, general intangibles, financial assets, investment property, license rights, patents, trademarks, copyrights, chattel paper, insurance proceeds, contract rights, hedge agreements, documents, instruments, indemnification rights, tax refunds, and cash; and (2) any other property which secures the Obligations pursuant to the Collateral Documents; provided that, notwithstanding the foregoing, “**Collateral**” shall include a security interest and any related property rights in (a) any dividends or distributions on Permitted Capital Securities and (b) Permitted Capital Securities issued by a Person other than a Subsidiary, or in any Operating Documents of any such issuer, only at such time (in the case of clause (b)) as both any Organizational Document restrictions on such a security interest and the security interest of any secured third party shall have been released, whether by agreement or by operation of law but shall not include any related property rights in Capital Securities issued by a Person other than a Subsidiary, or in any Operating Documents of any such issuer, to the extent the security interest of the Administrative Agent does not attach thereto pursuant to the terms of the Collateral Documents.

“**Collateral Custodian**” means any and each of (i) Amegy Bank, a division of ZB, National Association (formerly known as Amegy Bank National Association), in its capacity as Collateral Custodian under the Custodial Agreement or other agreement with respect to the Collateral to which it is a party, together with its successors and permitted assigns and (ii) any other Person acting as a collateral custodian with respect to any Collateral under any Custodial Agreement entered into in accordance with the terms of this Agreement. Notwithstanding the foregoing, the Collateral Custodian shall at all times be satisfactory to the Administrative Agent, in its reasonable discretion.

“**Collateral Documents**” means, collectively, the Security Agreement, the Pledge Agreement, and all other agreements (including control agreements), instruments and other documents, whether now existing or hereafter in effect, pursuant to which the Borrower or any Subsidiary shall grant or convey (or shall have granted or conveyed) to the Secured Parties a Lien

in, or any other Person shall acknowledge any such Lien in, property as security for all or any portion of the Obligations, as any of them may be amended, modified or supplemented from time to time.

**“Commodity Exchange Act”** means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

**“Compliance Certificate”** has the meaning set forth in **Section 5.01(c)**.

**“Connection Income Taxes”** means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

**“Consolidated EBITDA”** means and includes, for the Borrower and the Consolidated Subsidiaries that are Guarantors for any period, an amount equal to the sum of (a) Consolidated Net Investment Income for such period; plus, (b) to the extent such amounts were deducted in computing Consolidated Net Investment Income for such period: (i) Consolidated Interest Expense for such period; (ii) income tax expense for such period, determined on a consolidated basis in accordance with GAAP; and (iii) Depreciation and Amortization for such period, determined on a consolidated basis in accordance with GAAP.

**“Consolidated Interest Expense”** for any period means interest, whether expensed or capitalized, in respect of Debt of the Borrower or any of its Consolidated Subsidiaries that are Guarantors outstanding during such period on a consolidated basis in accordance with GAAP.

**“Consolidated Net Investment Income”** means, for any period, the net investment income of the Borrower and the Consolidated Subsidiaries that are Guarantors set forth or reflected on the consolidated income statement of the Borrower and its Consolidated Subsidiaries for such period prepared in accordance with GAAP.

**“Consolidated Subsidiary”** means at any date any Subsidiary or other entity the accounts of which, in accordance with GAAP, would be consolidated with those of the Borrower in its consolidated financial statements as of such date.

**“Consolidated Tangible Net Worth”** means, at any time, Net Assets less the sum of the value (to the extent reflected in determining Net Assets), as set forth or reflected on the most recent consolidated balance sheet of the Borrower and its Consolidated Subsidiaries, on a consolidated basis prepared in accordance with GAAP (but without giving effect to (i) any election under Accounting Standards Codification 825-10-25 or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect to value any indebtedness or other liabilities of the Borrower or any subsidiary at “fair value”, as defined therein and (ii) any treatment of indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such indebtedness in a reduced or bifurcated manner as described therein, and such indebtedness shall at all times be valued at the full stated principal amount thereof).

(A) All assets which would be treated as intangible assets for balance sheet presentation purposes under GAAP, including without limitation goodwill (whether

representing the excess of cost over book value of assets acquired, or otherwise), trademarks, tradenames, copyrights, patents and technologies, and unamortized debt discount and expense;

(B) To the extent not included in (A) of this definition, any amount at which the Capital Securities of the Borrower appear as an asset on the balance sheet of the Borrower and its Consolidated Subsidiaries; and

(C) Loans or advances to owners of Borrower's Capital Securities, or to directors, officers, managers or employees of Borrower and its Consolidated Subsidiaries.

In addition, notwithstanding the foregoing, solely for purposes of determining the minimum Consolidated Tangible Net Worth in Section 5.07, "**Consolidated Tangible Net Worth**" shall be determined solely with respect to the assets and liabilities of the Loan Parties on a stand-alone basis. For the avoidance of doubt, "**Consolidated Tangible Net Worth**" shall not include any assets or liabilities of any Loan Fund Joint Venture

"**Control Agreement**" means collectively, the Second Amended and Restated Control Agreement dated as of May 30, 2014 by and among the Administrative Agent, the Borrower and Amegy Bank, a division of ZB, National Association (formerly known as Amegy Bank National Association), and any other control agreement between any Loan Party and a financial institution, each as the same may from time to time be amended, restated, supplemented or otherwise modified.

"**Controlled Group**" means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with any Loan Party, are treated as a single employer under Section 414 of the Code.

"**Core Portfolio Investment**" means a Portfolio Investment originated or acquired by the Borrower or any Subsidiary (or co-originated by the Borrower or any Subsidiary so long as such Portfolio Investment complies with all Borrower's Investment Policies and is subject to the same due diligence by the Borrower as Portfolio Investments originated or acquired solely by the Borrower). For avoidance of doubt, Core Portfolio Investments shall not include Cash, Cash Equivalents, any Senior Bank Loan Investment or any Debt Security.

"**Covered Debt Amount**" means, on any date, the sum of (x) all of the Credit Exposures of all Lenders on such date plus (y) the aggregate principal amount (including any increase in the aggregate principal amount resulting from payable-in-kind interest) of Debt of the Loan Parties (other than Debt under this Agreement) outstanding on such date.

"**Credit Exposure**" means, as to any Lender at any time, the aggregate principal amount at such time of its Revolver Advances and such Lender's participation in Swing Advances at such time.

"**Credit Party Expenses**" means, without limitation, (a) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, in connection with this Agreement and the other Loan Documents, including without limitation (i) the reasonable fees, charges and disbursements of (A) counsel for the Administrative Agent, (B) outside consultants for the Administrative Agent, (C) appraisers, (D) commercial finance examinations, and (E) all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the

Obligations; and (ii) in connection with (A) the syndication of the credit facilities provided for herein, (B) the administration, management, execution and delivery of this Agreement and the other Loan Documents, and the preparation, negotiation, administration and management of any amendments, modifications or waivers of the provisions of this Agreement and the other Loan Documents (whether or not the transactions contemplated thereby shall be consummated), or (C) the enforcement or protection of its rights in connection with this Agreement or the Loan Documents or efforts to preserve, protect, collect, or enforce the Collateral; and (b) all reasonable out-of-pocket expenses incurred by the Secured Parties who are not the Administrative Agent or any Affiliate of any of them, after the occurrence and during the continuance of an Event of Default.

**“Custodial Agreement”** means, collectively, the Control Agreement and the Custody Agreement, and any and each other control agreement entered into by and between a Person acting as Collateral Custodian and the Borrower, and if required by the Administrative Agent, and the Administrative Agent, in each case as the same may from time to time be amended, restated, supplemented or otherwise modified.

**“Custody Agreement”** means collectively, the Second Amended and Restated Custody Agreement by and between the Borrower and Amegy Bank, a division of ZB, National Association (formerly known as Amegy Bank National Association), and any other custody agreement between any Loan Party and a financial institution, each as the same may from time to time be amended, restated, supplemented or otherwise modified.

**“Debt”** of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money; (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business; (iv) all obligations of such Person as lessee under capital leases; (v) all obligations of such Person to reimburse any bank or other Person in respect of amounts payable under a banker’s acceptance; (vi) all Redeemable Preferred Securities of such Person; (vii) all obligations (absolute or contingent) of such Person to reimburse any bank or other Person in respect of amounts which are available to be drawn or have been drawn under a letter of credit or similar instrument; (viii) all Debt of others secured by a Lien on any asset of such Person, whether or not such Debt is assumed by such Person; (ix) all Debt of others Guaranteed by such Person; (x) all obligations of such Person with respect to interest rate protection agreements, foreign currency exchange agreements or other hedging agreements (valued at the termination value thereof computed in accordance with a method approved by the International Swap Dealers Association and agreed to by such Person in the applicable hedging agreement, if any); (xi) all obligations of such Person under any synthetic lease, tax retention operating lease, sale and leaseback transaction, asset securitization, off-balance sheet loan or other off-balance sheet financing product; (xii) all obligations of such Person to purchase securities or other property arising out of or in connection with the sale of the same or substantially similar securities or property; and (xiii) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person. The Debt of any Person shall include the Debt of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefore as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Debt provide that such Person is not liable therefor.

**“Debt Security”** means a note, bond, debenture, trust receipt or other obligation, instrument or evidence of indebtedness, including over-the-counter debt securities, middle market investments, debt instruments of public and private issuers and tax-exempt securities, but specifically excluding (i) Equity Securities or (ii) any security which by its terms permits the payment obligation of the Obligor thereunder to be converted into or exchanged for equity capital of such Obligor.

**“Default”** means any condition or event which constitutes an Event of Default or which with the giving of notice or lapse of time or both would, unless cured or waived in writing, become an Event of Default.

**“Default Excess”** means, with respect to any Defaulting Lender, the excess, if any, of such Defaulting Lender’s ratable portion of the aggregate Credit Exposure of all Lenders (calculated as if all Defaulting Lenders had funded all of their respective Defaulted Advances) over the aggregate outstanding principal amount of all Revolver Advances of such Defaulting Lender.

**“Default Period”** means, with respect to any Defaulting Lender, (i) in the case of any Defaulted Advance, the period commencing on the date the applicable Defaulted Advance was required to be extended to the Borrower under this Agreement, in the case of a Revolver Advance (after giving effect to any applicable grace period) and ending on the earlier of the following: (x) the date on which (A) the Default Excess with respect to such Defaulting Lender has been reduced to zero (whether by the funding of any Defaulted Advance by such Defaulting Lender or by the non-pro-rata application of any prepayment pursuant to **Section 9.08(c)**) and (B) such Defaulting Lender shall have delivered to the Borrower and the Administrative Agent a written reaffirmation of its intention to honor its obligations hereunder; and (y) the date on which the Borrower, the Administrative Agent and the Required Lenders (and not including such Defaulting Lender in any such determination, in accordance with **Section 9.08(a)**) waive the application of **Section 9.08** with respect to such Defaulted Advances of such Defaulting Lender in writing; (ii) in the case of any Defaulted Payment, the period commencing on the date the applicable Defaulted Payment was required to have been paid to the Administrative Agent or other Lender under this Agreement (after giving effect to any applicable grace period) and ending on the earlier of the following: (x) the date on which (A) such Defaulted Payment has been paid to the Administrative Agent or other Lender, as applicable, together with (to the extent that such Person has not otherwise been compensated by the Borrower for such Defaulted Payment) interest thereon for each day from and including the date such amount is paid but excluding the date of payment, at the greater of the Federal Funds Rate plus two percent (2.0%) and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation (whether by the funding of any Defaulted Payment by such Defaulting Lender or by the application of any amount pursuant to **Section 9.08(c)**) and (B) such Defaulting Lender shall have delivered to the Administrative Agent or other Lender, as applicable, a written reaffirmation of its intention to honor its obligations hereunder with respect to such payments; and (y) the date on which the Administrative Agent or any such other Lender, as applicable waives the application of **Section 9.08** with respect to such Defaulted Payments of such Defaulting Lender in writing; and (iii) in the case of any Distress Event determined by the Administrative Agent (in its good faith judgment) or the Required Lenders (in their respective good faith judgment) to exist, the period commencing on the date that the applicable Distress Event was so determined to exist and ending on the earlier of the following: (x) the date on which (A) such Distress Event is determined by the Administrative Agent (in its good faith judgment) or the Required



Lenders (in their respective good faith judgment) to no longer exist and (B) such Defaulting Lender shall have delivered to the Borrower and the Administrative Agent a written reaffirmation of its intention to honor its obligations hereunder; and (y) such date as the Borrower and the Administrative Agent mutually agree, in their sole discretion, to waive the application of **Section 9.08** with respect to such Distress Event of such Defaulting Lender.

**“Default Rate”** means, (i) with respect to the Advances, on any day, the sum of 2% plus the then highest interest rate (including the Applicable Margin) which may be applicable to any Advance (irrespective of whether any such type of Advance is actually outstanding hereunder) and (ii) with respect to overdue interest, fees and other amounts, on any day, the sum of 2% plus the ABR plus the Applicable Margin.

**“Defaulted Advance”** has the meaning specified in the definition of “Defaulting Lender”.

**“Defaulted Investment”** means any Investment (a) that is 31 days or more past due with respect to any interest or principal payments or (b) that is or otherwise should be considered a non-accrual investment by the Borrower in connection with its Investment Policies and GAAP.

**“Defaulted Payment”** has the meaning specified in the definition of “Defaulting Lender”.

**“Defaulting Lender”** means any Lender (i) that has failed to fund any portion of any Revolver Advance required to be funded by it under this Agreement (each such Revolver Advance, a **“Defaulted Advance”**) within three Business Days of the date required to be funded by it hereunder, (ii) that has otherwise failed to pay over to Administrative Agent or any other Lender any other amount required to be paid by it hereunder (each such payment, a **“Defaulted Payment”**) within three Business Days of the date when due, unless the subject of a good faith dispute, or (iii) as to which a Distress Event has occurred, in each case for so long as the applicable Default Period is in effect.

**“Depreciation and Amortization”** means for any period an amount equal to the sum of all depreciation and amortization expenses of the Borrower and its Consolidated Subsidiaries that are Guarantors for such period, as determined on a consolidated basis in accordance with GAAP.

**“Distress Event”** means, with respect to any Person (each, a **“Distressed Person”**), (i) a voluntary or involuntary case (or comparable proceeding) has been commenced with respect to such Person under the United States Bankruptcy Code or any other applicable debtor relief law, (ii) a custodian, conservator, receiver or similar official has been appointed for such Person or for any substantial part of such Person’s assets, (iii) after the date hereof, such Person has consummated or entered into a commitment to consummate a forced (in the good faith judgment of the Administrative Agent) liquidation, merger, sale of assets or other transaction resulting, in the good faith judgment of the Administrative Agent, in a change of ownership or operating control of such Person supported in whole or in part by guaranties, assumption of liabilities or other comparable credit support of (including without limitation the nationalization or assumption of ownership or operating control by) any Governmental Authority and the Administrative Agent (in its good faith judgment) or the Required Lenders believe (in their respective good faith judgment) that such event increases the risk that such Person could default in performing its obligations hereunder for so long

as the Administrative Agent (in its good faith judgment) or the Required Lenders (in their respective good faith judgment) so believe, or (iv) such Person has made a general assignment for the benefit of creditors or has otherwise been adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent, bankrupt or deficient in meeting any capital adequacy or liquidity requirement of any Governmental Authority applicable to such Person.

**“Distressed Person”** has the meaning specified in the definition of “Distress Event”.

**“Dollars”** or **“\$”** means dollars in lawful currency of the United States of America.

**“Domestic Subsidiary”** means any Subsidiary which is organized under the laws of any state or territory of the United States of America, other than a Subsidiary that (i) is disregarded as an entity separate from its owner for U.S. federal income tax purposes and (ii) owns an interest in a Foreign Subsidiary.

**“EBITDA”** means, with respect to each Obligor on any Core Portfolio Investment, Debt Security or Senior Bank Loan Investment the last four full fiscal quarters for which financial statements have been provided to the Borrower by or on behalf of any Obligor with respect to the related Core Portfolio Investment, Debt Security or Senior Bank Loan Investment, the meaning of “EBITDA”, “Adjusted EBITDA” or any comparable definition in the underlying Investment Documents for each such Core Portfolio Investment, Debt Security or Senior Bank Loan Investment, and in any case that “EBITDA”, “Adjusted EBITDA” or such comparable definition is not defined in such underlying Investment Documents, an amount, for the Obligor on such Core Portfolio Investment, Debt Security or Senior Bank Loan Investment and any parent that is obligated pursuant to the underlying Investment Documents for such Core Portfolio Investment, Debt Security or Senior Bank Loan Investment (determined on a consolidated basis without duplication in accordance with GAAP) equal to earnings from continuing operations for such period plus (a) interest expense, (b) income taxes, (c) depreciation and amortization for such four fiscal quarter period (to the extent deducted in determining earnings from continuing operations for such period), (d) amortization of intangibles (including, but not limited to, goodwill, financing fees and other capitalized costs), other non-cash charges and organization costs, (e) extraordinary losses in accordance with GAAP, (f) one-time, non-recurring non-cash charges consistent with the compliance statements and financial reporting packages provided by the Obligors, and (g) and any other item the Borrower in good faith deems to be appropriate; *provided* that with respect to any Obligor for which four full fiscal quarters of economic data are not available, EBITDA shall be determined for such Obligor based on annualizing the economic data from the reporting periods actually available.

**“Eligible Assignee”** means any Person that meets the requirements to be an assignee under Section 9.07(b) (subject to such consents, if any, as may be required under Section 9.07(b)); provided that notwithstanding the foregoing, “Eligible Assignee” shall not include the Borrower or any of the Borrower’s Affiliates or Subsidiaries.

**“Eligible Core Portfolio Investment”** means, on any date of determination, any Core Portfolio Investment held by Borrower or its Subsidiaries that satisfies each of the following requirements:

(i) the Core Portfolio Investment is evidenced by Investment Documents (including, in the case of any Loan other than a Noteless Loan, an original promissory note) that have been duly authorized and that are in full force and effect and constitute the legal, valid and binding obligation of the Obligor of such Core Portfolio Investment to pay the stated amount of the Loan and interest thereon, and the related Investment Documents are enforceable against such Obligor in accordance with their respective terms;

(ii) the Core Portfolio Investment was made in accordance with the terms of the Investment Policies and arose in the ordinary course of the business of Borrower, or its Subsidiary, as applicable;

(iii) such Core Portfolio Investment is a First Lien Investment, secured by a first priority, perfected security interest on all or substantially all of the assets of the Obligor;

(iv) in the case of any Core Portfolio Investment that is not solely held by the Borrower and/or its Subsidiaries, the terms and conditions of such Core Portfolio Investment provide the Borrower (and/or its Subsidiary, as applicable) with the right to vote to approve or deny any amendments, supplements, waivers or other modifications of such terms and conditions (other than such routine amendments, supplements, waivers or other modifications as are permitted to be approved by the administrative agent only without the vote of the syndicate members);

(v) the Core Portfolio Investment has an Eligible Investment Rating;

(vi) the Core Portfolio Investment is not a Defaulted Investment and no other Loan of the Obligor with respect to such Core Portfolio Investment is more than 45 days past due;

(vii) the Obligor of such Core Portfolio Investment has executed all appropriate documentation required by the Borrower, or its Subsidiary, as applicable, in accordance with the Investment Policies;

(viii) the Core Portfolio Investment, together with the Investment Documents related thereto, is a “general intangible”, an “instrument”, an “account”, or “chattel paper” within the meaning of the UCC of all jurisdictions that govern the perfection of the security interest granted therein;

(ix) all material consents, licenses, approvals or authorizations of, or registrations or declarations with, any Governmental Authority required to be obtained, effected or given in connection with the making of such Core Portfolio Investment have been duly obtained, effected or given and are in full force and effect;

(x) the Core Portfolio Investment is denominated and payable only in Dollars in the United States;

(xi) the Core Portfolio Investment bears some current interest, which is due and payable no less frequently than quarterly;

(xii) the Core Portfolio Investment, together with the Investment Documents related thereto, does not contravene in any material respect any Applicable Laws (including, without

limitation, laws, rules and regulations relating to usury, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy) and with respect to which no Obligor party thereto is in violation of any Applicable Laws or the terms and conditions of such Investment Documents, to the extent any such violation results in or would be reasonably likely to result in (a) an adverse effect upon the value or collectability of such Core Portfolio Investment, (b) a material adverse change in, or a material adverse effect upon, any of (1) the financial condition, operations, business or properties of the Obligor or any of its respective Subsidiaries, taken as a whole, (2) the rights and remedies of the Borrower or its Subsidiary (as applicable) under the Investment Documents, or the ability of the Obligor or any other loan party thereunder to perform its obligations under the Investment Documents to which it is a party, as applicable, taken as a whole, or (3) the collateral securing the Core Portfolio Investment, or the Liens of the Borrower or its Subsidiary (as applicable) thereon or the priority of such Liens;

(xiii) the Core Portfolio Investment, together with the related Investment Documents, is fully assignable (and if such Investment is secured by a mortgage, deed of trust or similar lien on real property, and if requested by the Administrative Agent, an Assignment of Mortgage executed in blank has been delivered to the Collateral Custodian);

(xiv) the Core Portfolio Investment was documented and closed in accordance with the Investment Policies, and each original promissory note, if any, representing the portion of such Core Portfolio Investment payable to the Borrower or its Subsidiary (as applicable), has been delivered to the Collateral Custodian, duly endorsed as collateral or, in the case of a Pre-Positioned Investment, held by a bailee on behalf of the Administrative Agent, in accordance with the provisions of **Section 5.40**;

(xv) the Core Portfolio Investment is free of any Liens and the interest of the Borrower or its Subsidiary (as applicable) in all Related Property is free of any Liens other than Liens permitted under the applicable Investment Documents and all filings and other actions required to perfect the security interest of the Administrative Agent on behalf of the Secured Parties in the Core Portfolio Investment have been made or taken;

(xvi) no right of rescission, set off, counterclaim, defense or other material dispute has been asserted with respect to such Core Portfolio Investment;

(xvii) any Related Property with respect to such Core Portfolio Investment is insured in accordance with the Investment Policies;

(xviii) the primary business of the Obligor with respect to such Core Portfolio Investment is not in the gaming, nuclear waste, bio-tech, or oil or gas exploration industries;

(xix) the Core Portfolio Investment is not a loan or extension of credit made by the Borrower or one of its Subsidiaries to an Obligor solely for the purpose of making any principal, interest or other payment on such Core Portfolio Investment necessary in order to keep such Core Portfolio Investment from becoming delinquent;

(xx) such Core Portfolio Investment will not cause the Borrower (or its Subsidiary, as applicable) to be deemed to own 5.0% or more of the voting securities of any publicly registered

issuer or any securities that are immediately convertible into or immediately exercisable or exchangeable for 5.0% or more of the voting securities of any publicly registered issuer;

(xxi) the financing of such Core Portfolio Investment by the Lenders does not contravene in any material respect Regulation U of the Federal Reserve Board, nor require the Lenders to undertake reporting thereunder which it would not otherwise have cause to make;

(xxii) such Core Portfolio Investment does not represent payment obligations relating to “put” rights relating to Margin Stock;

(xxiii) any taxes due and payable in connection with the making of such Core Portfolio Investment have been paid and the Obligor has been given any assurances (including with respect to the payment of transfer taxes and compliance with securities laws) required by the Investment Documents in connection with the making of the Investment;

(xxiv) the terms of the Core Portfolio Investment have not been amended or subject to a deferral or waiver the effect of which is to (A) reduce the amount (other than by reason of the repayment thereof) or extend the time for payment of principal or (B) reduce the rate or extend the time of payment of interest (or any component thereof), in each case without the consent of the Administrative Agent, not to be unreasonably withheld or delayed;

(xxv) such Core Portfolio Investment does not contain a confidentiality provision that restricts the ability of the Administrative Agent, on behalf of the Secured Parties, to exercise its rights under the Loan Documents, including, without limitation, its rights to review the Core Portfolio Investment, the related Investment File or the Borrower’s credit approval file in respect of such Core Portfolio Investment;

(xxvi) the Obligor with respect to such Core Portfolio Investment is not (A) an Affiliate of the Borrower or any other Person whose investments are primarily managed by the Borrower or an Affiliate of the Borrower, unless (1) such Obligor is an Affiliate solely by reason of the Borrower’s Portfolio Investment therein or Borrower’s other Portfolio Investments or (2) such Core Portfolio Investment is expressly approved by the Administrative Agent (in its sole discretion) or (B) a Governmental Authority;

(xxvii) all information delivered by any Loan Party to the Administrative Agent with respect to such Core Portfolio Investment is true and correct to the knowledge of such Loan Party;

(xxviii) such Core Portfolio Investment is not an Equity Security and does not by its terms permit the payment obligation of the Obligor thereunder to be converted into or exchanged for equity capital of such Obligor;

(xxix) the proceeds of such Core Portfolio Investment are not used to finance construction projects or activities in the form of a traditional construction loan where the only collateral for the loan is the project under construction and draws are made on the loan specifically to fund construction in progress;

(xxx) there is full recourse to the Obligor for principal and interest payments with respect to such Core Portfolio Investment;

(xxxii) such Core Portfolio Investment does not have a negative EBITDA unless it is an LTV Investment on the date of acquisition thereof; and

(xxxiii) such Core Portfolio Investment has a Net Senior Leverage Ratio of less than 5.0x on the date of acquisition thereof or it shall be identified as an LTV Investment.

For purposes of this Agreement, the Borrower shall assign each Eligible Core Portfolio Investment to an Industry Classification Group as reasonably determined by the Borrower. To the extent that the Borrower reasonably determines that any Eligible Core Portfolio Investment is not adequately correlated with the risks of other Eligible Core Portfolio Investments in an Industry Classification Group, such Eligible Core Portfolio Investment may be assigned by the Borrower to an Industry Classification Group that is more closely correlated to such Eligible Core Portfolio Investment.

**“Eligible Debt Security”** means, on any date of determination, any Debt Security held by Borrower or its Subsidiaries as a Portfolio Investment that meets the following conditions:

- (i) the investment in the Debt Security was made in accordance with the terms of the Investment Policies applicable to “private placements”, “marketable securities” or “idle funds investments”;
- (ii) the Debt Security has an Eligible Investment Rating;
- (iii) (A) the Debt Security is rated by a debt rating agency or other Person engaged in the business of rating the creditworthiness of debt obligations and (B) a Value Triggering Event related to the Debt Security has not occurred and is continuing;
- (iv) the Debt Security is not a Defaulted Investment and is not owed by an Obligor that is subject to an Insolvency Event or as to which the Borrower (or its Subsidiary, as applicable) has received notice of an imminent Insolvency Event proceeding;
- (v) the Obligor of such Debt Security has executed all appropriate documentation, if any, required in accordance with applicable Investment Policies;
- (vi) the Debt Security, together with the Investment Documents related thereto (if any), is a “general intangible”, an “instrument”, an “account”, or “chattel paper”, within the meaning of the UCC of all jurisdictions that govern the perfection of the security interest granted therein;
- (vii) all material consents, licenses, approvals or authorizations of, or registrations or declarations with, any Governmental Authority required to be obtained, effected or given in connection with the purchase of such Debt Security have been duly obtained, effected or given and are in full force and effect;
- (viii) the Debt Security is denominated and payable only in Dollars in the United States and the Obligor is organized under the laws of, and maintains its chief executive office and principal residence in, the United States or any state thereof;
- (ix) the Debt Security bears current all cash interest, which is due and payable no less frequently than semi-annually;
- (x) the Obligor with respect to the Debt Security is not (A) an Affiliate of the Borrower or any other Person whose investments are primarily managed by the

Borrower or any Affiliate of the Borrower, unless such Debt Security is expressly approved by the Administrative Agent (in its sole discretion), (B) a Governmental Authority (except in the case of a Debt Security, with an Investment Grade Rating, issued by the United States of America or any state or municipality or other political subdivision of the United States of America) or (C) primarily in the business of gaming, nuclear waste, bio-tech or oil or gas exploration;

(xi) all information delivered by any Loan Party to the Administrative Agent with respect to such Debt Security is true and correct to the knowledge of such Loan Party;

(xii) the proceeds of such Debt Security are not used to finance construction projects or activities in the form of a traditional construction loan where the only collateral for the loan is the project under construction and draws are made on the loan specifically to fund construction in progress;

(xiii) the Debt Security is a Quoted Investment;

(xiv) the Debt Security can be converted to Cash in 30 Business Days or fewer without a greater than ten percent (10%) reduction in the value of such Debt Security;

(xv) such Debt Security does not have a negative EBITDA unless it is an LTV Investment on the date of acquisition thereof; and

(xvi) such Debt Security has a Net Senior Leverage Ratio of less than 5.0x on the date of acquisition thereof or it shall be identified as an LTV Investment.

**“Eligible Investment Grade Debt Security”** means an Eligible Debt Security that has, as of the applicable date of determination of Value for such Eligible Debt Security, an Investment Grade Rating.

**“Eligible Investment Rating”** means, as of any date of determination with respect to a Portfolio Investment, an investment rating of “Grade 3” or better as determined in accordance with the Investment Policies.

**“Eligible Investments”** means, collectively, Cash and Cash Equivalents, the Eligible Quoted Senior Bank Loan Investments, the Eligible Investment Grade Debt Securities, the Eligible Core Portfolio Investments, the Eligible Unquoted Senior Bank Loan Investments and the Eligible Non-Investment Grade Debt Securities.

**“Eligible Non-Investment Grade Debt Security”** means an Eligible Debt Security that does not have, as of the applicable date of determination of Value for such Eligible Debt Security, an Investment Grade Rating or for which market quotations are not readily available.

**“Eligible Quoted Senior Bank Loan Investment”** means an Eligible Senior Bank Loan Investment that is a Quoted Investment.

**“Eligible Senior Bank Loan Investment”** means, on any date of determination, any Senior Bank Loan Investment of Borrower or its Subsidiaries that meets the following conditions:

(i) the Senior Bank Loan Investment is evidenced by Investment Documents that are in full force and effect and constitute the legal, valid and binding obligation of the Obligor of such Senior Bank Loan Investment to pay the stated amount of the Loan and interest thereon without right of rescission, set off, counterclaim or defense, and the related Investment Documents are enforceable against such Obligor in accordance with their respective terms and, to the knowledge of the Borrower, are not the subject of any material dispute;

(ii) the Senior Bank Loan Investment was made in accordance with the terms of the Investment Policies applicable to “private placements”, “marketable securities” or “idle funds investments”;

(iii) such Senior Bank Loan Investment is secured by a first priority, perfected security interest on a substantial portion of the assets of the respective Obligor(s);

(iv) the terms and conditions of such Senior Bank Loan Investment provide the Borrower or its Subsidiary, as applicable, with the power to approve or deny any amendments, supplements, waivers or other modifications of such terms and conditions that would (i) increase the commitment or other obligations of the Borrower or its Subsidiary (as applicable) thereunder, (ii) reduce the amount of, or defer the date fixed for any payment of, principal, interest or fees due or owing to Borrower or its Subsidiary (as applicable), or change the manner of application of any payments owing to Borrower or its Subsidiary (as applicable), under the Investment Documents, (iii) change the percentage of lenders under such Senior Bank Loan Investment required to take any action under the applicable Investment Documents, (iv) release or substitute all or substantially all of the collateral held as security for, or release any guaranty given to support payment of the obligations of, the Obligor under the applicable Investment Documents;

(v) the Senior Bank Loan Investment has an Eligible Investment Rating;

(vi) the terms of the Senior Bank Loan Investment have not been amended or subject to a deferral or waiver the effect of which is to (A) reduce the amount (other than by reason of the repayment thereof) or, after giving effect to any applicable grace or cure period, extend the time for payment of principal or (B) reduce the rate or, after giving effect to any applicable grace or cure period, extend the time of payment of interest (or any component thereof), in each case without the consent of the Administrative Agent, not to be unreasonably withheld or delayed;

(vii) a Value Triggering Event related to the Senior Bank Loan Investment has not occurred and is continuing;

(viii) the Senior Bank Loan Investment is not a Defaulted Investment and is not owed by an Obligor that is subject to an Insolvency Event or as to which the Borrower has received notice of an imminent Insolvency Event proceeding;

(ix) the Obligor of such Senior Bank Loan Investment has executed all appropriate documentation required in accordance with applicable Investment Policies;

(x) the Senior Bank Loan Investment, together with the Investment Documents related thereto, is a “general intangible”, an “instrument”, an “account”, or “chattel paper”;



within the meaning of the UCC of all jurisdictions that govern the perfection of the security interest granted therein;

(xi) all material consents, licenses, approvals or authorizations of, or registrations or declarations with, any Governmental Authority required to be obtained, effected or given in connection with the making of such Senior Bank Loan Investment have been duly obtained, effected or given and are in full force and effect;

(xii) the Senior Bank Loan Investment is denominated and payable only in Dollars in the United States and the Obligor is organized under the laws of, and maintains its chief executive office and principal residence in, the United States or any state thereof;

(xiii) the Senior Bank Loan Investment bears current interest, which is due and payable no less frequently than semi-annually;

(xiv) the Senior Bank Loan Investment, together with the Investment Documents related thereto, does not contravene in any material respect any Applicable Laws and with respect to which no Obligor is in violation of any Applicable Laws or the terms and conditions of such Investment Documents, to the extent any such violation results in or would be reasonably likely to result in (a) an adverse effect upon the value or collectability of such Senior Bank Loan Investment, (b) a material adverse change in, or a material adverse effect upon, any of (1) the financial condition, operations, business or properties of the Obligor or any of its respective Subsidiaries, taken as a whole, (2) the rights and remedies of the Borrower or its Subsidiary (as applicable) under the Investment Documents, or the ability of the Obligor or any other loan party thereunder to perform its obligations under the Investment Documents to which it is a party, as applicable, taken as a whole, or (3) the collateral securing the Senior Bank Loan Investment, or the Liens thereon or the priority of such Liens;

(xv) the Senior Bank Loan Investment, together with the related Investment Documents, is fully assignable subject to the customary right of the obligor in a syndicated loan or credit facility to consent to an assignment (which consent shall not be unreasonably withheld) prior to an event of default under such Senior Bank Loan Investment and the customary right in a syndicated loan or credit facility of the administrative agent under such syndicated loan or credit facility to consent to the assignment (which consent shall not be unreasonably withheld);

(xvi) the Senior Bank Loan Investment was documented and closed in accordance with applicable Investment Policies, and each original promissory note, if any, representing the portion of such Senior Bank Loan Investment payable to the Borrower or its Subsidiary (as applicable) has been delivered to the Collateral Custodian, duly endorsed as collateral;

(xvii) the Senior Bank Loan Investment is free of any Liens and the interest of the Borrower or its Subsidiary (as applicable) in all Related Property is free of any Liens other than Liens permitted under the applicable Investment Documents and all filings and other actions required to perfect the security interest of the Administrative Agent on behalf of the Secured Parties in the Senior Bank Loan Investment have been made or taken;

(xviii) any Related Property with respect to such Senior Bank Loan Investment is insured in accordance with the applicable Investment Documents;

(xix) such Senior Bank Loan Investment will not cause the Borrower or any of its Subsidiaries (as applicable) to be deemed to own 5.0% or more of the voting securities of any publicly registered issuer or any securities that are immediately convertible into or immediately exercisable or exchangeable for 5.0% or more of the voting securities of any publicly registered issuer;

(xx) the financing of such Senior Bank Loan Investment by the Lenders does not contravene in any material respect Regulation U of the Federal Reserve Board, nor require the Lenders to undertake reporting thereunder which it would not otherwise have cause to make and such Senior Bank Loan Investment does not represent payment obligations relating to “put” rights relating to Margin Stock;

(xxi) any taxes due and payable in connection with the making of such Senior Bank Loan Investment have been paid and the Obligor has been given any assurances (including with respect to the payment of transfer taxes and compliance with securities laws) required by the Investment Documents in connection with the making of the Investment;

(xxii) such Senior Bank Loan Investment does not contain a confidentiality provision that restricts the ability of the Administrative Agent (assuming the Administrative Agent agrees to be bound by the terms of the applicable confidentiality provision), on behalf of the Secured Parties, to exercise its rights under the Loan Documents, including, without limitation, its rights to review the Senior Bank Loan Investment, the related Investment File or the Borrower’s credit approval file in respect of such Senior Bank Loan Investment;

(xxiii) the Obligor with respect to such Senior Bank Loan Investment is not (A) an Affiliate of the Borrower or any other Person whose investments are primarily managed by the Borrower or any Affiliate of the Borrower, unless such Senior Bank Loan Investment is expressly approved by the Administrative Agent (in its sole discretion), (B) a Governmental Authority or (C) primarily in the business of gaming, nuclear waste, bio-tech or oil or gas exploration;

(xxiv) all information delivered by any Loan Party to the Administrative Agent with respect to such Senior Bank Loan Investment is true and correct to the knowledge of such Loan Party;

(xxv) such Senior Bank Loan Investment is not (A) any type of bond, whether high yield or otherwise, or any similar financial interest, (B) an Equity Security and does not by its terms permit the payment obligation of the Obligor thereunder to be converted into or exchanged for equity capital of such Obligor or (C) a participation interest;

(xxvi) the proceeds of such Senior Bank Loan Investment are not used to finance construction projects or activities in the form of a traditional construction loan where the only collateral for the loan is the project under construction and draws are made on the loan specifically to fund construction in progress;

(xxvii) there is full recourse to the Obligor for principal and interest payments with respect to such Senior Bank Loan Investment;

(xxviii) such Senior Bank Loan Investment does not have a negative EBITDA unless it is an LTV Investment on the date of acquisition thereof; and

(xxix) such Senior Bank Loan Investment has a Net Senior Leverage Ratio of less than 5.0x on the date of acquisition thereof or it shall be identified as an LTV Investment.

**“Eligible Unquoted Senior Bank Loan Investment”** means an Eligible Senior Bank Loan Investment that is an Unquoted Investment.

**“Environmental Authority”** means any foreign, federal, state, local or regional government that exercises any form of jurisdiction or authority under any Environmental Requirement.

**“Environmental Authorizations”** means all licenses, permits, orders, approvals, notices, registrations or other legal prerequisites for conducting the business of a Loan Party or any Subsidiary of a Loan Party required by any Environmental Requirement.

**“Environmental Judgments and Orders”** means all judgments, decrees or orders arising from or in any way associated with any Environmental Requirements, whether or not entered upon consent or written agreements with an Environmental Authority or other entity arising from or in any way associated with any Environmental Requirement, whether or not incorporated in a judgment, decree or order.

**“Environmental Laws”** means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment, including, without limitation, ambient air, surface water, groundwater or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the clean-up or other remediation thereof.

**“Environmental Liabilities”** means any liabilities, whether accrued, contingent or otherwise, arising from and in any way associated with any Environmental Requirements.

**“Environmental Notices”** means notice from any Environmental Authority or by any other person or entity, of possible or alleged noncompliance with or liability under any Environmental Requirement, including without limitation any complaints, citations, demands or requests from any Environmental Authority or from any other person or entity for correction of any violation of any Environmental Requirement or any investigations concerning any violation of any Environmental Requirement.

**“Environmental Proceedings”** means any judicial or administrative proceedings arising from or in any way associated with any Environmental Requirement.

**“Environmental Releases”** means releases as defined in CERCLA or under any applicable federal, state or local environmental law or regulation and shall include, in any event and without limitation, any release of petroleum or petroleum related products.

**“Environmental Requirements”** means any legal requirement relating to health, safety or the environment and applicable to a Loan Party, any Subsidiary of a Loan Party or the Properties, including but not limited to any such requirement under CERCLA or similar state legislation and all federal, state and local laws, ordinances, regulations, orders, writs, decrees and common law.

**“Equity Security”** means any equity security or other obligation or security that does not entitle the holder thereof to receive periodic payments of interest and one or more installments of principal.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor law and all rules and regulations from time to time promulgated thereunder. Any reference to any provision of ERISA shall also be deemed to be a reference to any successor provision or provisions thereof.

**“Euro-Dollar Advance”** means, with respect to any Advance, such Advance during the Interest Period when such Advance bears or is to bear interest at a rate based upon the LIBO Rate.

**“Euro-Dollar Borrowing”** has the meaning set forth in the definition of **“Borrowing”**.

**“Euro-Dollar Business Day”** means any Business Day on which dealings in Dollar deposits are carried out in the London interbank market.

**“Euro-Dollar Reserve Percentage”** has the meaning set forth in **Section 2.06(c)**.

**“Event of Default”** has the meaning set forth in **Section 6.01**.

**“EverBank”** means EverBank Commercial Finance, Inc., a Delaware corporation.

**“Excluded Swap Obligation”** means, with respect to any Guarantor, any Hedging Obligation if, and to the extent that, all or a portion of the guaranty of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Hedging Obligation (or any guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty of such Guarantor or the grant of such security interest becomes effective with respect to such Hedging Obligation. If a Hedging Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Hedging Obligation that is attributable to swaps for which such guaranty or security interest is or becomes illegal.

**“Excluded Taxes”** means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal

office is located or, in the case of any Lender, in which its applicable Lending Office is located, or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any U.S. federal withholding Tax that is imposed on amounts payable to or for the account of such Lender with respect to such Lender's interest in a loan or commitment under a Loan Document pursuant to a law in effect on the date on which such Lender (i) acquires an interest in the loan or commitment, or (ii) designates a new Lending Office, except in each case to the extent that such Lender (or its assignor, if any) was entitled, immediately before the designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower pursuant to **Section 2.12(e)**, (c) is attributable to such Lender's failure (other than as a result of a Change in Law) to comply with **Section 2.12(e)(vi)**, and (d) any U.S. federal withholding Taxes imposed under FATCA.

**"FATCA"** means Sections 1471 through 1474 of the Code, as such sections are in force as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities entered into in connection with the implementation of the foregoing.

**"FCPA"** means the Foreign Corrupt Practices Act of 1977, as amended.

**"Federal Funds Rate"** means, for any day, the rate per annum (rounded upward, if necessary, to the next higher 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that (i) if the day for which such rate is to be determined is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if such rate is not so published for any day, the Federal Funds Rate for such day shall be the average rate charged to EverBank on such day on such transactions as determined by the Administrative Agent.

**"Final Maturity Date"** means March 6, 2021 or, upon an exercise of the extension option in accordance with Section 2.15 hereof, the date one year following the Termination Date.

**"First Lien Investment"** means a Portfolio Investment constituting a Debt obligation (other than a Senior Bank Loan Investment) that is secured by the pledge of collateral and which has the most senior pre-petition priority in any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceedings.

**"Fiscal Quarter"** means any fiscal quarter of the Borrower.

**"Fiscal Year"** means any fiscal year of the Borrower.

**"Foreclosed Subsidiary"** shall mean any Person that becomes a direct or indirect Subsidiary of the Borrower (other than a Structured Subsidiary) solely as a result of the Borrower or any other Subsidiary of the Borrower acquiring the Capital Securities of such Person, through a bankruptcy, foreclosure or similar proceedings, with the intent to sell or transfer all of the Capital Securities of such Person; provided, that, in the event that the Borrower or such Subsidiary (other

than a Structured Subsidiary) of the Borrower is unable to sell all of the Capital Securities of such Person within 180 days after the Borrower or such Subsidiary (other than a Structured Subsidiary) of the Borrower acquires the Capital Securities of such Person, such Person shall no longer be considered a “**Foreclosed Subsidiary**” for purposes of this Agreement.

“**Foreign Lender**” means any Lender that is not a United States person (as such term is defined in Section 7701(a)(30) of the Code).

“**Foreign Subsidiary**” means any Subsidiary which is not a Domestic Subsidiary.

“**Fronting Exposure**” means, at any time there is a Defaulting Lender, such Defaulting Lender’s Applicable Percentage of outstanding Swing Advances made by the Swingline Lender other than Swing Advances as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders.

“**Fund**” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

“**GAAP**” means generally accepted accounting principles applied on a basis consistent with those which, in accordance with **Section 1.02**, are to be used in making the calculations for purposes of determining compliance with the terms of this Agreement.

“**Governmental Authority**” means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“**Guarantee**” by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to secure, purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to provide collateral security, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The term “**Guarantee**” used as a verb has a corresponding meaning.

“**Guaranteed Obligations**” means the Obligations, including without limitation, any and all liabilities, indebtedness and obligations of any and every kind and nature, heretofore, now or hereafter owing, arising, due or payable from the Borrower to one or more of the Lenders, the Hedge Counterparties, any Secured Party, the Administrative Agent, or any of them, arising under or evidenced by this Agreement, the Notes, the Collateral Documents or any other Loan

Document; provided, however, that “*Guaranteed Obligations*” shall not, as to any Guarantor, include any Excluded Swap Obligations of such Guarantor.

“**Guarantors**” means, collectively, HMS Equity Holding, LLC, HMS Equity Holding II, Inc., and all direct and indirect Subsidiaries of the Borrower or Guarantors acquired, formed or otherwise in existence after the Restatement Date and required to become a Guarantor pursuant to **Section 5.28**. It is understood and agreed that, subject to **Section 5.28**, no Structured Subsidiary shall be required to be a Guarantor as long as it remains a Structured Subsidiary as defined and described herein.

“**Hazardous Materials**” includes, without limitation, (a) solid or hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, 42 U.S.C. §6901 et seq. and its implementing regulations and amendments, or in any applicable state or local law or regulation, (b) any “hazardous substance”, “pollutant” or “contaminant”, as defined in CERCLA, or in any applicable state or local law or regulation, (c) gasoline, or any other petroleum product or by-product, including crude oil or any fraction thereof, (d) toxic substances, as defined in the Toxic Substances Control Act of 1976, or in any applicable state or local law or regulation and (e) insecticides, fungicides, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute or regulation may be amended from time to time.

“**Hedge Counterparty**” means any Lender that provides the initial funding of any Revolver Commitment on the Restatement Date or any Additional Lender that provides the funding of a Revolver Commitment on any Commitment Increase Date (but not any assignee of any of the foregoing Lenders) which Lender or Additional Lender has provided the Administrative Agent with a fully executed designation notice substantially in the form of **Schedule A** – Designation Notice, or any of their respective Affiliates, in each case solely until such Person has assigned all of its interests under this Agreement, that enters into a Hedging Agreement with the Borrower that is permitted by **Section 5.35**.

“**Hedge Transaction**” of any Person shall mean any transaction (including an agreement with respect thereto) now existing or hereafter entered into by such Person that is a rate swap, basis swap, forward rate transaction, commodity swap, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collateral transaction, forward transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures.

“**Hedging Agreement**” means each agreement or amended and restated agreement between the Borrower and a Hedge Counterparty that governs one or more Hedge Transactions entered into pursuant to **Section 5.35**, which agreement shall consist of a “**Master Agreement**” in a form published by the International Swaps and Derivatives Association, Inc., together with a “**Schedule**” thereto in the form the Administrative Agent shall approve in writing, and each “**Confirmation**” thereunder confirming the specific terms of each such Hedge Transaction.

**“Hedging Obligations”** of any Person shall mean any and all obligations of such Person, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired under (i) any and all Hedge Transactions, (ii) any and all cancellations, buy backs, reversals, terminations or assignments of any Hedge Transactions and (iii) any and all renewals, extensions and modifications of any Hedge Transactions and any and all substitutions for any Hedge Transactions.

**“Hines”** means either HMS Adviser LP or Hines Interests Limited Partnership.

**“Indemnified Taxes”** means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

**“Industry Classification Group”** means any of the industry group classification groups that are currently in effect by Moody’s or may be subsequently established by Moody’s and provided by the Borrower to the Lenders.

**“Information”** has the meaning, for purposes of **Section 9.09**, specified in such **Section 9.09**.

**“Insolvency Event”** means, with respect to a specified Person, (a) the filing of a decree or order for relief by a court having jurisdiction in the premises in respect of such Person or any substantial part of its property in an involuntary case under any applicable Insolvency Law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or ordering the winding-up or liquidation of such Person’s affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or (b) the commencement by such Person of a voluntary case under any applicable Insolvency Law now or hereafter in effect, or the consent by such Person to the entry of an order for relief in an involuntary case under any such law, or the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or the making by such Person of any general assignment for the benefit of creditors, or the failure by such Person generally to pay its debts as such debts become due, or the taking of action by such Person in furtherance of any of the foregoing.

**“Insolvency Laws”** means the Bankruptcy Code and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, suspension of payments, or similar debtor relief laws from time to time in effect affecting the rights of creditors generally.

**“Interest Coverage Ratio”** means the ratio of Consolidated EBITDA to Consolidated Interest Expense.

**“Interest Payment Date”** means the last Business Day of each month for both ABR Borrowings and Euro-Dollar Borrowings.

**“Interest Period”** means, with respect to any Interest Payment Date, the period from and including the previous Interest Payment Date (or, in the case of the initial Interest Period, from



and including the Restatement Date) through and including the day preceding such Interest Payment Date.

**“Internal Control Event”** means a material weakness in, or fraud that involves management of the Borrower, Adviser or Sub-Adviser, which fraud has a material effect on the Borrower’s internal controls over public reporting.

**“Investment”** means any investment in any Person, whether by means of (i) purchase or acquisition of all or substantially all of the assets of such Person (or of a division or line of business of such Person), (ii) purchase or acquisition of obligations or securities of such Person, (iii) capital contribution to such Person, (iv) loan or advance to such Person, (v) making of a time deposit with such Person, (vi) Guarantee or assumption of any obligation of such Person or (vii) by any other means.

**“Investment Company Act”** means the Investment Company Act of 1940, as amended.

**“Investment Documents”** means, with respect to any Core Portfolio Investment or any Senior Bank Loan Investment, any related loan agreement, security agreement, mortgage, assignment, all guarantees, note purchase agreement, intercreditor and/or subordination agreements, and UCC financing statements and continuation statements (including amendments or modifications thereof) executed by the Obligor thereof or by another Person on the Obligor’s behalf in respect of such Core Portfolio Investment or Senior Bank Loan Investment and any related promissory note, including, without limitation, general or limited guaranties and, if requested by the Administrative Agent, for each Core Portfolio Investment secured by real property by a mortgage document, an Assignment of Mortgage, and for all Core Portfolio Investments or Senior Bank Loan Investments with a promissory note, an assignment thereof (which may be by allonge), in blank, signed by an officer of the Borrower.

**“Investment File”** means, as to any Core Portfolio Investments, those documents that are delivered to or held by the Collateral Custodian pursuant to the Custodial Agreement.

**“Investment Grade Rating”** means, as of any date of determination with respect to an Investment, such Investment has a rating of at least Baa3 from Moody’s Investors Service, BBB- from Standard & Poor’s, a division of The McGraw-Hill Companies, Inc. or BBB- from Fitch Ratings Ltd.

**“Investment Policies”** means those investment objectives, policies and restrictions of the Borrower as in effect on the Closing Date as delivered to the Administrative Agent and as later described in Borrower’s annual reports on Form 10K and other filings as filed with the Securities and Exchange Commission, and any modifications or supplements as may be adopted by the Borrower from time to time in accordance with this Agreement.

**“Joinder Agreement”** means a Joinder and Reaffirmation Agreement substantially in the form of **Exhibit I**.

**“Largest Industry Classification Group”** means, as of any date of determination, after giving effect to Advance Rates, the single Industry Classification Group to which a greater

portion of the Borrowing Base has been assigned than any other single Industry Classification Group.

“**Lender**” means (a) the Swingline Lender and its successors and assigns and (b) each lender listed on the signature pages hereof as having a Revolver Commitment and such other Persons who may from time to time acquire a Revolver Commitment in accordance with the terms of this Agreement (as amended and from time to time in effect), and their respective successors and assigns.

“**Lending Office**” means, as to each Lender, its office located at its address set forth on the signature pages hereof (or identified on the signature pages hereof as its Lending Office) or such other office as such Lender may hereafter designate as its Lending Office by notice to the Borrower and the Administrative Agent.

“**LIBO Rate**” has the meaning set forth in **Section 2.06(c)**.

“**Lien**” means, with respect to any asset, any mortgage, deed to secure debt, deed of trust, lien, pledge, charge, security interest, security title, preferential arrangement which has the practical effect of constituting a security interest or encumbrance, servitude or encumbrance of any kind in respect of such asset to secure or assure payment of a Debt or a Guarantee, whether by consensual agreement or by operation of statute or other law, or by any agreement, contingent or otherwise, to provide any of the foregoing. For the purposes of this Agreement, the Borrower or any Subsidiary shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

“**Liquidity**” means at any time the aggregate Cash, Cash Equivalents and Eligible Debt Securities of the Borrower and the Guarantors.

“**Loan**” means any loan arising from the extension of credit to an Obligor by the Borrower in the ordinary course of business of the Borrower.

“**Loan Documents**” means this Agreement, the Notes, the Collateral Documents, the Hedging Agreements, any other document evidencing or securing the Advances, the Custodial Agreement, and any other document or instrument delivered from time to time in connection with this Agreement, the Notes, the Collateral Documents, the Hedging Agreements, the Advances, as such documents and instruments may be amended or supplemented from time to time.

“**Loan Fund Joint Venture**” means either (i) HMS-ORIX SLF LLC or (ii) any other entity to which the Administrative Agent granted its prior written consent in its sole discretion, so long as, in either case, it is a Person in which a Loan Party directly or indirectly owns Permitted Capital Securities but for which no Loan Party, acting alone or in concert with the other Loan Parties, has the power to elect a majority of the board of directors or other managers and that satisfies the following requirements:

- (a) the financial statements of such Person are not consolidated with the financial statements of any Loan Party;
- (b) no Loan Party’s interest in such Person such Person is an Eligible Investment;

(c) such Person is formed and operated primarily for the purpose of originating and acquiring loan assets; and

(d) except for the obligation to make any capital call commitment of a Loan Party to such Person that is not prohibited by **Section 5.13** hereof,

(i) no portion of the Debt or any other obligations (contingent or otherwise) of such Person (A) is Guaranteed by any Loan Party, (B) is recourse to or obligates any Loan Party in any way or (C) subjects any property of any Loan Party, directly or indirectly, contingently or otherwise, to the satisfaction thereof;

(ii) no Loan Party has any material contract, agreement, arrangement or understanding with such Person other than on terms no less favorable to such Loan Party than those that might be obtained at the time from Persons that are not Affiliates of any Loan Party; and

(iii) no Loan Party has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results.

**"Loan Parties"** means collectively the Borrower and each Guarantor that is now or hereafter a party to any of the Loan Documents.

**"LTV Investment"** means any Investment that (i) does not include a financial covenant based on debt to EBITDA, debt to EBIT or a similar multiple of debt to operating cash flow, (ii) is designated as an LTV Investment by the Borrower at the time of its acquisition thereof and (iii) relies on a borrowing base computation as part of the underlying credit approval.

**"Margin Stock"** means "margin stock" as defined in Regulations T, U or X of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

**"Material Adverse Effect"** means, with respect to any event, act, condition or occurrence of whatever nature (including any adverse determination in any litigation, arbitration, or governmental investigation or proceeding), whether singly or in conjunction with any other event or events, act or acts, condition or conditions, occurrence or occurrences, whether or not related, a material adverse change in, or a material adverse effect upon, any of (a) the financial condition, operations, business or properties of the Loan Parties and any of their respective Subsidiaries (other than the Structured Subsidiaries), taken as a whole, (b) the rights and remedies of the Administrative Agent or the Lenders under the Loan Documents, or the ability of the Borrower or any other Loan Party to perform its obligations under the Loan Documents to which it is a party, as applicable, or (c) the legality, validity or enforceability of any Loan Document or (d) the Collateral, or the Administrative Agent's Liens for the benefit of the Secured Parties on the Collateral or the priority of such Liens.

**"Material Contract"** has the meaning given such term in **Section 4.33**.

**"Maximum Lawful Rate"** means the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by the Lenders in accordance with the

applicable laws of the State of New York (or applicable United States federal law to the extent that such law permits the Lenders to contract for, charge, take, receive or reserve a greater amount of interest than under New York law).

**“Maximum Portfolio Advance Rate”** means seventy-five percent (75%).

**“Minimum Liquidity Requirement”** has the meaning given such term in **Section 5.04.**

**“Mortgage”** means, collectively any fee simple and leasehold mortgages, deeds of trust and deeds to secure debt by the Borrower, whether now existing or hereafter in effect, in form and content reasonably satisfactory to the Administrative Agent and in each case granting a Lien to the Administrative Agent (or a trustee for the benefit of the Administrative Agent) for the benefit of the Secured Parties in Collateral constituting real property (including certain real property leases) and related personalty, as such documents may be amended, modified or supplemented from time to time.

**“Mortgaged Property”** means, collectively, any Mortgaged Property (as defined in any Mortgage) covering the Properties.

**“Mortgaged Property Security Documents”** means collectively, any Mortgage and all other agreements, instruments and other documents, whether now existing or hereafter in effect, pursuant to which the Borrower or any Subsidiary grants or conveys to the Administrative Agent and the Secured Parties a Lien in, or any other Person acknowledges any such Lien in, real property as security for all or any portion of the Obligations, as any of them may be amended, modified or supplemented from time to time.

**“Multiemployer Plan”** has the meaning set forth in Section 4001(a)(3) of ERISA.

**“Net Assets”** means, at any time, the net assets of the Borrower and its Consolidated Subsidiaries that are Guarantors, as set forth or reflected on the most recent consolidated balance sheet of the Borrower and its Consolidated Subsidiaries prepared in accordance with GAAP; provided however, notwithstanding the foregoing to the contrary, solely for purposes of determining the Asset Coverage Ratio, **“Net Assets”** shall be determined with respect to the assets and liabilities of the Borrower and all of its Subsidiaries.

**“Net Senior Leverage Ratio”** means with respect to a Core Portfolio Investment, Debt Security or a Senior Bank Loan Investment either (a) the “Net Senior Leverage Ratio” or comparable definition set forth in the underlying Investment Documents for such Core Portfolio Investment, Debt Security or Senior Bank Loan Investment, or (b) in the case of any Core Portfolio Investment, Debt Security or Senior Bank Loan Investment with respect to which the related Underlying Instruments do not include a definition of “Net Senior Leverage Ratio” or comparable definition, the ratio of (i) the Senior Debt (including, without limitation, such Core Portfolio Investment, Debt Security or Senior Bank Loan Investment) of the applicable Obligor as of the date of determination minus the amount of unrestricted cash and cash equivalents of such Obligor as of such date to (ii) EBITDA of such Obligor with respect to the applicable Relevant Test Period, as calculated by the Borrower in good faith.

**“Noteless Loan”** means a Core Portfolio Investment or a Senior Bank Loan Investment with respect to which (i) the underlying Investment Documents do not require the Obligor to execute and deliver a promissory note to evidence the indebtedness created under such Core Portfolio Investment or Senior Bank Loan Investment; and (ii) no Loan Party nor any Subsidiary of a Loan Party has requested or received a promissory note from the related Obligor. Except as approved by the Administrative Agent in writing, no Loan Party nor any Subsidiary of a Loan Party shall request or receive a promissory note or other instrument from any Obligor in connection with a Noteless Loan.

**“Notes”** means collectively the Revolver Notes, the Swing Advance Note and any and all amendments, consolidations, modifications, renewals, substitutions and supplements thereto or replacements thereof. “Note” means any one of such Notes.

**“Notice of Borrowing”** has the meaning set forth in **Section 2.02**.

**“Notice of Continuation or Conversion”** has the meaning set forth in **Section 2.03**.

**“Obligations”** means the collective reference to all of the following indebtedness obligations and liabilities: (a) the due and punctual payment by the Borrower of: (i) the principal of and interest on the Notes (including without limitation, any and all Revolver Advances), when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and any renewals, modifications or extensions thereof, in whole or in part; (ii) each payment required to be made by the Borrower under this Agreement when and as due, including payments in respect of reimbursement of disbursements, interest thereon, and obligations, if any, to provide cash collateral and any renewals, modifications or extensions thereof, in whole or in part; and (iii) all other monetary obligations of the Borrower to the Secured Parties under this Agreement and the other Loan Documents to which the Borrower is or is to be a party and any renewals, modifications or extensions thereof, in whole or in part; (b) the due and punctual performance of all other obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is or is to be a party, and any renewals, modifications or extensions thereof, in whole or in part; (c) the due and punctual payment (whether at the stated maturity, by acceleration or otherwise) of all obligations (including any and all Hedging Obligations arising under the Hedging Agreements and obligations which, but for the automatic stay under Section 362(a) of the Bankruptcy Code, would become due), indebtedness and liabilities of the Borrower, now existing or hereafter incurred under, arising out of or in connection with any and all Hedging Agreements and any renewals, modifications or extensions thereof (including, all obligations, if any, of the Borrower as guarantor under the Credit Agreement in respect of Hedging Agreements), and the due and punctual performance and compliance by the Borrower with all of the terms, conditions and agreements contained in any Hedging Agreement and any renewals, modifications or extensions thereof; (d) the due and punctual payment and performance of all indebtedness, liabilities and obligations of any one or more of the Borrower and Guarantors arising out of or relating to any Bank Products; (e) the due and punctual payment and performance of all indebtedness, liabilities and obligations of any one or more of the Borrower and Guarantors arising out of or relating to any Cash Management Services; and (f) the due and punctual payment and performance of all obligations of each of the Guarantors under the Credit Agreement and the other Loan Documents to which they are or are to be a party and any and all renewals, modifications or extensions thereof, in whole or in part.

“**Obligor**” means, with respect to any Portfolio Investment, the Person or Persons obligated to make payments pursuant to such Portfolio Investment, including any guarantor thereof.

“**OFAC**” means The Office of Foreign Assets Control of the U.S. Department of the Treasury.

“**Officer’s Certificate**” has the meaning set forth in Section 3.01(e).

“**Operating Documents**” means with respect to any corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legally authorized incorporated or unincorporated entity, the bylaws, operating agreement, partnership agreement, limited partnership agreement, shareholder agreement or other applicable documents relating to the operation, governance or management of such entity.

“**Organizational Action**” means with respect to any corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legally authorized incorporated or unincorporated entity, any corporate, organizational or partnership action (including any required shareholder, member or partner action), or other similar official action, as applicable, taken by such entity.

“**Organizational Documents**” means with respect to any corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legally authorized incorporated or unincorporated entity, the articles of incorporation, certificate of incorporation, articles of organization, certificate of limited partnership or other applicable organizational or charter documents relating to the creation of such entity.

“**Other Connection Taxes**” means, with respect to the Administrative Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, Taxes imposed as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to a Loan Document, or sold or assigned an interest in any Loan Document).

“**Other Taxes**” means all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made following a request by the Borrower pursuant to this Agreement).

“**overadvance**” has the meaning given such term in Section 2.01(c).

“**overline**” has the meaning given such term in Section 2.01(c).

“**Participant**” has the meaning assigned to such term in clause (d) of Section 9.07.

**“Patriot Act”** means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, signed into law October 26, 2001, as amended, modified, supplemented or restated from time to time.

**“PBGC”** means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

**“Permitted Capital Securities”** shall mean (i) with respect to HMS-ORIX SLF LLC, Capital Securities owned by a Loan Party as a direct result of capital contributions (cash or equity) by such Loan Party and (ii) with respect to any other Loan Fund Joint Venture, Capital Securities owned by a Loan Party in an amount not to exceed an amount determined by the Administrative Agent in its sole discretion.

**“Permitted Encumbrances”** means Liens described in **Section 5.14**.

**“Person”** means a natural person, a corporation, a limited liability company, a partnership (including without limitation, a joint venture), an unincorporated association, a trust or any other entity or organization, including, but not limited to, a Governmental Authority.

**“Plan”** means at any time an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and is either (i) maintained by a member of the Controlled Group for employees of any member of the Controlled Group or (ii) maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding 5 plan years made contributions.

**“Platform”** means any electronic system, including Intralinks®, ClearPar® and any other internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent or any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

**“Pledge Agreement”** means the Amended and Restated Equity Pledge Agreement, dated as of the Closing Date, substantially in the form of **Exhibit K**, pursuant to which Borrower and, if applicable, Guarantors pledge to the Administrative Agent for the benefit of the Secured Parties, among other things, (i) all of the capital stock and equity interests of the Guarantors and of each other current or future Subsidiary of the Borrower and Guarantors except Foreign Subsidiaries or Structured Subsidiaries; and (ii) sixty-five percent (65%) of the capital stock and equity interests of each current or future Foreign Subsidiary (other than Structured Subsidiaries).

**“Portfolio Investment”** means an investment made by the Borrower in the ordinary course of business and consistent with the Investment Policies in a Person that is accounted for under GAAP as a portfolio investment of the Borrower. Portfolio Investments shall include Cash, Cash Equivalents, Core Portfolio Investments, Senior Bank Loan Investments and Debt Securities. Without limiting the generality of the foregoing, it is understood and agreed that any Portfolio Investments that have been contributed or sold, purported to be contributed or sold, or otherwise transferred to any Structured Subsidiary, or held by any Structured Subsidiary, or which secure obligations of any Structured Subsidiary, shall not be treated as Portfolio Investments.

**“Pre-Positioned Investment”** means any Investment that will be funded with the proceeds of an Advance hereunder and which is designated by the Borrower in writing to the Administrative Agent as a **“Pre-Positioned Investment”**.

**“Prime Rate”** means the rate of interest, as published in the “Money Rates” section of The Wall Street Journal, or if not so published, the “Prime Rate” as published in a newspaper of general circulation selected by the Administrative Agent in its sole discretion; if a prime rate range is given, then the average of such range shall be used; in the event that the Prime Rate is no longer published, the Administrative Agent shall designate a new index based upon comparable data and methodology.

**“Proceeds”** shall have the meaning given to it under the UCC and shall include without limitation the collections and distributions of Collateral, cash or non-cash.

**“Property”** or **“Properties”** means one or more of all real property owned, leased or otherwise used or occupied by a Loan Party or any Subsidiary of a Loan Party, wherever located.

**“Quarterly Payment Date”** means each April 1, July 1, October 1 and January 1, or, if any such day is not a Business Day, the next succeeding Business Day.

**“Quoted Investment”** means a Portfolio Investment for which market quotations are readily available from an Approved Pricing Service, or, in the case of Eligible Quoted Senior Bank Loan Investments, from an Approved Pricing Service or an Approved Dealer. All Eligible Quoted Senior Bank Loan Investments and Eligible Debt Securities must be Quoted Investments.

**“Receivables”** shall have the meaning assigned to the term **“Accounts”** in the Security Agreement.

**“Redeemable Preferred Securities”** of any Person means any preferred stock or similar Capital Securities (including, without limitation, limited liability company membership interests and limited partnership interests) issued by such Person which is at any time prior to the Termination Date either (i) mandatorily redeemable (by sinking fund or similar payments or otherwise) or (ii) redeemable at the option of the holder thereof.

**“Register”** has the meaning set forth in **Section 9.07(c)**.

**“Related Parties”** means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

**“Related Property”** means, with respect to any Portfolio Investment, any property or other assets of the Obligor thereunder pledged or purported to be pledged as collateral to secure the repayment of such Portfolio Investment.

**“Relevant Test Period”** means with respect to each Obligor on a Debt Security or a Senior Bank Loan Investment, the relevant test period for the calculation of Net Senior Leverage Ratio or Cash Interest Coverage Ratio, as applicable, for such Debt Security or Senior Bank Loan Investment in accordance with the related underlying Investment Documents or, if no such period



is provided for therein, each period of the last four consecutive reported fiscal quarters of the principal Obligor on such Debt Security or Senior Bank Loan Investment; provided that with respect to any Debt Security or Senior Bank Loan Investment for which the relevant test period is not provided for in the related underlying Investment Documents, if four (4) consecutive fiscal quarters have not yet elapsed since the closing date of the relevant underlying Investment Documents, “Relevant Test Period” shall initially include the period from such closing date to the end of the fourth fiscal quarter thereafter, and shall subsequently include each period of the last four (4) consecutive reported fiscal quarters of such Obligor.

“**Required Lenders**” means at any time Lenders having at least 50.01% of the aggregate amount of the Revolver Commitments or, if the Revolver Commitments are no longer in effect, Lenders holding at least 50.01% of the aggregate outstanding principal amount of the Revolver Notes; provided, however, that the Revolver Commitments and any outstanding Revolver Advances of any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; provided, further, that at least three (3) Lenders, including the Administrative Agent, shall be required to constitute “Required Lenders” hereunder.

“**Responsible Officer**” means, as to any Person, the president, chief executive officer, chief financial officer, senior vice president, vice president, senior managing director or treasurer of such Person.

“**Restatement Date**” means March 6, 2017.

“**Restricted Payment**” means (i) any dividend or other distribution on any shares of the Borrower’s Capital Securities (except dividends payable solely in shares of its Capital Securities); (ii) any payment of management, consulting, advisory or similar fees; or (iii) any payment on account of the purchase, redemption, retirement or acquisition of (a) any shares of the Borrower’s Capital Securities (except shares acquired upon the conversion thereof into other shares of its Capital Securities) or (b) any option, warrant or other right to acquire shares of the Borrower’s Capital Securities.

“**Revolver Advance**” means an Advance made to the Borrower under this Agreement pursuant to **Section 2.01**.

“**Revolver Commitment**” means, with respect to each Lender, (i) the amount set forth opposite the name of such Lender on **Schedule B**, as the same may be amended or modified from time to time pursuant to the terms hereof, or (ii) as to any Lender which enters into an Assignment and Assumption (whether as transferor Lender or as assignee thereunder), the amount of such Lender’s Revolver Commitment after giving effect to such Assignment and Assumption, in each case as such amount may be reduced from time to time pursuant to **Section 2.08** or terminated pursuant to **Section 2.09**.

“**Revolver Notes**” means (a) the promissory notes of the Borrower, substantially in the form of **Exhibit B-1** hereto, evidencing the obligation of the Borrower to repay the Revolver Advances, together with all amendments, consolidations, modifications, renewals, substitutions and supplements thereto or replacements thereof and “Revolver Note” means any one of such Revolver Notes.

“**RIC**” or “regulated investment company” shall mean an investment company or business development company that qualifies for the special tax treatment provided for by subchapter M of the Code.

“**Sale/Leaseback Transaction**” means any arrangement with any Person providing, directly or indirectly, for the leasing by any Loan Party or any of its Subsidiaries of real or personal property which has been or is to be sold or transferred by any Loan Party or such Subsidiary to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of any Loan Party or such Subsidiary.

“**Sanctioned Entity**” shall mean (i) a country or a government of a country, (ii) an agency of the government of a country, (iii) an organization directly or indirectly controlled by a country or its government, (iv) a person or entity resident in or determined to be resident in a country, that is subject to a country sanctions program administered and enforced by OFAC described or referenced at <http://www.ustreas.gov/offices/enforcement/ofac/> or as otherwise published from time to time.

“**Second Largest Industry Classification Group**” means, as of any date of determination, after giving effect to Advance Rates, the single Industry Classification Group to which a greater portion of the Borrowing Base has been assigned than any other single Industry Classification Group other than the Largest Industry Classification Group.

“**Secured Parties**” shall mean collectively: (1) the Administrative Agent in its capacity as such under this Agreement, the Collateral Documents and the other Loan Documents; (2) the Lenders, (3) the Hedge Counterparties in their capacity as such under the Hedging Agreements; (4) any Bank Product Bank or Cash Management Bank; and (5) except as otherwise provided in the definitions of “Bank Products”, “Cash Management Services” and “Hedging Counterparties,” the successors and assigns of the foregoing.

“**Security Agreement**” means the Amended and Restated General Security Agreement, substantially in the form of **Exhibit J**, by and between the Borrower, the Guarantors and the Administrative Agent for the benefit of the Secured Parties to be executed and delivered in connection herewith.

“**Senior Bank Loan Investment**” means a Portfolio Investment constituting a Debt obligation (including without limitation term loans, over-the-counter debt securities, middle market investments, the funded portion of revolving credit lines and letter of credit facilities and other similar loans and investments including interim loans) which is made by Borrower as a lender under a syndicated loan or credit facility.

“**Senior Debt**” means all Debt of any Person other than Debt that is junior or subordinated in right of payment or upon liquidation.

“**Significant Unsecured Indebtedness Event**” means that the aggregate principal amount of unsecured Debt of the Borrower and its Subsidiaries exceeds, at any time of determination, the sum of (A) the excess of the Borrowing Base over the Covered Debt Amount plus (B) 30% of the shareholder’s equity in the Structured Subsidiary (as calculated by the Consolidated Tangible Net Worth less the Consolidated Tangible Net Worth of the Loan Parties).

**“Special Purpose Subsidiary”** shall mean any single purpose Subsidiary created for the purpose of holding specific assets.

**“Standard Securitization Undertakings”** means, collectively, (a) customary arms-length servicing obligations (together with any related performance guarantees), (b) obligations (together with any related performance guarantees) to refund the purchase price or grant purchase price credits for breach of representations and warranties referred to in **clause (c)**, and (c) representations, warranties, covenants and indemnities (together with any related performance guarantees) of a type that are reasonably customary in commercial loan securitizations (in each case in **clauses (a), (b) and (c)** excluding obligations related to the collectability of the assets sold (other than representations made at the time of the transfer of such assets that, to the actual knowledge of the transferor, no event has occurred and is continuing which could reasonably be expected to affect the collectability of such assets or cause them not to be paid in full) or the creditworthiness of the underlying obligors and excluding obligations that constitute credit recourse).

**“Structured Subsidiaries”** means a direct or indirect Subsidiary of the Borrower which engages in no material activities other than in connection with the purchase or financing of assets from the Loan Parties or any other Person, and which is designated by the Borrower (as provided below) as a Structured Subsidiary, so long as:

(a) no portion of the Debt or any other obligations (contingent or otherwise) of such Subsidiary (i) is Guaranteed by any Loan Party (other than Guarantees in respect of Standard Securitization Undertakings), (ii) is recourse to or obligates any Loan Party in any way other than pursuant to Standard Securitization Undertakings or (iii) subjects any property of any Loan Party (other than property that has been contributed or sold or otherwise transferred to such Subsidiary in accordance with the terms of **Section 5.17**), directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings or any Guarantee thereof;

(b) no Loan Party has any material contract, agreement, arrangement or understanding with such Subsidiary other than on terms no less favorable to such Loan Party than those that might be obtained at the time from Persons that are not Affiliates of any Loan Party, other than fees payable in the ordinary course of business in connection with servicing loan assets; and

(c) no Loan Party has any obligation to maintain or preserve such entity’s financial condition or cause such entity to achieve certain levels of operating results.

Except as provided in the next sentence, any such designation by the Borrower shall be effected pursuant to a certificate of a Responsible Officer delivered to the Administrative Agent, which certificate shall include a statement to the effect that, to the best of such Responsible Officer’s knowledge, such designation complied with the foregoing conditions. Notwithstanding anything herein to the contrary, any such Subsidiary (and any other Subsidiary designated by the Borrower from time to time as a “Structured Subsidiary” pursuant hereto) shall not be deemed a Structured Subsidiary if it does not comply with all of the foregoing conditions in this definition. Each Subsidiary of a Structured Subsidiary shall be deemed to be a Structured Subsidiary and shall comply with the foregoing requirements of this definition.

“**Sub-Adviser**” means MSC Adviser I, LLC, a Delaware limited liability company or any permitted assignee approved by the Administrative Agent pursuant to **Section 5.45** hereof.

“**Sub-Advisory Agreement**” means any Investment Sub-Advisory Agreement executed by and among the Adviser, Sub-Adviser, Main Street Capital Corporation and Borrower, and any and all amendments, supplements, modifications or replacements thereto as approved by the Administrative Agent pursuant to the terms of this Agreement.

“**Subsidiary**” of any Person means a corporation, partnership or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interest having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person; provided however, the term “Subsidiary” shall not include any Person that constitutes an investment made by the Borrower or a Subsidiary in the ordinary course of business and consistently with the Investment Policies in a Person that is accounted for under GAAP as a portfolio investment of the Borrower. Unless otherwise qualified, all references to a “**Subsidiary**” or to “**Subsidiaries**” in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower. For the avoidance of doubt, a Loan Fund Joint Venture shall be deemed not to be a Subsidiary of any Loan Party.

“**Swing Advance**” means an Advance made by the Swingline Lender pursuant to **Section 2.01**, which must be an ABR Advance.

“**Swing Advance Note**” means the promissory note of the Borrower, substantially in the form of **Exhibit B-2**, evidencing the obligation of the Borrower to repay the Swing Advances, together with all amendments, consolidations, modifications, renewals, and supplements thereto.

“**Swing Borrowing**” means a borrowing hereunder consisting of Swing Advances made to the Borrower by the Swingline Lender pursuant to **Article II**.

“**Swingline Lender**” means EverBank, in its capacity as lender of Swing Advances hereunder.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“**Termination Date**” means the earlier to occur of (i) March 6, 2020 or such date as extended pursuant to **Section 2.15**, (ii) the date the Revolver Commitments are terminated pursuant to **Section 6.01** following the occurrence of an Event of Default, or (iii) the date the Borrower terminates the Revolver Commitments entirely pursuant to **Section 2.08**.

“**Third Parties**” means all lessees, sublessees, licensees and other users of the Properties, excluding those users of the Properties in the ordinary course of the Borrower’s business and on a temporary basis.

**“Title Policy”** means with respect to each Mortgaged Property, the mortgagee title insurance policy (together with such endorsements as the Administrative Agent may reasonably require) issued to the Administrative Agent in respect of such Mortgaged Property by an insurer selected by the Administrative Agent, insuring (in an amount satisfactory to the Administrative Agent) the Lien of the Administrative Agent for the benefit of the Secured Parties on such Mortgaged Property to be duly perfected and first priority, subject only to such exceptions as shall be acceptable to the Administrative Agent.

**“Total Unused Revolver Commitments”** means at any date, an amount equal to: (A) the aggregate amount of the Revolver Commitments of all of the Lenders at such time, less (B) the sum of the aggregate outstanding principal amount of the Revolver Advances of all of the Lenders at such time.

**“UCC”** means the Uniform Commercial Code as from time to time in effect in the specified jurisdiction.

**“Underlying Instruments”** means the underlying loan agreement, credit agreement, indenture or other agreement evidencing any Debt Security or Senior Bank Loan Investment, together with each other agreement that governs the terms of or secures the obligations represented by such Debt Security or Senior Bank Loan Investment or, the terms of which the holders of such Debt Security or Senior Bank Loan Investment are the beneficiaries.

**“Unquoted Investment”** means a Portfolio Investment for which market quotations from an Approved Pricing Service, or, in the case of Eligible Senior Bank Loan Investments, an Approved Pricing Service or Approved Dealer, are not readily available. Only Cash, Cash Equivalents, Eligible Core Portfolio Investments and Eligible Unquoted Senior Bank Loan Investments may be Unquoted Investments.

**“Unrestricted Cash and Cash Equivalents”** means, as of any date of determination, the Cash and Cash Equivalents of Borrower to the extent that such Cash and Cash Equivalents (a) are free and clear of all Liens (other than Liens permitted under **Sections 5.14(j)** and **5.14(l)**), any legal or equitable claim or other interest held by any other Person, and any option or right held by any other Person to acquire any such claim or other interest, (b) are not subject to any restriction pursuant to any provision of any outstanding Capital Securities issued by any Person or of any Material Contract to which it is a party or by which it or any of its property is bound (other than the Loan Documents) and (c) are the subject of a control agreement that creates a valid and perfected first-priority security interest in and lien in favor of the Administrative Agent for the benefit of the Secured Parties.

**“Unused Commitment”** means at any date, with respect to any Lender, an amount equal to its Revolver Commitment less the sum of the aggregate outstanding principal amount of the sum of its Revolver Advances.

**“Unused Commitment Fee”** has the meaning set forth in **Section 2.07(a)**.

**“Upfront Lender Fee”** has the meaning set forth in **Section 2.07(c)**.

**“Value”** means, as of any date of determination, the value assigned by the Borrower to each of its Portfolio Investments as provided below:

(a) **Quoted Investments.** With respect to Quoted Investments, the Borrower shall, not less frequently than once per week, or upon request of the Administrative Agent, determine the market value of such Portfolio Investments in accordance with the following methodologies, as applicable:

(i) in the case of any Portfolio Investment traded on an exchange, the closing price for such Portfolio Investment most recently posted on such exchange;

(ii) in the case of any Portfolio Investment not traded on an exchange, the fair market value thereof as determined by an Approved Pricing Service or other quotation acceptable to the Administrative Agent in its sole discretion; and

(iii) in the case of any Eligible Quoted Senior Bank Loan Investment not traded on an exchange or priced by an Approved Pricing Service, the average ask and bid prices as determined by two Approved Dealers selected by the Borrower; provided, however, that to the extent a single agent or counterparty makes the market in the Eligible Quoted Senior Bank Loan Investment, the average ask and bid prices as determined by the single Approved Dealer shall be used.

(b) **Unquoted Investments.** (i) With respect to Unquoted Investments, the fair value of such Investment shall be determined, not less frequently than once per Fiscal Quarter, in accordance with, the Investment Company Act and any orders of the Securities and Exchange Commission by the Board of Directors of the Borrower in its good faith judgment and consistent with past practices as described in the Borrower’s reports and other filings filed with the Securities and Exchange Commission as such practices may be amended from time to time in accordance with the last sentence in this definition of “Value”, including consideration of valuation procedures of a third-party valuation firm selected by the Borrower and reasonably acceptable to the Administrative Agent, and as approved by the Administrative Agent in its reasonable credit judgment. The valuation practices described in the Borrower’s reports and other filings filed with the Securities and Exchange Commission may be amended from time to time provided that the Borrower shall furnish to the Administrative Agent, prior to the effective date of any such amendment or modification, prompt notice of any changes in such practices and shall not agree or otherwise permit to occur any modification of such practices in any manner that would or would reasonably be expected to adversely affect the interests or remedies of the Administrative Agent or the Secured Parties under this Agreement or any Loan Document or impair the collectability of any Investment without the prior written consent of the Administrative Agent (in its sole discretion).

(ii) In addition to receiving third-party portfolio valuation reports from the Borrower, the Administrative Agent shall be permitted to engage the services of an independent valuation firm in a manner consistent with its existing procedures to provide assistance in the determination of any Unquoted Investments whose Net Senior Leverage Ratio (A) is more than 1.0x greater than the Net Senior Leverage Ratio measured as of the Restatement Date or thereafter at the time of the original acquisition by the Borrower thereof, as the case may be and has Net Senior Leverage Ratio greater than 4.0x or (B) has negative EBITDA for two consecutive fiscal quarters and is not an LTV Investment.

**“Value Triggering Event”** means after the related Advance with respect to a Debt Security or a Senior Bank Loan Investment, such Debt Security or Senior Bank Loan Investment

has a Value of less than 65% of par value and the occurrence of any one of more of the following events:

(a) the Net Senior Leverage Ratio for any Relevant Test Period of the related Obligor with respect to such Debt Security or Senior Bank Loan Investment is (i) greater than 3.50 and (ii) greater than 0.50 higher than the original Net Senior Leverage Ratio on the date that the investment in the Debt Security or Senior Bank Loan Investment was made by Borrower; or

(b) the Cash Interest Coverage Ratio for any Relevant Test Period of the related Obligor with respect to such Debt Security or Senior Bank Loan Investment is (i) less than 1.50 to 1.00 and (ii) less than 85% of the original Cash Interest Coverage Ratio on the date that the investment in the Debt Security or Senior Bank Loan Investment was made by Borrower; or

(c) an Obligor payment default under such Debt Security or Senior Bank Loan Investment (after giving effect to any grace and/or cure period set forth in the applicable loan agreement, but not to exceed five days) (including in respect of the acceleration of the debt under the applicable loan agreement); or

(d) a default as to all or any portion of one or more payments of principal or interest has occurred in relation to any other senior or pari passu obligation for borrowed money of the related Obligor (after giving effect to any grace and/or cure period set forth in the applicable loan agreement, but not to exceed five days); or

(e) the failure of the related Obligor to deliver (i) with respect to quarterly reports, any financial statements (including unaudited financial statements) to the Administrative Agent sufficient to calculate any applicable Net Senior Leverage Ratio of the related Obligor by the date that is no later than ninety (90) days after the end of the first, second or third quarter of any fiscal year, and (ii) with respect to annual reports, any audited financial statements to the Administrative Agent sufficient to calculate any applicable Net Senior Leverage Ratio of the related Obligor by the date that is no later than one hundred and fifty (150) days after the end of any fiscal year; or

(f) any amendment or waiver of, or modification or supplement to, an Underlying Instrument governing a Loan executed on or effected on or after the date on which the Borrower acquired such Loan is entered into that amends, waives, forbears, supplements or otherwise modifies in any way the definition of “Net Senior Leverage Ratio” or “Cash Interest Coverage Ratio” (or any respective comparable definition in the applicable Underlying Instrument) or the definition of any component thereof in a manner that, in the reasonable discretion of the Administrative Agent, is materially adverse to the Administrative Agent or any Lender.

“**Volcker Rule**” means Section 13 of the U.S. Bank Holding Company Act of 1956, as amended, and the applicable rules and regulations thereunder.

“**Voting Stock**” means securities (as such term is defined in **Section 2(1)** of the Securities Act of 1933, as amended) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to cast votes in any election of any corporate directors (or Persons performing similar functions).

**“Weighted Average Net Senior Leverage Ratio”** means, as of any date of determination, an amount equal (i) to the product of (x) the aggregate sum, with respect to each Eligible Investment included in the Borrowing Base (excluding Cash and Cash Equivalents), of the Net Senior Leverage Ratio for the obligor of such Eligible Investment of all Indebtedness that has a ranking of payment or lien priority senior to or pari passu with and including the tranche that includes such Eligible Investment, times (y) the Value of such Eligible Investment as of such date, divided by (ii) the aggregate of the Values of all such Eligible Investments, rounded up to the nearest 0.01.

**“Weighted Average Yield Test”** means, as of any date of determination, an amount equal (i) to the product of (x) the aggregate sum, with respect to each Eligible Investment included in the Borrowing Base (excluding Cash and Cash Equivalents), of the per annum rate of current cash interest for such Eligible Investments, times (y) the Value of such Eligible Investment as of such date, divided by (ii) the aggregate of the Values of all such Eligible Investments, rounded up to the nearest 0.01.

**“Wholly Owned Subsidiary”** means any Subsidiary all of the Capital Securities of which are at the time directly or indirectly owned by the Borrower.

SECTION 1.02. Accounting Terms and Determinations. Unless otherwise specified herein, all terms of an accounting character used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP, applied on a basis consistent (except for changes concurred in by the Borrower’s independent public accountants or otherwise required by a change in GAAP) with the most recent audited consolidated financial statements of the Borrower and its Consolidated Subsidiaries delivered to the Administrative Agent for distribution to the Lenders, unless with respect to any such change concurred in by the Borrower’s independent public accountants or required or permitted by GAAP, in determining compliance with any of the provisions of this Agreement or any of the other Loan Documents: (i) the Borrower shall have objected to determining such compliance on such basis at the time of delivery of such financial statements, or (ii) the Required Lenders shall so object in writing within 30 days after the delivery of such financial statements, in either of which events such calculations shall be made on a basis consistent with those used in the preparation of the latest financial statements as to which such objection shall not have been made (which, if objection is made in respect of the first financial statements delivered under **Section 5.01** hereof, shall mean the financial statements referred to in **Section 4.04**).

SECTION 1.03. Use of Defined Terms. All terms defined in this Agreement shall have the same meanings when used in any of the other Loan Documents, unless otherwise defined therein or unless the context shall otherwise require.

SECTION 1.04. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein,” “hereof” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular



provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time; (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights; and (g) titles of Articles and Sections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement.

## ARTICLE II THE CREDIT

**SECTION 2.01. Commitments to Make Advances.** (a) Each Lender severally agrees, on the terms and conditions set forth herein, to make Revolver Advances to the Borrower from time to time before the Termination Date; provided that, immediately after each such Revolver Advance is made, the aggregate outstanding principal amount of Revolver Advances by such Lender shall not exceed the amount of the Revolver Commitment of such Lender at such time, provided further that the aggregate principal amount of all Revolver Advances shall not exceed the: lesser of: (1) the Borrowing Base; and (2) the aggregate amount of the Revolver Commitments of all of the Lenders at such time. Each Revolver Advance shall be in an aggregate principal amount of \$1,000,000 or any larger multiple of \$100,000 (except that any such Revolver Advance may be in the aggregate amount of the Total Unused Revolver Commitments) and shall be made from the several Lenders ratably in proportion to their respective Revolver Commitments. Within the foregoing limits, the Borrower may borrow under this Section, repay or, to the extent permitted by **Section 2.10**, prepay Revolver Advances and reborrow under this **Section 2.01** at any time before the Termination Date.

(b) In addition to the foregoing, the Swingline Lender shall from time to time, upon the request of the Borrower by delivery of a Notice of Borrowing to the Administrative Agent, if the conditions precedent in Article III have been satisfied, make Swing Advances to the Borrower in an aggregate principal amount at any time outstanding not exceeding \$5,000,000; provided that, immediately after such Swing Advance is made, the aggregate principal amount of all Revolver Advances and Swing Advances shall not exceed the lesser of: (1) the Borrowing Base; and (2) the aggregate amount of the Revolver Commitments of all of the Lenders at such time. Each Swing Advance under this **Section 2.01** shall be in an aggregate principal amount of \$500,000 or any larger multiple of \$100,000. Within the foregoing limits, the Borrower may borrow Swing Advances under this **Section 2.01**, prepay and reborrow Swing Advances under this **Section 2.01** at any time before the Termination Date. Solely for purposes of calculating fees under **Section 2.07**, Swing Advances shall not be considered a utilization of an Advance of the Swingline Lender or any other Lender hereunder. At any time, upon the request of the Swingline Lender, each Lender other than the Swingline Lender shall, on the third Business Day after such request is made, purchase a participating interest in Swing Advances in an amount equal to its Applicable Percentage of such Swing Advances. On such third Business Day, each Lender will immediately transfer to the Swingline Lender, in immediately available funds, the amount of its participation. Whenever, at any time after the Swingline Lender has received from any such Lender its participating interest in a Swing Advance, the Administrative Agent receives any payment on account thereof, the Administrative Agent will distribute to such Lender its participating interest in such amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's participating interest was outstanding and funded); provided, however, that in the event that such payment received by the Administrative Agent is required to be returned, such Lender will return to the Administrative Agent any portion thereof previously distributed by the Administrative Agent to it. Each Lender's obligation to purchase such participating interests shall be absolute and unconditional and shall not be affected by any circumstance, including: (i) any set-off, counterclaim, recoupment, defense or other right which such Lender or any other Person may have against the Swingline Lender requesting such purchase or any other Person for any reason whatsoever; (ii) the occurrence or continuance of a Default, Event of

Default or the termination of the Commitments; (iii) any adverse change in the condition (financial, business or otherwise) of the Borrower, any Loan Party or any other Person; (iv) any breach of this Agreement by any Loan Party or any other Lender; or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(c) In the event the unpaid principal amount of the outstanding Advances ever exceeds the amount of the Notes, Borrower agrees to pay the excess amount (an "**overline**") immediately upon demand by the Administrative Agent. In the event the unpaid principal amount of the outstanding Advances ever exceeds the Borrowing Base, Borrower agrees to pay the excess amount (an "**overadvance**") immediately upon demand by the Administrative Agent. Overlines and overadvances shall bear interest at the rate stated in the Note. If not sooner paid, interest on overlines and overadvances shall be paid on the last day of each month, until the Termination Date. Upon request of the Administrative Agent, Borrower shall execute a promissory note, payable to the order of EverBank, to represent the amount of any overline and any overadvance; however, Borrower acknowledges and agrees that the records of the Administrative Agent and this Agreement shall constitute conclusive evidence of any overline or overadvance and the obligation of Borrower to repay any overline and overadvance, with interest. All overlines and overadvances for which the Administrative Agent has not demanded payment earlier, and all unpaid and accrued interest on overlines and overadvances not due and payable earlier, shall be due and payable on the Termination Date. Borrower acknowledges and agrees that EverBank is not obligated to fund any Advance that would create an overline or an overadvance.

## SECTION 2.02. Method of Borrowing Advances.

(a) For Revolver Advances, the Borrower shall give the Administrative Agent notice in the form attached hereto as **Exhibit A** (a "**Notice of Borrowing**") prior to (i) 12:00 P.M. (Eastern time) at least one Business Day before each ABR Borrowing, and (ii) 11:00 A.M. (Eastern time) at least three (3) Euro-Dollar Business Days before each Euro-Dollar Borrowing, specifying:

- (i) the date of such Borrowing, which shall be a Business Day in the case of an ABR Borrowing and a Euro-Dollar Business Day in the case of a Euro-Dollar Borrowing,
- (ii) the aggregate amount of such Borrowing,
- (iii) whether the Revolver Advances comprising such Borrowing are to be ABR Advances or Euro-Dollar Advances and
- (iv) in the case of a Euro-Dollar Borrowing, the duration of the Interest Period applicable thereto, subject to the provisions of the definition of Interest Period.

(b) Upon receipt of a Notice of Borrowing requesting Revolver Advances, the Administrative Agent shall promptly notify each Lender of the contents thereof and of such Lender's ratable share of such Borrowing and such Notice of Borrowing, once received by the Administrative Agent, shall not be revocable by the Borrower.

(c) Not later than 11:00 A.M. (Eastern time) on the date of each Borrowing, each Lender shall make available its ratable share of such Borrowing, in Federal or other funds immediately available in Houston, Texas, to the Administrative Agent at its address referred to in or specified pursuant to **Section 9.01**. Unless the Administrative Agent determines that any applicable condition specified in **Article III** has not been satisfied, the Administrative Agent will disburse the funds so received from the Lenders to the Borrower.

(d) Notwithstanding anything to the contrary contained in this Agreement, no Euro-Dollar Borrowing may be made if there shall have occurred a Default, which Default shall not have been cured or waived.

(e) In the event that a Notice of Borrowing fails to specify whether the Revolver Advances comprising such Borrowing are to be ABR Advances or Euro-Dollar Advances, such Revolver Advances shall be made as ABR Advances. If the Borrower is otherwise entitled under this Agreement to repay any Revolver Advances maturing at the end of an Interest Period applicable thereto with the proceeds of a new Borrowing, and the Borrower fails to repay such Revolver Advances using its own moneys and fails to give a Notice of Borrowing in connection with such new Borrowing, a new Borrowing shall be deemed to be made on the date such Revolver Advances mature in an amount equal to the principal amount of the Revolver Advances so maturing, and the Revolver Advances comprising such new Borrowing shall be ABR Advances.

(f) Intentionally Omitted.

(g) For Swing Advances, the Borrower shall give the Administrative Agent notice in the form of a Notice of Borrowing prior to 1:00 P.M. (Eastern time) on the Business Day of the Swing Advance, specifying (i) the aggregate amount of such Advance, (ii) that it shall be a Swing Advance. All Swing Advances will be deemed to be an ABR Advance. Unless the Administrative Agent determines that any applicable condition specified in Article III has not been satisfied, the Swingline Lender will make available to the Borrower the amount of any such Swing Advance.

SECTION 2.03. Continuation and Conversion Elections. By delivering a notice (a “**Notice of Conversion**”), which shall be substantially in the form of **Exhibit C**, to the Administrative Agent on or before 12:00 P.M., Eastern time, on a Business Day (or Euro-Dollar Business Day, in the case of Euro-Dollar Advances outstanding), the Borrower may from time to time irrevocably elect, by notice one Business Day prior in the case of a conversion to ABR Advances or three (3) Euro-Dollar Business Days prior in the case of a conversion to Euro-Dollar Advances, that all, or any portion in an aggregate principal amount of \$1,000,000 or any larger integral multiple of \$100,000 be, (i) in the case of ABR Advances, converted into Euro-Dollar Advances or (ii) in the case of Euro-Dollar Advances, converted into ABR Advances; provided, however, that (x) each such conversion shall be pro rated among the applicable outstanding Revolver Advances of all Lenders that have made such Revolver Advances, and (y) no portion of the outstanding principal amount of any Revolver Advances may be continued as, or be converted into, any Euro-Dollar Advance when any Default has occurred and is continuing. In the absence of delivery of (i) a timely Notice of Conversion with respect to any ABR Advance, such ABR Advance shall continue as an ABR Advance or (ii) a Notice of Conversion with respect to any Euro-Dollar Advance at least three (3) Euro-Dollar Business Days before the last day of the then current Interest Period with respect thereto, such Euro-Dollar Advance shall, on such last day, automatically continue as a Euro-Dollar Advance.

SECTION 2.04. Notes. The Revolver Advances of each Lender shall be evidenced by a single Revolver Note payable to the order of such Lender for the account of its Lending Office in an amount equal to the original principal amount of such Lender’s Revolver Commitment. The Swing Advances of the Swingline Lender shall be evidenced by a single Swing Advance Note payable to the order of the Swingline Lender in an amount equal to the original principal amount of \$5,000,000. Upon receipt of each Lender’s Note pursuant to **Section 3.01**, the Administrative Agent shall deliver such Note to such Lender. Interest on the daily outstanding principal amount of each Note shall be payable on each Interest Payment Date. Each Lender shall record, and prior to any transfer of its Note shall endorse on the schedule forming a part thereof appropriate notations to evidence, the date, amount and maturity of, and effective interest rate for, each Advance made by it, the date and amount of each payment of principal made by the Borrower with respect thereto and such schedule shall constitute rebuttable presumptive evidence of the

principal amount owing and unpaid on such Lender's Note; provided that the failure of any Lender to make, or any error in making, any such recordation or endorsement shall not affect the obligation of the Borrower hereunder or under the Note or the ability of any Lender to assign its Notes. Each Lender is hereby irrevocably authorized by the Borrower so to endorse its Notes and to attach to and make a part of any Note a continuation of any such schedule as and when required.

SECTION 2.05. Maturity of Advances. Each Advance included in any Borrowing or Swing Borrowing shall mature, and the principal amount thereof, together with all accrued unpaid interest thereon, shall be due and payable on the Final Maturity Date.

SECTION 2.06. Interest Rates.

(a) "Applicable Margin" means (a) with respect to any ABR Advance, 1.75% and (b) with respect to any Euro-Dollar Advance, 2.75%.

(b) ABR Advances shall bear interest on each day during each Interest Period at a rate per annum equal to the product of (i) the ABR as of the first day of the month in which such Advance is made plus the Applicable Margin multiplied by (ii) the outstanding amount of ABR Advances on such day. Such interest shall be payable on each applicable Interest Payment Date. Any overdue principal of and, to the extent permitted by applicable law, overdue interest on any ABR Advance shall bear interest, payable on demand, for each day until paid in full at a rate per annum equal to the Default Rate.

(c) Euro-Dollar Advances shall bear interest on each day during each Interest Period at a rate per annum equal to the product of (i) (1) the Applicable Margin, plus (2) the applicable Adjusted LIBO Rate for such Interest Period multiplied by (ii) the outstanding amount of Euro-Dollar Advances on such day. Such interest shall be payable on each applicable Interest Payment Date. Any overdue principal of and, to the extent permitted by applicable law, overdue interest on any Euro-Dollar Advance shall bear interest, payable on demand, for each day until paid in full at a rate per annum equal to the Default Rate.

The "LIBO Rate" means, with respect to any Interest Period, the rate per annum at which Eurodollar deposits in the London interbank market for one month are quoted on Reuters LIBOR O1 screen, two (2) Business Days prior to the first day of such Interest Period; provided that, in the event such rate is not available at such time for any reason, then the rate for such Interest Period shall be determined by such alternate method as reasonably selected by the Administrative Agent; provided further, that if the LIBO Rate shall be less than zero, such rate shall be deemed zero for purposes of the Revolver Advances.

"Euro-Dollar Reserve Percentage" means for any day that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement for a member bank of the Federal Reserve System in respect of "Eurocurrency liabilities" (or in respect of any other category of liabilities which includes deposits by reference to which the interest rate on such Euro-Dollar Advance is determined or any category of extensions of credit or other assets which includes loans by a non-United States office of any Lender to United States residents). The Adjusted LIBO Rate shall be adjusted automatically on and as of the effective date of any change in the Euro-Dollar Reserve Percentage.

(d) The Administrative Agent shall determine each interest rate applicable to the Advances hereunder in accordance with the terms of this Agreement. The Administrative Agent shall give prompt notice to the Borrower and the Lenders by facsimile of each rate of interest so determined, and its determination thereof shall be conclusive in the absence of manifest error.

(e) After the occurrence and during the continuance of an Event of Default (other than an Event of Default under Sections 6.01(g) or (h)), the principal amount of the Advances (and, to the extent permitted by applicable law, all accrued interest thereon) may, at the election of the Required Lenders, bear interest at the Default Rate; provided, however, that automatically whether or not the Required Lenders elect to do so, (i) any overdue principal of and, to the extent permitted by law, overdue interest on the Advances shall bear interest payable on demand, for each day until paid at a rate per annum equal to the Default Rate, and (ii) after the occurrence and during the continuance of an Event of Default described in Section 6.01(g) or 6.01(h), the principal amount of the Advances (and, to the extent permitted by applicable law, all accrued interest thereon) shall bear interest payable on demand for each day until paid at a rate per annum equal to the Default Rate.

#### SECTION 2.07. Fees.

(a) The Borrower shall pay to the Administrative Agent for the ratable account of each Lender an unused commitment fee ("Unused Commitment Fee") equal to the product of: the aggregate of the daily average amounts of such Lender's Unused Commitment, times (i) a per annum percentage equal to 0.625%, if the Unused Commitment amounts to more than 50% of the Revolver Commitment or (ii) a per annum percentage equal to 0.300%, if the Unused Commitment is 50% or less of the Revolver Commitment. Such Unused Commitment Fee shall accrue from the Restatement Date to but excluding the Termination Date. Unused Commitment Fees shall be determined quarterly in arrears and shall be payable on each Quarterly Payment Date and on the Termination Date; provided that should the Revolver Commitments be terminated at any time prior to the Termination Date for any reason, the entire accrued Unused Commitment Fee shall be paid on the date of such termination. Any such Unused Commitment Fee following the Restatement Date until the first Quarterly Payment Date shall be prorated according to the number of days this Agreement was in effect during such Fiscal Quarter. For purposes of calculating the Unused Commitment Fee, Swing Advances shall not be considered usage of the Revolver Commitment.

(b) The Borrower shall pay (i) to the Administrative Agent, for the account and sole benefit of the Administrative Agent, any administrative fees owed to Administrative Agent under any agreement between the Borrower and the Administrative Agent, (ii) to the Administrative Agent, for the account and sole benefit of the Administrative Agent, a monthly fee in the amount of \$3,500 which shall be payable on the last Business Day of each month and (iii) to the Administrative Agent, for the account of the Lenders, such fees and other amounts at such times as set forth in the fee letter by and between the Administrative Agent and the Borrower.

(c) The Borrower shall pay to the Administrative Agent for the ratable account of each Lender an upfront fee ("Upfront Lender Fee") equal to the product of such Lender's Revolver Commitment, times (i) a percentage equal to 0.50% if such Lender's Revolver Commitment equals or is greater than \$25,000,000, (ii) a percentage equal to 0.40% if such Lender's Revolver Commitment is equal to or greater than \$15,000,000 but less than \$25,000,000 or (iii) a percentage equal to 0.25% if such Lender's Revolver Commitment is less than \$15,000,000.

SECTION 2.08. Optional Termination or Reduction of Commitments. The Borrower may, subject to any applicable prepayments pursuant to Section 2.11, upon at least 3 Business

Day's irrevocable notice to the Administrative Agent, terminate at any time, or proportionately reduce from time to time by an aggregate amount of at least \$5,000,000 or any larger multiple of \$1,000,000, the Revolver Commitments; provided, however: (1) each termination or reduction, as the case may be, shall be permanent and irrevocable; (2) no such termination or reduction shall be in an amount greater than the Total Unused Revolver Commitments on the date of such termination or reduction; (3) no such reduction pursuant to this **Section 2.08** shall result in the aggregate Revolver Commitments of all of the Lenders being reduced to an amount less than \$10,000,000, unless the Revolver Commitments are terminated in their entirety, in which case all accrued fees (as provided under **Section 2.07**) shall be payable on the effective date of such termination; and (4) (unless the Borrower shall have prepaid all Advances, and terminated in full all Revolver Commitments and Swing Advance commitments, within 30 days after the Administrative Agent has disapproved any entity described in clause (ii) of the definition of "Loan Fund Joint Venture") the Borrower shall pay to the Administrative Agent, for distribution ratably to the Lenders, a commitment reduction fee equal to (a) 1.0% of the amount of such permanent reduction to the Revolver Commitment, if such reduction occurs on or prior to the second anniversary of the Restatement Date and (b) 0.25% of the amount of such reduction, if such reduction occurs after the second anniversary of the Restatement Date and ninety (90) days prior to the third anniversary of the Restatement Date. Each reduction shall be made ratably among the Lenders in accordance with their respective Revolver Commitments.

**SECTION 2.09. Termination of Commitments.** The Revolver Commitments shall terminate on the Termination Date. Any Advances then outstanding shall be due and payable in accordance with Section 2.11(f) hereof and any unpaid Advances, together with interest thereon, shall be due and payable on the Final Maturity Date.

**SECTION 2.10. Optional Prepayments.**

(a) The Borrower may prepay any ABR Borrowing, in whole at any time, or from time to time in part in amounts aggregating at least \$1,000,000 or any larger integral multiple of \$100,000 (or any lesser amount equal to the outstanding balance of such Advance), by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment, (i) upon at least one (1) Business Day's notice to the Administrative Agent any Borrowing that is an ABR Borrowing or (ii) without any notice, any Swing Borrowing. Each such optional prepayment shall be applied (i) first to any Swing Advances outstanding, and (ii) then applied to prepay ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (a) first, to ABR Advances, and (b) second, to Euro-Dollar Advances.

(b) Subject to any payments required pursuant to the terms of **Article VIII** for such Euro-Dollar Borrowing, the Borrower may, upon at least three (3) Business Day's prior written notice, prepay in minimum amounts of \$1,000,000 with additional increments of \$100,000 (or any lesser amount equal to the outstanding balance of such Advances) all or any portion of the principal amount of any Euro-Dollar Borrowing prior to the maturity thereof, by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment and such payments required pursuant to the terms of **Article VIII**. Each such optional prepayment shall be applied to prepay ratably the Euro-Dollar Advances of the several Lenders included in such Euro-Dollar Borrowing.

(c) Upon receipt of a notice of prepayment pursuant to this **Section 2.10**, the Administrative Agent shall promptly notify each Lender of the contents thereof and of such Lender's ratable share of such prepayment and such notice, once received by the Administrative Agent, shall not thereafter be revocable by the Borrower.

SECTION 2.11. Mandatory Prepayments.

(a) On each date on which the Revolver Commitments are reduced or terminated pursuant to **Section 2.08** or **Section 2.09**, the Borrower shall repay or prepay such principal amount of the outstanding Revolver Advances, if any (together with interest accrued thereon and any amount due under **Section 8.05**), as may be necessary so that after such payment the aggregate unpaid principal amount of the Revolver Advances does not exceed the aggregate amount of the Revolver Commitments as then reduced. Each such payment or prepayment shall be applied (i) first to any Swing Advances outstanding, and (ii) then applied to prepay ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (a) first, to ABR Advances, and (b) second, to Euro-Dollar Advances.

(b) In the event that the aggregate principal amount of all Advances at any one time outstanding shall at any time exceed the aggregate amount of the Revolver Commitments of all of the Lenders at such time, the Borrower shall immediately repay so much of the Advances as is necessary in order that the aggregate principal amount of the Advances thereafter outstanding, shall not exceed the aggregate amount of the Revolver Commitments of all of the Lenders at such time. Each such payment or prepayment shall be applied (i) first to any Swing Advances outstanding, and (ii) then applied to prepay ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (a) first, to ABR Advances, and (b) second, to Euro-Dollar Advances.

(c) In the event that the aggregate principal amount of all Advances at any one time outstanding shall at any time exceed the Borrowing Base, the Borrower shall immediately repay so much of the Advances as is necessary in order that the aggregate principal amount of the Advances thereafter outstanding shall not exceed the Borrowing Base.

(d) If at any time the Borrower is not in compliance with the Minimum Liquidity Requirement, the Borrower shall immediately repay so much of the Revolver Advances as is necessary in order that, after giving effect to such repayment, the Minimum Liquidity Requirement is satisfied. Each such payment or prepayment shall be applied ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (i) first, to ABR Advances, and (ii) lastly to Euro-Dollar Advances.

(e) If at any time (i) the Administrative Agent on behalf of the Secured Parties does not own or have a valid and perfected first priority security interest in any Eligible Investment or (ii) any representation or warranty with respect to any Eligible Investment included in the Borrowing Base is not true and correct in all material respects, then upon the earlier of the Borrower's receipt of notice from the Administrative Agent or the Borrower becoming aware thereof, the Borrower, in its sole discretion, shall elect to either (x) repay the Advances outstanding (together with any amounts owing under **Article VIII** relating to such repayment) to the extent required by **Section 2.11(c)** after giving effect to the exclusion of such ineligible Portfolio Investment from the Borrowing Base, or (y) substitute an Eligible Investment for such ineligible Portfolio Investment; provided that no such substitution shall be permitted unless (1) such substitute Portfolio Investment is an Eligible Investment on the date of substitution, (2) after giving effect to the inclusion of the substitute Eligible Investment, no repayment of any Advances outstanding shall be required under **Section 2.11(c)** (after giving effect to the exclusion of such ineligible Portfolio Investment from the Borrowing Base), (3) all representations and warranties of the Borrower contained in **Article IV** shall be true and correct, in all material respects, as of the date of substitution, (4) all actions or additional actions (if any) necessary to perfect the security interest of the Administrative Agent in such substitute Portfolio Investment and related Collateral shall have been taken as of or prior to the date of substitution and (5) the Borrower

shall deliver to the Administrative Agent on the date of such substitution (A) a certificate of a Responsible Officer certifying that each of the foregoing is true and correct as of such date and (B) a Borrowing Base Certification Report (including a calculation of the Borrowing Base after giving effect to such substitution).

(f) At any time after the Termination Date and prior to the Final Maturity Date, in the event that there is any sale or other disposition of Collateral, or any principal collection of, or principal repayment or principal prepayment from any proceeds of Collateral, or receipt by Borrower of any insurance or condemnation proceeds, Borrower shall repay the Advances on the first Business Day of the immediately succeeding month in an aggregate amount equal to the net proceeds of such sale and/or other dispositions (i.e., gross proceeds less the reasonable direct costs of such sales or other dispositions) plus the amount of principal collections, principal repayments, principal prepayments and/or receipts, and until the date of payment, such proceeds shall be held in trust for the Administrative Agent. Each such payment shall be applied (i) first, to any Swing Advances outstanding, and (ii) then applied to prepay ratably to the Revolver Advances of the several Lenders outstanding on the date of payment or prepayment in the following order or priority: (a) first, to ABR Advances, and (b) second, to Euro-Dollar Advances.

(g) Any repayment or prepayment made pursuant to this Section shall not affect the Borrowers' obligation to continue to make payments under any Hedging Agreement, which shall remain in full force and effect notwithstanding such repayment or prepayment, subject to the terms of such Hedging Agreement.

(h) Any repayment or prepayment made pursuant to this Section shall be in cash without any prepayment premium or penalty (but including all breakage or similar costs) on the customary terms of the Administrative Agent.

#### SECTION 2.12. General Provisions as to Payments.

(a) Except as provided in **Section 2.12(e)**, the Borrower shall make each payment of principal of, and interest on, the Advances and of fees hereunder without any set off, counterclaim or any deduction whatsoever, not later than 12:00 P.M. (Eastern time) on the date when due, in Federal or other funds immediately available in Houston, Texas, to the Administrative Agent at its address referred to in **Section 9.01**. The Administrative Agent will promptly distribute to each Lender its ratable share of each such payment received by the Administrative Agent for the account of the Lenders.

(b) Whenever any payment of principal of, or interest on, the ABR Advances or of fees shall be due on a day which is not a Business Day, the date for payment thereof shall be extended to the next succeeding Business Day. Whenever any payment of principal of or interest on, the Euro-Dollar Advances shall be due on a day which is not a Euro-Dollar Business Day, the date for payment thereof shall be extended to the next succeeding Euro-Dollar Business Day unless such Euro-Dollar Business Day falls in another calendar month, in which case the date for payment thereof shall be the next preceding Euro-Dollar Business Day. If the date for any payment of principal is extended by operation of law or otherwise, interest thereon shall be payable for such extended time.

(c) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with **Section 2.02** and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact



made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to ABR Advances. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Advance included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(d) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) Taxes.

(i) Defined Terms. For purposes of this **Section 2.12(e)**, the term "Applicable Law" includes FATCA.

(ii) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Taxes, except as required by any Applicable Law. If any Applicable Law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this **Section 2.12(e)(ii)**) the Administrative Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made.

(iii) Payment of Other Taxes by the Borrower. Without limiting the provisions of paragraph (ii) above, the Borrower shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(iv) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent and each Lender, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this **Section 2.12(e)(iv)**) payable or paid by the Administrative Agent or such Lender, as the case may be, or required to be withheld or deducted from a payment to such recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the amount of, calculation of and circumstances giving rise to such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(v) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this **Section 2.12(e)**, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(vi) Status of Lenders. Any Lender that is entitled to an exemption from or reduction of withholding tax with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in this **Section 2.12(e) (vi) (A), (B) and (C)** below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

Without limiting the generality of the foregoing:

(A) each Lender that is a United States person (as such term is defined in Section 7701(a)(30)) of the Code) shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), duly completed and executed copies of Internal Revenue Service Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding Tax;

(B) any Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender

under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is entitled under Applicable Law to do so), whichever of the following is applicable: (i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party, duly completed and executed copies of Internal Revenue Service Form W-8BEN-E claiming an exemption from U.S. federal withholding Tax with respect to U.S. source payments to be received by such Foreign Lender under any Loan Document, (ii) duly completed and executed copies of Internal Revenue Service Form W-8ECI, (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate substantially in the form of **Exhibit M-1** hereto to the effect that such Foreign Lender is not (1) a “bank” within the meaning of section 881(c)(3)(A) of the Code, (2) a “10 percent shareholder” of the Borrower within the meaning of section 881(c)(3)(B) of the Code, or (3) a “controlled foreign corporation” described in section 881(c)(3)(C) of the Code and (y) duly completed and executed copies of Internal Revenue Service Form W-8BEN-E, and (iv) to the extent a Foreign Lender is not the beneficial owner, duly completed and executed copies of Internal Revenue Service Form W-8IMY, accompanied by duly completed and executed copies of Internal Revenue Service Form W-8ECI, Internal Revenue Service Form W-8BEN-E, a certificate substantially in the form of **Exhibit M-2** or **Exhibit M-3** hereto, Internal Revenue Service Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a certificate substantially in the form of **Exhibit M-4** hereto on behalf of each such direct and indirect partner;

(C) if a payment made to a Lender under any Loan Document would be subject to United States federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent, at the time or times prescribed by Applicable Law and at such time or times reasonably requested by the Borrower or the Administrative Agent, such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C) (i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine that such Lender has or has not complied with such Lender’s obligations under FATCA and, as necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this **Section 2.12(e)(vi)(C)**, “**FATCA**” shall include any amendments to FATCA made after the date of this Agreement, and

(D) any Foreign Lender shall, to the extent it is entitled by Applicable Law to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), duly completed and executed copies of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in United

States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by Applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(vii) Treatment of Certain Refunds. If the Administrative Agent or a Lender determines, in its reasonable discretion, that it has received a refund of any Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall promptly pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses of the Administrative Agent or such Lender (including Taxes), as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

(viii) Survival. Each party's obligations under this **Section 2.12(e)** shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the commitments hereunder and the repayment, satisfaction or discharge of all obligations under any Loan Document.

**SECTION 2.13.** Computation of Interest and Fees. Interest on the Advances shall be computed on the basis of a year of 360 days or 365/366 days, in the case of ABR Loans, in which case the interest rate payable is based on the Prime Rate and paid for the actual number of days elapsed (including the first day but excluding the last day). Utilization fees, Unused Commitment Fees, Upfront Lender Fees and any other fees payable hereunder shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day).

**SECTION 2.14.** Increase in Commitments.

(a) The Borrower shall have the right, at any time prior to the date that is one hundred eighty (180) days prior to the Termination Date by written notice to and in consultation with the Administrative Agent, to request an increase in the aggregate Revolver Commitments (each such requested increase, a "**Commitment Increase**"), by having one or more existing Lenders increase their respective Revolver Commitments then in effect (each, an "**Increasing Lender**"), by adding as a Lender with a new Revolver Commitment hereunder one or more Persons that are not already Lenders (each, an "**Additional Lender**"), or a combination thereof, provided that (i) any such request for a Commitment Increase shall be in a minimum amount of \$5,000,000, (ii) immediately after giving effect to any Commitment Increase, (y) the aggregate Revolver Commitments shall not exceed \$150,000,000 and (z) the aggregate of all Commitment Increases effected shall not exceed

\$55,000,000, (iii) no Default or Event of Default shall have occurred and be continuing on the applicable Commitment Increase Date (as hereinafter defined) or shall result from any Commitment Increase, (iv) immediately after giving effect to any Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof), the Borrower shall be in compliance with the covenants contained in Article V, (v) no consent of any Lender to such Commitment Increase shall be required and no Lender shall be obligated to participate as a Lender in such Commitment Increase, (vi) the Borrower shall give the existing Lenders the right of first refusal for participating in any such Commitment Increase by providing such notice to the Administrative Agent ten (10) Business Days before executing a commitment with any Person that is not already a Lender, and (vii) Section 5.07 will be adjusted by mutual consent of the Borrower and the Majority Lenders. An existing Lender shall have priority over Additional Lenders to participate in such requested Commitment Increase if such existing Lender provides written notice of its election to participate within ten (10) Business Days of such existing Lender's receipt of such notice. Such notice from the Borrower shall specify the requested amount of the Commitment Increase. No Lender shall have any obligation to become an Increasing Lender and any decision by a Lender to increase its Commitment shall be made in its sole discretion independently from any other Lender. Other than fees payable to the Administrative Agent, any fees paid by the Borrower for a Commitment Increase to an Increasing Lender, an Additional Lender, and the Administrative Agent, shall be for their own account and shall be in an amount, if any, mutually agreed upon by each such party and the Borrower, in each party's sole discretion.

(b) Each Additional Lender must qualify as an Eligible Assignee (the selection of which shall include the prior approval of the Administrative Agent). The Borrower and each Additional Lender shall execute a joinder agreement, and the Borrower and each Lender shall execute all such other documentation as the Administrative Agent and the Borrowers may reasonably require, all in form and substance reasonably satisfactory to the Administrative Agent and the Borrower, to evidence the Revolver Commitment adjustments referred to in Section 2.14(e); provided that the failure of any Lender that is not an Additional Lender or an Increasing Lender to execute any such documentation shall not impair the ability of the Additional Lenders, the Increasing Lenders and the Borrower to effect a Commitment Increase pursuant to this Section 2.14.

(c) If the aggregate Revolver Commitments are increased in accordance with this Section 2.14, the Borrower (in consultation with the Administrative Agent), Increasing Lender(s) (if any) and Additional Lender(s) (if any) shall agree upon the effective date (the "Commitment Increase Date," which shall be a Business Day not less than thirty (30) days prior to the Termination Date). The Administrative Agent shall promptly notify the Lenders of such increase and the Commitment Increase Date.

(d) Notwithstanding anything set forth in this Section 2.14 to the contrary, the Borrower shall not incur any Revolver Advances pursuant to any Commitment Increase (and no Commitment Increase shall be effective) unless the conditions set forth in Section 2.14(a) as well as the following conditions precedent are satisfied on the applicable Commitment Increase Date:

(i) The Administrative Agent shall have received the following, each dated the Commitment Increase Date and in form and substance reasonably satisfactory to the Administrative Agent:

(A) a supplement to this Agreement signed by the Required Lenders and each other Lender committing to the Commitment Increase, setting forth the reallocation of Commitments referred to in Section 2.14(e), all other documentation required by the Administrative Agent pursuant to Section 2.14(b) and such other

modifications, documents or items as the Administrative Agent, the Lenders or their counsel may reasonably request;

(B) an instrument, duly executed by the Borrower and each Guarantor acknowledging and reaffirming its obligations under this Agreement, the Collateral Documents, and the other Loan Documents to which it is a party;

(C) a certificate of the secretary or an assistant secretary of the Borrower and each Guarantor, certifying to and attaching the resolutions adopted by the board of directors (or similar governing body) of such party approving or consenting to such Commitment Increase;

(D) a certificate of the Chief Financial Officer or another Responsible Officer of the Borrower, certifying that (x) as of the Commitment Increase Date, all representations and warranties of the Borrower and the Guarantors contained in this Agreement and the other Loan Documents are true and correct in all material respects (except to the extent any such representation or warranty is expressly stated to have been made as of a specific date, in which case such representation or warranty is true and correct as of such date), (y) immediately after giving effect to such Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof), the Borrower is in compliance with the covenants contained in **Article V**, and (z) no Default or Event of Default has occurred and is continuing, both immediately before and after giving effect to such Commitment Increase (including any Borrowings in connection therewith and the application of the proceeds thereof);

(E) unless waived by the Administrative Agent and the Additional Lender(s), if any, an opinion or opinions of counsel for the Borrower and the Guarantors, in a form satisfactory to Administrative Agent and covering such matters as Administrative Agent may reasonably request, addressed to the Administrative Agent and the Lenders, together with such other documents, instruments and certificates as the Administrative Agent shall have reasonably requested; and

(F) such other documents or items that the Administrative Agent, the Lenders or their counsel may reasonably request.

(ii) In the case of any Borrowing of Revolver Advances in connection with such Commitment Increase for the purpose of funding an Acquisition, the applicable conditions set forth in this Agreement with respect to Acquisitions shall have been satisfied.

(e) On the Commitment Increase Date, (i) the aggregate principal outstanding amount of the Revolver Advances (the “**Initial Advances**”) immediately prior to giving effect to the Commitment Increase shall be deemed to be repaid, (ii) immediately after the effectiveness of the Commitment Increase, the Borrower shall be deemed to have made new Borrowings of Revolver Advances (the “**Subsequent Borrowings**”) in an aggregate principal amount equal to the aggregate principal amount of the Initial Advances and of the types and for the Interest Period specified in a Notice of Borrowing delivered to the Administrative Agent in accordance with **Section 2.01**, (iii) each Lender shall pay to the Administrative Agent in immediately available funds an amount equal to the difference, if positive, between (y) such Lender’s pro rata percentage (calculated after giving effect to the Commitment Increase) of the Subsequent Borrowings and (z) such Lender’s pro rata percentage (calculated without giving effect to the Commitment Increase) of the Initial Advances, (iv) after the

Administrative Agent receives the funds specified in clause (iii) above, the Administrative Agent shall pay to each Lender the portion of such funds equal to the difference, if positive, between (y) such Lender's pro rata percentage (calculated without giving effect to the Commitment Increase) of the Initial Advances and (z) such Lender's pro rata percentage (calculated after giving effect to the Commitment Increase) of the amount of the Subsequent Borrowings, (v) the Lenders shall be deemed to hold the Subsequent Borrowings ratably in accordance with their respective Revolver Commitments (calculated after giving effect to the Commitment Increase), (vi) the Borrower shall pay all accrued but unpaid interest on the Initial Advances to the Lenders entitled thereto, and (vii) the signature pages hereto shall be deemed amended to reflect the Revolver Commitments of all Lenders after giving effect to the Commitment Increase. The deemed payments made pursuant to clause (i) above in respect of each Euro-Dollar Advance shall be subject to indemnification by the Borrower pursuant to the provisions of **Section 8.05** if the Commitment Increase Date occurs other than on the last day of the Interest Period relating thereto.

**SECTION 2.15.**      Extension Options. At least 45 days prior to each of March 6, 2020 (the third anniversary of the Restatement Date) and March 6, 2021 (the fourth anniversary of the Restatement Date), the Borrower may, by notice to the Administrative Agent (who shall promptly notify the Lenders) request that the Administrative Agent and the Lenders extend the date set forth in the definition of Termination Date by one year, and the Administrative Agent and the Lenders may, each in their sole and individual discretion, elect to do so, it being understood that (i) no extension shall be effective unless all Lenders unanimously agree to extend and (ii) any Lender who has not responded to such extension request within fifteen (15) Business Days following the date of the Administrative Agent's notice of such extension request to the Lenders, shall be deemed to have rejected such request. In the event that one extension request is exercised and accepted by all Lenders, this Agreement shall be automatically amended as of March 6, 2020 to provide that the definition of Termination Date would be extended to March 6, 2021. In the event that two extension requests are exercised and accepted by all Lenders, upon effectiveness of the second extension, this Agreement shall be automatically amended as of March 6, 2021 to provide that the definition of Termination Date would be extended to March 6, 2022. Any extension pursuant to this Section 2.15 shall be effective as of the date of the amendment to this Agreement effecting such extension and each such amendment shall be conditioned upon: (x) no Default or Event of Default and (y) continued accuracy of the representations and warranties, in each case as of the date of such amendment in all material respects. The first extension request shall expire if not made on or prior to March 6, 2020 and shall not take effect prior to March 6, 2020. The second extension request shall expire if not made on or prior to March 6, 2021 and shall not take effect prior to March 6, 2021. In no event shall the Termination Date be later than March 6, 2022.

**SECTION 2.16.**      Lender Consent. The Lenders hereby consent to the appointment of EverBank as successor Administrative Agent and the other matters set forth in the Assignment, Assumption and Amendment Agreement, dated as of the Restatement Date, between EverBank and Capital One, National Association, a copy of which has been provided to each Lender.

### ARTICLE III CONDITIONS TO BORROWINGS

**SECTION 3.01.**      Conditions to Restatement and First Borrowing. The obligation of each Lender to make an Advance on or after the Restatement Date is subject to the satisfaction of the conditions set forth in **Section 3.02** and the following additional conditions:

- (a) receipt by the Administrative Agent from each of the parties hereto of a duly executed counterpart of this Agreement signed by such party;

(b) receipt by the Administrative Agent of a duly executed Revolver Note for the account of each Lender, complying with the provisions of **Section 2.04**;

(c) receipt by the Administrative Agent of an opinion of counsel to the Loan Parties, dated as of the Restatement Date (or in the case of an opinion delivered pursuant to **Section 5.28** hereof such later date as specified by the Administrative Agent) in a form satisfactory to Administrative Agent and covering such matters set forth in **Exhibit E** hereto and such additional matters relating to the transactions contemplated hereby as the Administrative Agent may reasonably request;

(d) receipt by the Administrative Agent of a certificate (the “**Closing Certificate**”), dated the date of the first Borrowing after the Restatement Date, substantially in the form of **Exhibit F** hereto, signed by a chief financial officer or other authorized officer of each Loan Party, to the effect that, to his knowledge, (i) no Default has occurred and is continuing on the date of the first Borrowing and (ii) the representations and warranties of the Loan Parties contained in **Article IV** are true on and as of the date of the first Borrowing hereunder;

(e) receipt by the Administrative Agent of all documents which the Administrative Agent or any Lender may reasonably request relating to the existence of each Loan Party, the authority for and the validity of this Agreement, the Notes and the other Loan Documents, and any other matters relevant hereto, all in form and substance satisfactory to the Administrative Agent, including without limitation a certificate of incumbency of each Loan Party (the “**Officer’s Certificate**”), signed by the Secretary, an Assistant Secretary, a member, manager, partner, trustee or other authorized representative of the respective Loan Party, substantially in the form of **Exhibit G** hereto, certifying as to the names, true signatures and incumbency of the officer or officers of the respective Loan Party, authorized to execute and deliver the Loan Documents, and certified copies of the following items: (i) the Loan Party’s Organizational Documents; (ii) the Loan Party’s Operating Documents; (iii) if applicable, a certificate of the Secretary of State of such Loan Party’s state of organization as to the good standing or existence of such Loan Party, and (iv) the Organizational Action, if any, taken by the board of directors of the Loan Party or the members, managers, trustees, partners or other applicable Persons authorizing the Loan Party’s execution, delivery and performance of this Agreement, the Notes and the other Loan Documents to which the Loan Party is a party;

(f) completion of due diligence to the satisfaction of the Administrative Agent with respect to the Borrower and the Guarantors, including but not limited to review of the Investment Policies, risk management procedures, accounting policies, systems integrity, compliance, management and organizational structure and the loan and investment portfolio of the Borrower and the Guarantors;

(g) the Security Agreement and the other Collateral Documents, each in form and content satisfactory to the Administrative Agent shall have been duly executed by the applicable Loan Parties and such documents shall have been delivered to the Administrative Agent and shall be in full force and effect and each document (including each UCC financing statement and amendments and continuations thereof required by law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent for the benefit of the Secured Parties, upon filing, recording or possession by the Administrative Agent, as the case may be, a valid, legal and perfected first-priority security interest in and lien on the Collateral described in the Collateral Documents, free of all liens or encumbrances (except Permitted Encumbrances), shall have been delivered to the Administrative Agent; Borrower shall also deliver or cause to be delivered the certificates (with undated stock powers executed in blank) for all shares of stock or other equity interests pledged to the Administrative Agent for the benefit of Lenders pursuant to the Pledge Agreement;



(h) the Administrative Agent shall have received the results of a search of the UCC filings (or equivalent filings) made with respect to the Borrower and the Loan Parties in the states (or other jurisdictions) in which the Loan Parties are organized, the chief executive office of each such Person is located, any offices of such persons in which records have been kept relating to Collateral described in the Collateral Documents and the other jurisdictions in which UCC filings (or equivalent filings) are to be made pursuant to the preceding paragraph, together with copies of the financing statements (or similar documents) disclosed by such search, and accompanied by evidence satisfactory to the Administrative Agent that the Liens other than Permitted Encumbrances indicated in any such financing statement (or similar document) have been released or subordinated to the satisfaction of Administrative Agent;

(i) receipt by the Administrative Agent of a Borrowing Base Certification Report, dated as of the date of the initial Notice of Borrowing and satisfactory in all respects to the Administrative Agent;

(j) the Borrower shall have paid all fees required to be paid by it on the Closing Date, including all fees required hereunder and any fees owed to the Administrative Agent, the Lead Arranger, and the Lenders, and shall have reimbursed the Administrative Agent for all fees, costs and expenses of closing the transactions contemplated hereunder and under the other Loan Documents, including the reasonable legal, audit and other document preparation costs incurred by the Administrative Agent;

(k) such other documents or items as the Administrative Agent, the Lenders or their counsel may reasonably request;

(l) the Administrative Agent shall have received and reviewed (i) satisfactory audited consolidated financial statements of the Borrower for the two most recent fiscal years ended prior to the Restatement Date as to which such financial statements are available, (ii) satisfactory unaudited quarterly financial statements of the Borrower as of the most recent quarter end and such other financial information as the Administrative Agent may reasonably request; and (iii) satisfactory financial statement projections through and including the Borrower's 2017 fiscal year, together with such information as the Administrative Agent and the Lenders shall reasonably require (including, without limitation, a detailed description of the assumptions used in preparing such projections);

(m) the Administrative Agent shall have received an Officer's Certificate to the effect that any credit facilities currently in effect for the Borrower (except to the extent being so repaid with the proceeds of the initial Loan on or after the Restatement Date) and any and all liens thereunder have been terminated and released; and

(n) the Administrative Agent shall have received evidence of insurance maintained by the Loan Parties, insuring against such risks and with such insurers as are acceptable to the Administrative Agent.

For purposes of determining compliance with the conditions specified in this **Section 3.01**, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 3.02. Conditions to All Borrowings. The obligation of each Lender to make an Advance on the occasion of each Borrowing or Swing Borrowing is subject to the satisfaction of the following conditions:

- (a) receipt by the Administrative Agent of a Notice of Borrowing as required by **Section 2.02**, together with a Borrowing Base Certification Report dated as of the date of delivery and satisfactory in all respects to the Administrative Agent;
- (b) receipt by the Administrative Agent of such documentation as the Administrative Agent shall reasonably require confirming that the Borrower shall be in compliance with the Minimum Liquidity Requirement, if applicable;
- (c) the fact that, immediately before and after such Borrowing or Swing Borrowing, no Default shall have occurred and be continuing;
- (d) an Officer's Certificate to the effect that the representations and warranties of the Loan Parties contained in **Article IV** of this Agreement and the other representations and warranties contained in the Loan Documents shall be true, in all material respects, on and as of the date of such Borrowing or Swing Borrowing (except to the extent that any such representations and warranties speak as to a specific date, in which case such representations and warranties shall be true as of such date);
- (e) an Officer's Certificate to the effect that, immediately after such Borrowing or Swing Borrowing: (A) the aggregate outstanding principal amount of the Revolver Advances of each Lender will not exceed the amount of its Revolver Commitment and (B) the aggregate outstanding principal amount of the Revolver Advances will not exceed the aggregate amount of the Revolver Commitments of all of the Lenders as of such date;
- (f) with respect to each Pre-Positioned Investment that is funded with the proceeds of such Advance, the Administrative Agent and the Collateral Custodian shall have received a faxed copy of the executed note, if any, evidencing such Pre-Positioned Investment, and, if requested in writing by the Administrative Agent, the Administrative Agent shall have received a copy of the credit analysis, underwriting materials and any similar document previously prepared by the Borrower in connection with its investment decision in such Pre-Positioned Investment; and
- (g) an Officer's Certificate to the effect that, immediately after such Borrowing or Swing Borrowing the aggregate outstanding principal amount of the Revolver Advances will not exceed the lesser of: (A) the aggregate amount of the Revolver Commitments of all of the Lenders as of such date; and (B) the Borrowing Base.

Each Borrowing or Swing Borrowing and each Notice of Continuation or Conversion hereunder shall be deemed to be a representation and warranty by the Loan Parties on the date of such Borrowing or Swing Borrowing as to the truth and accuracy of the facts specified in clauses (c), (d) and (e) of this Section.

#### ARTICLE IV REPRESENTATIONS AND WARRANTIES

The Borrower and Guarantors represent and warrant that:

SECTION 4.01. Existence and Power. As of the Restatement Date, the Borrower is a corporation, and each Guarantor, if any, is a corporation, limited liability company or other legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, as the case may be, is duly qualified to transact business in every jurisdiction where, by the nature of its business, such qualification is necessary, and has all organizational powers and all governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted.

SECTION 4.02. Organizational and Governmental Authorization; No Contravention. The execution, delivery and performance by each Loan Party of this Agreement, the Notes, the Collateral Documents and the other Loan Documents to which such Loan Party is a party (i) are within such Loan Party's organizational powers, (ii) have been duly authorized by all necessary Organizational Action, (iii) require no action by or in respect of, or filing with, any Governmental Authority that has not been obtained or made when required, (iv) do not contravene, or constitute a default under, any provision of applicable law or regulation or of the Organizational Documents and Operating Documents of such Loan Party or of any agreement, judgment, injunction, order, decree or other instrument binding upon such Loan Party or any of its Subsidiaries, and (v) do not result in the creation or imposition of any Lien on any asset of such Loan Party or any of its Subsidiaries (other than Liens in favor of the Administrative Agent for the benefit of the Secured Parties to secure the Obligations).

SECTION 4.03. Binding Effect. This Agreement constitutes a valid and binding agreement of the Loan Parties enforceable in accordance with its terms, and the Notes, the Collateral Documents and the other Loan Documents, when executed and delivered in accordance with this Agreement, will constitute valid and binding obligations of the Loan Parties party to such Loan Document enforceable in accordance with their respective terms, provided that the enforceability hereof and thereof is subject in each case to general principles of equity and to bankruptcy, insolvency and similar laws affecting the enforcement of creditors' rights generally.

SECTION 4.04. Financial Information.

(a) The audited consolidated balance sheet of the Borrower as of December 31, 2015 and the related consolidated statements of income, shareholders' equity and cash flows for the Fiscal Year then ended, reported on by Grant Thornton LLP, copies of which have been delivered to the Administrative Agent for delivery to each of the Lenders, and the unaudited consolidated financial statements of the Borrower for the interim period ended September 30, 2016, copies of which have been delivered to each of the Lenders, fairly present, in conformity with GAAP, the consolidated financial position of the Borrower and its Consolidated Subsidiaries as of such dates and their consolidated results of operations and cash flows for such periods stated.

(b) Since September 30, 2016 there has been no event, act, condition or occurrence having a Material Adverse Effect.

SECTION 4.05. Litigation. There is no action, suit or proceeding pending, or to the knowledge of the Loan Parties threatened, against or affecting the Loan Parties or any of their respective Subsidiaries before any court or arbitrator or any Governmental Authority which in any manner draws into question the validity or enforceability of, or could impair the ability of the Loan Parties to perform their respective obligations under, this Agreement, the Notes, the Collateral Documents or any of the other Loan Documents.

SECTION 4.06. Compliance with ERISA.

(a) The Loan Parties and each member of the Controlled Group have fulfilled their obligations under the minimum funding standards of ERISA and the Code with respect to each Plan and are in compliance with the applicable provisions of ERISA and the Code, and have not incurred any liability to the PBGC or a Plan under Title IV of ERISA.

(b) Neither the Loan Parties nor any member of the Controlled Group is or ever has been obligated to contribute to any Multiemployer Plan.

(c) The assets of the Loan Parties or any Subsidiary of any Loan Party do not and will not constitute “plan assets,” within the meaning of ERISA, the Code and the respective regulations promulgated thereunder. The execution, delivery and performance of this Agreement, and the borrowing and repayment of amounts hereunder, do not and will not constitute “prohibited transactions” under ERISA or the Code.

SECTION 4.07. Payment of Taxes. There have been filed on behalf of the Loan Parties and their respective Subsidiaries all Federal, state and local income, excise, property and other tax returns which are required to be filed by them and all taxes due pursuant to such returns or pursuant to any assessment received by or on behalf of the Loan Parties or any Subsidiary have been paid other than those being contested in good faith and by appropriate proceedings diligently conducted and with respect to which such Person has established adequate reserves in accordance with GAAP. The charges, accruals and reserves on the books of the Loan Parties and their respective Subsidiaries in respect of taxes or other governmental charges are, in the opinion of the Loan Parties, adequate. No Loan Party has been given or been requested to give a waiver of the statute of limitation relating to the payment of Federal, state, local or foreign taxes.

SECTION 4.08. Subsidiaries. Each of the Subsidiaries (other than any Foreclosed Subsidiary) of each Loan Party is a corporation, a limited liability company or other legal entity, duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, is duly qualified to transact business in every jurisdiction where, by the nature of its business, such qualification is necessary, and has all organizational powers and all governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted. No Loan Party has any Subsidiaries except those Subsidiaries listed on Schedule 4.08 and as set forth in any Compliance Certificate provided to the Administrative Agent and Lenders pursuant to Section 5.01(c) after the Restatement Date, which accurately sets forth each such Subsidiary’s complete name and jurisdiction of organization, and if applicable, the designation of such Subsidiary as a Structured Subsidiary.

SECTION 4.09. Investment Company Act, Etc. The Borrower is qualified as a RIC and as an “investment company” that has elected to be a “business development company” as defined in Section 2(a)(48) of the Investment Company Act and is subject to regulation as such under the Investment Company Act including Section 18, as modified by Section 61, of the Investment Company Act. The business and other activities of the Borrower, including but not limited to, the making of the Advances by the Lenders, the application of the proceeds and repayment thereof by the Borrower and the consummation of the transactions contemplated by the Loan Documents to which the Borrower is a party do not result in any violations, with respect to the Borrower, of the provisions of the Investment Company Act or any rules, regulations or orders issued by the Securities and Exchange Commission thereunder.

SECTION 4.10. All Consents Required. All approvals, authorizations, consents, orders or other actions of any Person or of any Governmental Authority (if any) required in connection with the due execution, delivery and performance by the Loan Parties of this Agreement and any Loan Document to which any Loan Party is a party, have been obtained.

SECTION 4.11. Ownership of Property; Liens. Each of the Loan Parties and their respective Subsidiaries has title or the contractual right to possess its properties sufficient for the conduct of its business and none of such properties is subject to any Lien except as permitted in Section 5.14.

SECTION 4.12. No Default. No Loan Party or any of their respective Subsidiaries is in default in any material respect under or with respect to any material agreement, instrument or undertaking to which it is a party or by which it or any of its property is bound. No Default or Event of Default has occurred and is continuing.

SECTION 4.13. Full Disclosure. The Loan Parties have disclosed to the Lenders in writing any and all facts which, alone or in the aggregate, could reasonably be expected to have a Material Adverse Effect or to materially affect or alter the business of the Loan Parties as presently conducted.

SECTION 4.14. Environmental Matters.

(a) No Loan Party or any Subsidiary of a Loan Party is subject to any Environmental Liability which would reasonably be expected to have a Material Adverse Effect and no Loan Party or any Subsidiary of a Loan Party has been designated as a potentially responsible party under CERCLA. None of the Properties has been identified on any current or proposed (i) National Priorities List under 40 C.F.R. § 300, (ii) CERCLIS list or (iii) any list arising from a state statute similar to CERCLA.

(b) No Hazardous Materials have been or are being used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, managed or otherwise handled at, or shipped or transported to or from the Properties or are otherwise present at, on, in or under the Properties, or, to the best of the knowledge of the Loan Parties, at or from any adjacent site or facility, except for Hazardous Materials, such as cleaning solvents, pesticides and other materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, and managed or otherwise handled in minimal amounts in the ordinary course of business of such Loan Party or Subsidiary of a Loan Party in compliance with all applicable Environmental Requirements.

(c) The Loan Parties, and each of their respective Subsidiaries, has procured all Environmental Authorizations necessary for the conduct of the business contemplated on such Property, and is in compliance in all material respects with all Environmental Requirements in connection with the operation of the Properties and the Loan Party's, and each of their respective Subsidiary's, respective businesses.

SECTION 4.15. Compliance with Laws. Each Loan Party and each Subsidiary of a Loan Party is in compliance in all material respects with all applicable laws, including, without limitation, all Environmental Laws and all regulations and requirements of the Securities and Exchange Commission and the National Association of Securities Dealers, Inc. (including with respect to timely filing of reports).

SECTION 4.16. Capital Securities. All Capital Securities, debentures, bonds, notes and all other securities of each Loan Party and their respective Subsidiaries presently issued and outstanding are validly and properly issued in accordance, in all material respects, with all applicable laws, including, but not limited to, the "Blue Sky" laws of all applicable states and the federal securities laws. The issued shares of Capital Securities of each of the Loan Party's respective Subsidiaries are owned by the Loan Parties free and clear of any Lien or adverse claim.

SECTION 4.17. Margin Stock. No Loan Party nor any of their respective Subsidiaries is engaged principally, or as one of its important activities, in the business of purchasing or

carrying any Margin Stock, and no part of the proceeds of any Advance will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock, or be used for any purpose which violates, or which is inconsistent with, the provisions of Regulation X of the Board of Governors of the Federal Reserve System. Following the application of the proceeds from each Advance, not more than 25% of the value of the assets, either of the Borrower only or of the Borrower and its Subsidiaries on a consolidated basis, will be “Margin Stock.”

SECTION 4.18. Insolvency. After giving effect to the execution and delivery of the Loan Documents and the making of the Advances under this Agreement, no Loan Party will be “insolvent,” within the meaning of such term as defined in § 101 of Title 11 of the United States Code or Section 2 of either the Uniform Fraudulent Transfer Act or the Uniform Fraudulent Conveyance Act, or any other applicable state law pertaining to fraudulent transfers, as each may be amended from time to time, or be unable to pay its debts generally as such debts become due, or have an unreasonably small capital to engage in any business or transaction, whether current or contemplated.

SECTION 4.19. Collateral Documents. Upon execution by the applicable Loan Parties, the Collateral Documents shall be effective to create in favor of the Administrative Agent, for the ratable benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral, securing the Obligations, and, upon (i) the filing of one or more UCC financing statements in the appropriate jurisdictions, (ii) delivery of the certificates evidencing shares of stock, membership interests and other equity interests and delivery of the original notes and other instruments representing debt or other obligations owing to the Loan Parties to the Collateral Custodian as bailee for the Administrative Agent and (iii) execution and delivery of deposit account control agreements (in form and substance acceptable to the Administrative Agent) with any depository bank (other than Capital One) at which any Loan Party maintains a deposit account, the Administrative Agent shall have or continue to have a fully perfected first priority Lien on, and security interest in, all right, title and interest of the applicable Loan Parties, in such Collateral and the proceeds thereof that can be perfected upon filing of one or more UCC financing statements and execution and delivery of such equity interests, notes and other instruments and such control agreements, in each case prior and superior in any right to any other Person. The representations and warranties of the Loan Parties contained in the Collateral Documents are true and correct.

SECTION 4.20. Labor Matters. There are no strikes, lockouts, slowdowns or other labor disputes against any Loan Party or any Subsidiary of any Loan Party pending or, to the knowledge of any Loan Party, threatened. The hours worked by and payment made to employees of the Loan Parties and each Subsidiary of any Loan Party have been in compliance with the Fair Labor Standards Act and any other applicable federal, state or foreign law dealing with such matters. All payments due from the Loan Parties or any of their respective Subsidiaries, or for which any claim may be made against the Loan Parties or any of their respective Subsidiaries, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of the Loan Party or such Subsidiary, as appropriate. No Loan Party or any Subsidiary of a Loan Party is party to a collective bargaining agreement.

SECTION 4.21. Patents, Trademarks, Etc. The Loan Parties and their respective Subsidiaries own, or are licensed to use, all patents, trademarks, trade names, copyrights, technology, know-how and processes, service marks and rights with respect to the foregoing that are material to the businesses, assets, operations, properties or condition (financial or otherwise) of the Loan Parties and their respective Subsidiaries taken as a whole. The use of such patents, trademarks, trade names, copyrights, technology, know-how, processes and rights with respect to the foregoing by the Loan Parties and their respective Subsidiaries, does not infringe on the rights of any Person.

SECTION 4.22. Insurance. The Loan Parties and each of their Subsidiaries has (either in the name of such Loan Party or in such Subsidiary's name), with financially sound and reputable

insurance companies, insurance in at least such amounts and against at least such risks (including on all its property, and public liability and worker's compensation) as are usually insured against in the same general area by companies of established reputations engaged in the same or similar business.

SECTION 4.23. Anti-Terrorism Laws. (a) None of the Loan Parties, or any of their respective Subsidiaries, is in violation of any laws relating to terrorism or money laundering, including, without limitation, the USA Patriot Act.

(b) (i) The Borrower and each other Loan Party have instituted, maintain and are complying with policies, procedures and controls reasonably designed to comply with all Anti-Money Laundering Laws;

(ii) No Loan Party will use any of the Advances in violation of any Anti-Money Laundering Laws;

(iii) No Loan Party will fund any repayment of any Advance in violation of any Anti-Money Laundering Laws; and

(iv) The Borrower and each other Loan Party is not and has not been under administrative, civil or criminal investigation or received notice from or made a voluntary disclosure to any governmental entity regarding a possible violation of any Anti-Money Laundering Laws.

SECTION 4.24. Ownership Structure. As of the Restatement Date, **Schedule 4.24** is a complete and correct list of all Subsidiaries of the Borrower and of each Loan Party setting forth for each such Subsidiary, (i) the jurisdiction of organization of such Subsidiary, (ii) each Person holding any Capital Securities in such Subsidiary, (iii) the nature of the Capital Securities held by each such Person, and (iv) the percentage of ownership of such Subsidiary represented by such Capital Securities. Except as disclosed in such Schedule, as of the Restatement Date (i) the Borrower and its Subsidiaries owns, free and clear of all Liens and has the unencumbered right to vote, all outstanding Capital Securities in each Person shown to be held by it on such Schedule, (ii) all of the issued and outstanding Capital Securities of each Person is validly issued, fully paid and nonassessable and (iii) there are no outstanding subscriptions, options, warrants, commitments, preemptive rights or agreements of any kind (including, without limitation, any stockholders' or voting trust agreements) for the issuance, sale, registration or voting of, or outstanding securities convertible into, any additional Capital Securities of any type in, any such Person.

SECTION 4.25. Reports Accurate; Disclosure. All information, Exhibits, financial statements, documents, books, records or reports furnished or to be furnished by the Loan Parties to the Administrative Agent or any Lender in connection with this Agreement or any Loan Document, including without limitation all reports furnished pursuant to **Section 4.04**, are true, complete and accurate in all material respects; it being recognized by the Administrative Agent and the Lenders that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not to be viewed as facts and that actual results during the period or periods covered by any such projections and forecasts may differ from the projected or forecasted results. Neither this Agreement, nor any Loan Document, nor any agreement, document, certificate or statement furnished to the Administrative Agent or the Lenders in connection with the transactions contemplated hereby contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. There is no fact known to any Loan Party which materially and adversely affects the Borrower and its Subsidiaries, or in the future is reasonably likely to have a Material Adverse Effect.

SECTION 4.26. Location of Offices. The state of organization of Borrower (within the meaning of Article 9 of the UCC) is Maryland. Neither the Borrower nor any Guarantor has changed its name, identity, structure, existence or state of formation, whether by amendment of its Organizational Documents, by reorganization or otherwise, or has changed its state of organization (within the meaning of Article 9 of the UCC) within the four (4) months preceding the Restatement Date or any subsequent date on which this representation is made.

SECTION 4.27. Affiliate Transactions. Except as permitted by **Section 5.27**, neither the Borrower nor any Subsidiary (other than any Structured Subsidiary) nor any other Loan Party is a party to or bound by any agreement or arrangement (whether oral or written) to which any Affiliate of the Borrower, any Subsidiary or any other Loan Party is a party.

SECTION 4.28. Broker's Fees. Except as otherwise agreed with the Administrative Agent, no broker's or finder's fee, commission or similar compensation will be payable with respect to the transactions contemplated hereby. Except as otherwise agreed with the Administrative Agent, no other similar fees or commissions will be payable by any Loan Party for any other services rendered to the Borrower or any of its Subsidiaries ancillary to the transactions contemplated hereby.

SECTION 4.29. Survival of Representations and Warranties, Etc. All statements contained in any certificate, financial statement or other instrument delivered by or on behalf of the Borrower, any Subsidiary or any other Loan Party to the Administrative Agent or any Lender pursuant to or in connection with this Agreement or any of the other Loan Documents (including, but not limited to, any such statement made in or in connection with any amendment thereto or any statement contained in any certificate, financial statement or other instrument delivered by or on behalf of any Loan Party prior to the Restatement Date and delivered to the Administrative Agent or any Lender in connection with the underwriting or closing of the transactions contemplated hereby) shall constitute representations and warranties made by the Loan Parties in favor of the Administrative Agent and each of the Lenders under this Agreement. All such representations and warranties shall survive the effectiveness of this Agreement, the execution and delivery of the Loan Documents and the making of the Advances.

SECTION 4.30. Loans and Investments. No Loan Party nor any of their respective Subsidiaries has made a loan, advance or Investment which is outstanding or existing on the Restatement Date except (i) Portfolio Investments in the ordinary course of business and consistently with the Investment Policies, (ii) Investments in Subsidiaries and Affiliates as set forth on **Schedule 4.24**, (iii) Investments in Cash and Cash Equivalents, and (iv) other Investments in existence on the Restatement Date and described on **Schedule 4.30**.

SECTION 4.31. No Default or Event of Default. No event has occurred and is continuing and no condition exists, or would result from any Advance or from the application of the proceeds therefrom, which constitutes or would reasonably be expected to constitute a Default or Event of Default.

SECTION 4.32. USA Patriot Act; OFAC.

(a) No Loan Party nor any Affiliate of a Loan Party is (1) a Person that resides or has a place of business in a country or territory named on such lists or which is designated as a Non-Cooperative Jurisdiction by the Financial Action Task Force on Money Laundering, or whose subscription funds are transferred from or through such a jurisdiction; (2) a **"Foreign Shell Bank"** within the meaning of the USA Patriot Act, i.e., a foreign lender that does not have a physical presence in any country and that is not affiliated with a bank that has a physical presence and an acceptable level of regulation and supervision; or (3) a person or entity that resides in or is organized under the



laws of a jurisdiction designated by the United States Secretary of the Treasury under Section 311 or 312 of the USA Patriot Act as warranting special measures due to money laundering concerns.

(b) No Loan Party or any Affiliate of a Loan Party (i) is a Sanctioned Entity or is controlled by or is acting on behalf of a Sanctioned Entity, (ii) has more than 10% of its assets located in Sanctioned Entities, or (iii) derives more than 10% of its operating income from investments in, or transactions with Sanctioned Entities. The proceeds of any Advance will not be used and have not been used to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Entity. Each Loan Party is in compliance with all applicable OFAC rules and regulations, and no Loan Party or any Affiliate of a Loan Party is in violation of and shall not violate any of the country or list based economic and trade sanctions administered and enforced by OFAC that are described or referenced at <http://www.ustreas.gov/offices/enforcement/ofac/> or as otherwise published from time to time.

(c) Notwithstanding anything contained in the foregoing to the contrary, no Loan Party shall have any duty to investigate or confirm that any shareholder of Borrower or any officer, director, manager, employee, owner or Affiliate of a Portfolio Investment is in compliance with the provisions of this **Section 4.32**, and any violation by any such Person shall not be a Default under this Agreement.

SECTION 4.33. **Material Contracts.** **Schedule 4.33** is, as of the Restatement Date, a true, correct and complete listing of all contracts to which any Loan Party is a party, the breach of or failure to perform which, either by a Loan Party or other party to such contract, could reasonably be expected to have a Material Adverse Effect (“**Material Contract**”). The Borrower, its Subsidiaries and the other Loan Parties that is a party to any Material Contract has performed and is in compliance with all of the material terms of such Material Contract, and no Loan Party has knowledge of any default or event of default, or event or condition which with the giving of notice, the lapse of time, or both, would constitute such a default or event of default, that exists with respect to any such Material Contract.

SECTION 4.34. **Collateral-Mortgage Property.** With respect to each Mortgaged Property, if any, within the Collateral the Administrative Agent has: (i) a first priority lien upon the fee simple title to the Mortgaged Property, if any; (ii) a first priority lien upon the leases and rents applicable to the Mortgaged Property, if any; (iii) a first priority lien upon all equipment and fixtures applicable to the Mortgaged Property, if any; and (iv) all Mortgaged Property Security Documents, if any, reasonably requested by the Administrative Agent.

SECTION 4.35. **Mortgaged Properties.** As of the Restatement Date, **Schedule 1.01** is a correct and complete list of all Mortgaged Properties, if any, included in the Collateral.

SECTION 4.36. **Common Enterprise.** The successful operation and condition of the Loan Parties is dependent on the continued successful performance of the functions of the group of Loan Parties as a whole and the successful operation of each of the Loan Parties is dependent on the successful performance and operation of each other Loan Party. Each Loan Party expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from (i) successful operations of each of the other Loan Parties and (ii) the credit extended by the Lenders to the Borrower hereunder, both in their separate capacities and as members of the group of companies. Each Loan Party has determined that execution, delivery, and performance of this Agreement and any other Loan Documents to be executed by such Loan Party is within its purpose, will be of direct and indirect benefit to such Loan Party, and is in its best interest.

SECTION 4.37. **Investment Policies.** Since the Closing Date, there have been no material changes in the Investment Policies other than in accordance with this Agreement, and the Borrower

has at all times complied in all material respects with the Investment Policies with respect to each Portfolio Investment. The Investment Policies, to the extent described in the Borrower's annual report on Form 10-K most recently filed with the Securities and Exchange Commission or in any subsequent filings as filed with the Securities and Exchange Commission, are or will be fully and accurately described in all material respects.

SECTION 4.38. Eligibility of Portfolio Investments. On the date of each Borrowing or Swing Borrowing, (i) the information contained in the Borrowing Base Certification Report delivered pursuant to **Section 3** is an accurate and complete listing in all material respects of all the Eligible Investments that are part of the Collateral as of such date, and the information contained therein with respect to the identity of such Portfolio Investment and the amounts owing thereunder is true and correct in all material respects as of such date and (ii) each such Portfolio Investment is an Eligible Investment.

SECTION 4.39. Portfolio Investments. The Borrower has not authorized the filing of and is not aware of any financing statements against the Borrower that include a description of collateral covering the Portfolio Investments other than any financing statement that has been terminated and financing statements naming the Administrative Agent for the benefit of the Secured Parties as secured party. The Borrower is not aware of the filing of any judgment or tax Lien filings against the Borrower. Each Portfolio Investment was originated or acquired without any fraud or material misrepresentation by the Borrower or, to the best of the Borrower's knowledge, on the part of the Obligor.

SECTION 4.40. Selection Procedures. No procedures believed by the Borrower to be adverse to the interests of the Administrative Agent and the Lenders were utilized by the Borrower in identifying and/or selecting the Portfolio Investments that are part of the Eligible Investments and are included in the Borrowing Base.

SECTION 4.41. Coverage Requirement. The Advances outstanding do not exceed the lesser of (i) the aggregate amount of the Revolver Commitments of all the Lenders and (ii) the Borrowing Base.

SECTION 4.42. Foreign Corrupt Practices. Neither the Borrower nor any other Loan Party, nor any director, officer, agent, employee or Affiliate of the Borrower or any such other Loan Party is aware of or has taken any action, directly or indirectly, that would result in a material violation by such Persons of the FCPA, including without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and, the Loan Parties and their Affiliates have conducted their business in material compliance with the FCPA and have instituted and maintained policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

SECTION 4.43. Structured Subsidiaries.

(a) There are no agreements or other documents relating to any Structured Subsidiary binding upon the Borrower or any of its Subsidiaries (other than such Structured Subsidiary) other than as permitted under the definition thereof.

(b) The Borrower has not Guaranteed the Debt or other obligations in respect of any credit facility relating to the Structured Subsidiaries, other than pursuant to Standard Securitization Undertakings.

SECTION 4.44. Volcker Rule. The Advances do not constitute an “ownership interest” in the Borrower for purposes of the Volcker Rule.

## ARTICLE V COVENANTS

The Borrower and Guarantors agree, jointly and severally, that, so long as any Lender has any Revolver Commitment hereunder or any Obligation remains unpaid:

SECTION 5.01. Information. The Borrower will deliver to the Administrative Agent, who will then promptly deliver to each of the Lenders:

(a) as soon as available and in any event within 90 days after the end of each Fiscal Year, an audited consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such Fiscal Year and the related consolidated statements of income, shareholders’ equity and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all certified by an independent public accountants reasonably acceptable to the Administrative Agent, with such certification to be free of exceptions and qualifications not acceptable to the Required Lenders; provided, that to the extent that any Structured Subsidiary, Special Purpose Subsidiary or Foreclosed Subsidiary that is treated as a consolidated entity and reflected on the consolidated balance sheet of the Borrower and its Subsidiaries, concurrently with the delivery of the financial statements referred to in this paragraph (a), the Borrower shall provide to the Administrative Agent a balance sheet for each such Structured Subsidiary, Special Purpose Subsidiary and such Foreclosed Subsidiary as of the end of such Fiscal Year and the related statements of income and stockholders’ equity of such Structured Subsidiary, Special Purpose Subsidiary and such Foreclosed Subsidiary for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year;

(b) as soon as available and in any event within 45 days after the end of each of the first three Fiscal Quarters of each Fiscal Year, a consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such Fiscal Quarter and the related statement of income and statement of cash flows for such Fiscal Quarter and for the portion of the Fiscal Year ended at the end of such Fiscal Quarter, setting forth in each case in comparative form the figures for the corresponding Fiscal Quarter and the corresponding portion of the previous Fiscal Year, all certified (subject to normal year-end adjustments) as to fairness of presentation, GAAP and consistency by the chief financial officer of the Borrower; provided, that to the extent that any Structured Subsidiary, Special Purpose Subsidiary or any Foreclosed Subsidiary that is treated as a consolidated entity and reflected on the consolidated balance sheet of the Borrower and its Subsidiaries, concurrently with the delivery of the financial statements referred to in this **paragraph (b)**, the Borrower shall provide to the Administrative Agent a balance sheet for each such Structured Subsidiary, Special Purpose Subsidiary and such Foreclosed Subsidiary as of the end of such Fiscal Quarter and the related statements of income and stockholders’ equity of such Structured Subsidiary, Special Purpose Subsidiary and such Foreclosed Subsidiary for such Fiscal Quarter, setting forth in each case in comparative form the figures for the previous Fiscal Quarter;

(c) simultaneously with the delivery of each set of financial statements referred to in clauses (a) and (b) above, a certificate, substantially in the form of **Exhibit H** and with compliance calculations in form and content satisfactory to the Administrative Agent (a “**Compliance Certificate**”), of the chief financial officer or other authorized officers of the Borrower (i) setting forth in reasonable detail the calculations required to establish whether the Loan Parties were in compliance with the requirements of **Sections 5.04, 5.05, 5.07, 5.09, 5.10, 5.11, 5.12, 5.37 and 5.46** on the date

of such financial statements, (ii) setting forth the identities of the respective Subsidiaries on the date of such financial statements, and (iii) stating whether any Default exists on the date of such certificate and, if any Default then exists, setting forth the details thereof and the action which the Loan Parties are taking or propose to take with respect thereto;

(d) as soon as available and in any event within 30 days after the end of each calendar month, a monthly summary from the Collateral Custodian with respect to the Collateral subject to the Custodial Agreements with the Collateral Custodian, such summary to be in form and substance acceptable to the Administrative Agent;

(e) within 5 Business Days after the Borrower becomes aware of the occurrence of any Default, a certificate of the chief financial officer or other authorized officer of the Borrower setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(f) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all functions of said Commission, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be;

(g) if and when the Borrower or any member of the Controlled Group (i) gives or is required to give notice to the PBGC of any "reportable event" (as defined in Section 4043 of ERISA) with respect to any Plan which might constitute grounds for a termination of such Plan under Title IV of ERISA, or knows that the plan administrator of any Plan has given or is required to give notice of any such reportable event, a copy of the notice of such reportable event given or required to be given to the PBGC; (ii) receives notice of complete or partial withdrawal liability under Title IV of ERISA, a copy of such notice; or (iii) receives notice from the PBGC under Title IV of ERISA of an intent to terminate or appoint a trustee to administer any Plan, a copy of such notice;

(h) promptly after the Borrower knows of the commencement thereof, notice of any litigation, dispute or proceeding (and any material development in respect of such proceedings) involving a claim against a Loan Party and/or any Subsidiary of a Loan Party for \$1,000,000 or more in excess of amounts covered in full by applicable insurance (subject to customary deductibles);

(i) a Borrowing Base Certification Report, substantially in the form of **Exhibit D** and otherwise in form and content reasonably satisfactory to the Administrative Agent, which report is certified as to truth and accuracy by the Chief Financial Officer or other authorized officer of the Borrower and which report shall be delivered (A) while any Advances or other amounts are outstanding, within 7 calendar days following the last day of each month or (B) otherwise, if there are no Advances outstanding, within 15 calendar days following the last day of each calendar month;

(j) promptly at the request of the Administrative Agent, (i) copies of the Investment Documents with respect to any Portfolio Investment and (ii) to the extent not subject to a nondisclosure provision, any valuation report received by the Borrower with respect to the Borrower's and its Subsidiaries' (other than any Structured Subsidiaries') loan and investment portfolio, conducted by Deloitte Financial Advisory Services LLP or such other third party appraiser reasonably acceptable to the Administrative Agent; provided that, the Borrower shall use its best efforts to obtain the consent of Deloitte Financial Advisory Services LLP or such other appraiser to release such report to the Administrative Agent;

(k) promptly after the Borrower knows of a Value Triggering Event, notice of such event and the value of the affected Loan;

(l) promptly upon the occurrence of any Internal Control Event which is required to be publicly disclosed of which a Responsible Officer (other than a Responsible Officer committing the fraud constituting such Internal Control Event) has knowledge;

(m) as soon as available and in any event within 45 days after the end of each Fiscal Quarter of each Fiscal Year, commencing with the first Fiscal Quarter to end on or after the date on which the Borrower has any Structured Subsidiary, a certificate of a Responsible Officer of the Borrower certifying that attached thereto is a complete and correct description of all portfolio investments made by such Structured Subsidiary as of the date thereof, including, with respect to each such portfolio investment, the name of the Structured Subsidiary holding such portfolio investment and the name of the Obligor of such portfolio investment;

(n) for informational purposes only, promptly following each fiscal year end, an operating cash flow budget for the immediately succeeding calendar year, substantially similar in format to that delivered pursuant to Section 3.01(l)(iii) hereof and containing the level of detail acceptable to the Administrative Agent; and

(o) from time to time such additional information regarding the financial position or business of the Borrower, its Subsidiaries, and each Loan Party as the Administrative Agent, at the request of any Lender, may reasonably request.

For purposes of clauses (a), (b) and (f) of this **Section 5.01**, all financial statements and other information contained therein filed with the Securities and Exchange Commission shall be deemed delivered hereunder; provided, however, that nothing in the foregoing shall be deemed to relieve the Borrower of its obligation to deliver a Compliance Certificate pursuant to **clause (c)**.

#### SECTION 5.02. Inspection of Property, Books and Records.

(a) The Borrower will (i) keep, and will cause each of its Subsidiaries to keep, its books and records in conformity with GAAP for all dealings and transactions in relation to its business and activities; (ii) permit, will cause each Subsidiary of the Borrower and each Loan Party to permit, and will direct the Adviser to permit, at reasonable times with at least five (5) Business Days' prior notice (or such lesser time period agreed upon by the Administrative Agent and the Borrower), which notice shall not be required in the case of an emergency, the Administrative Agent or its designee, at the expense of the Borrower and Loan Parties, to perform periodic field audits and investigations of the Borrower, the Loan Parties and the Collateral, from time to time; and (iii) permit, and will cause each Subsidiary to permit, with at least five (5) Business Days' prior notice (or such lesser time period agreed upon by the Administrative Agent and the Borrower), the Administrative Agent or its designee, at the expense of the Borrower and the Loan Parties, to visit and inspect any of their respective properties, to examine and make abstracts from any of their respective books and records and to discuss their respective affairs, finances and accounts with their respective officers, employees and independent public accountants; provided that the Borrower shall only be required to reimburse the Administrative Agent for only one such inspection each Fiscal Quarter unless a Default shall have occurred and be continuing. The Loan Parties agree, and the Borrower shall direct the Adviser, to cooperate and assist in such visits and inspections, in each case at such reasonable times and as often as may reasonably be desired.

(b) In connection herewith, the Borrower shall cause the Adviser to not change its name, move the location of any Collateral or of its principal place of business and chief executive office, change

the offices where it keeps records concerning the Collateral, or change the jurisdiction of its formation, unless the Borrower or the Adviser shall have provided the Administrative Agent with 30 days' written notice of such move and other documents and instruments as the Administrative Agent may reasonably request in connection therewith and shall have taken all actions required under the UCC of each relevant jurisdiction in order to continue the first priority perfected security interest of the Administrative Agent, for the benefit of the Secured Parties, in the Collateral.

SECTION 5.03. Maintenance of RIC Status and Business Development Company. The Borrower will maintain its status as a RIC under the Code and as a "business development company" under the Investment Company Act.

SECTION 5.04. Minimum Liquidity. The Borrower will maintain, at any time when the aggregate Revolver Advances minus Cash and Cash Equivalents exceed 85% of the Adjusted Borrowing Base, Liquidity of not less than 15% of the aggregate outstanding principal amount of the sum of all Revolver Advances as of the date of determination (the "**Minimum Liquidity Requirement**").

SECTION 5.05. Capital Expenditures. Capital Expenditures of the Loan Parties will not exceed in the aggregate in any Fiscal Year the sum of \$500,000; provided that after giving effect to the incurrence of any Capital Expenditures permitted by this Section, no Default shall have occurred and be continuing (with the effect that amounts not incurred in any Fiscal Year may not be carried forward to a subsequent period).

SECTION 5.06. Sale/Leasebacks. The Loan Parties shall not, nor shall they permit any Subsidiary to, enter into any Sale/Leaseback Transaction

SECTION 5.07. Minimum Consolidated Tangible Net Worth. Consolidated Tangible Net Worth shall be calculated quarterly commencing on the Fiscal Quarter ending March 31, 2014 and at the end of each Fiscal Quarter thereafter, and shall not be less than the greater of (a) the aggregate amount of the Revolver Commitments or (b) \$50,000,000.00.

SECTION 5.08. Acquisitions. No Loan Party or any Subsidiary of a Loan Party shall make any Acquisition, or take any action to solicit the tender of securities or proxies in respect thereof in order to effect any Acquisition.

SECTION 5.09. Interest Coverage Ratio. The Borrower will maintain, as of the end of each Fiscal Quarter, an Interest Coverage Ratio of not less than 2.00:1.00.

SECTION 5.10. Asset Coverage Ratio. The Borrower will maintain an Asset Coverage Ratio, as of the end of each Fiscal Quarter, of not less than 2.10:1.00.

SECTION 5.11. Loans or Advances. No Loan Party nor any Subsidiary of a Loan Party (other than Structured Subsidiaries) shall make loans or advances to any Person except: (i) solely to the extent not prohibited by Applicable Laws, employee loans or advances that do not exceed Two Hundred Thousand Dollars (\$200,000) in the aggregate at any one time outstanding made on an arms'-length basis in the ordinary course of business; (ii) deposits required by government agencies or public utilities; (iii) loans or advances to the Borrower or any Guarantor that is a Consolidated Subsidiary; (iv) loans or advances consisting of Portfolio Investments; and (v) loans and advances outstanding on the Restatement Date and set forth on **Schedule 5.11**; provided that after giving effect to the making of any loans, advances or deposits permitted by this **Section 5.11**, no Default shall have occurred and be continuing. All loans or advances permitted under this **Section 5.11** (excluding Noteless Loans) shall be evidenced by written promissory notes. Except as approved by the Administrative Agent in writing, no Loan Party nor any Subsidiary of a

Loan Party shall request or receive a promissory note or other instrument from any Obligor in connection with a Noteless Loan.

SECTION 5.12. Restricted Payments. The Loan Parties will not declare or make any Restricted Payment during any Fiscal Year, except that:

(a) any Subsidiary of the Borrower may pay Restricted Payments to the Borrower, on at least a pro rata basis with any other shareholders if such Subsidiary is not wholly owned by the Borrower and other Wholly Owned Subsidiaries; and

(b) the Borrower may declare or make Restricted Payments from time to time in accordance with Applicable Law to owners of its Capital Securities so long as (i) at the time when any such Restricted Payment is to be made, no Default or Event of Default has occurred and is continuing or would result therefrom; and (ii) the chief executive officer, chief financial officer or other authorized officer of the Borrower shall have certified to the Administrative Agent and Lenders as to compliance with the preceding clause (i) in a certificate attaching calculations; provided, however, that (x) the Borrower shall not have to provide a certificate to the Administrative Agent for any Restricted Payments arising under clause (ii) in the definition of Restricted Payments as long as the declaration or making of such Restricted Payments does not cause the occurrence or continuance of a Default or Event of Default, and (y) notwithstanding the existence of a Default or an Event of Default (other than an Event of Default specified in Sections 6.01(g) or (h)), the Borrower may pay dividends in an amount equal to its investment company taxable income, net tax-exempt interest and net capital gains or to avoid excise taxes imposed on RICs.

SECTION 5.13. Investments. No Loan Party nor any Subsidiary of a Loan Party shall make Investments in any Person except as permitted by Sections 5.08 and 5.11(i) through (iii) and except (i) Investments in Cash and Cash Equivalents, (ii) Investments not constituting loans or advances in the Capital Securities of their respective Subsidiaries and equity investments as set forth on Schedule 4.24, (iii) Investments in Portfolio Investments made in the ordinary course of business and consistently with the Investment Policies, (iv) Capital Securities in (or capital contributions to) Structured Subsidiaries acquired or created after the Closing Date to the extent not prohibited by Section 5.17, (v) Investments by any Structured Subsidiary (so long as the Borrower has complied with its obligation to deliver the certificate of designation described in the definition of “Structured Subsidiary”) and (vi) Investments in Loan Fund Joint Ventures so long as, in the case of each Loan Fund Joint Venture, after giving effect to any such Investment, no Default or Event of Default exists and the aggregate outstanding principal amount of all Revolver Advances does not exceed the lesser of the Borrowing Base and the aggregate amount of the Revolver Commitments of all of the Lenders, provided that the aggregate amount of all such Investments in Loan Fund Joint Ventures shall not exceed \$100,000,000 unless immediately after giving effect to any such Investment in excess of \$100,000,000, the Consolidated Tangible Net Worth is at least 125% of the amount required to be maintained under Section 5.07 (and in determining Consolidated Tangible Net Worth for this purpose, the value of the Capital Securities issued by the Loan Fund Joint Ventures shall be disregarded). For the purpose of clause (vi) above, a Loan Party may make an Investment in a Loan Fund Joint Venture to fulfill an obligation under a capital call commitment to the extent that either (x) the amount of such Investment is permitted under clause (vi) at the time that the Investment is made in cash or (y) the amount of such Investment would have been permitted under clause (vi) at the time that the capital call commitment was entered into had the Investment been made in cash at such time.

SECTION 5.14. Negative Pledge. No Loan Party nor any Subsidiary of a Loan Party will create, assume or suffer to exist any Lien on any asset now owned or hereafter acquired by it (including Capital Securities in any Subsidiary), except:

(a) Liens existing on the date of this Agreement encumbering assets (other than Collateral) securing Debt outstanding on the date of this Agreement, in each case as described and in the principal amounts set forth on **Schedule 5.14**;

(b) Liens for taxes, assessments or similar charges, incurred in the ordinary course of business that are not yet due and payable or that are being contested in good faith and with due diligence by appropriate proceedings;

(c) pledges or deposits made in the ordinary course of business to secure payment of workers' compensation, or to participate in any fund in connection with workers' compensation, unemployment insurance, old-age pensions or other social security programs which in no event shall become a Lien prior to any Collateral Documents;

(d) Liens of mechanics, materialmen, warehousemen, carriers or other like liens, securing obligations incurred in the ordinary course of business that: (1) are not yet due and payable and which in no event shall become a Lien prior to any Collateral Documents; or (2) are being contested diligently in good faith pursuant to appropriate proceedings and with respect to which the Loan Party has established reserves reasonably satisfactory to the Administrative Agent and Required Lenders and which in no event shall become a Lien prior to any Collateral Documents;

(e) good faith pledges or deposits made in the ordinary course of business to secure performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, not in excess of ten percent (10%) of the aggregate amount due thereunder, or to secure statutory obligations, or surety, appeal, indemnity, performance or other similar bonds required in the ordinary course of business which in no event shall become a Lien prior to any Collateral Document;

(f) any Lien arising out of the refinancing, extension, renewal or refunding of any Debt secured by any Lien permitted by any of the foregoing clauses of this Section, provided that (i) such Debt is not secured by any additional assets, and (ii) the amount of such Debt secured by any such Lien is not increased;

(g) encumbrances consisting of zoning restrictions, easements or other restrictions on the use of real property, none of which materially impairs the use of such property by Borrower in the operation of its business, and none of which is violated in any material respect by existing or proposed restrictions on land use;

(h) any Lien on Margin Stock;

(i) any Lien imposed as a result of a taking under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority;

(j) Liens securing reasonable and customary fees of banks and other depository institutions on Cash and Cash Equivalents held on deposit with such banks and institutions; provided that such Liens are subordinated to the Liens described in **Section 5.14(l)**;



- (k) Liens on assets owned by Structured Subsidiaries;
- (l) Liens securing the Administrative Agent and the Secured Parties created or arising under the Loan Documents;
- (m) Liens securing Debt permitted under **Section 5.31(d)**, provided that (i) such Liens do not at any time encumber any property other than property financed by such Debt, (ii) the Debt secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition, and (iii) such Liens attach to such property concurrently with or within ninety (90) days after the acquisition thereof;
- (n) Liens on the Permitted Capital Securities issued by any Loan Fund Joint Venture securing the applicable Debt of such Loan Fund Joint Venture; and
- (o) Liens on any Capital Securities of any Portfolio Investment, in favor of the secured party as disclosed on a search of UCC filings against such Portfolio Investment as of a date not more than ten days prior to the Restatement Date.

Notwithstanding anything contained in this **Section 5.14** to the contrary, no Loan Party or any Subsidiary of a Loan Party will create, assume or suffer to exist any Lien on the Collateral except the Liens in favor of the Secured Parties under the Collateral Documents and the Permitted Encumbrances.

**SECTION 5.15.** Maintenance of Existence, etc. Each Loan Party shall, and shall cause each Subsidiary of a Loan Party (other than any Structured Subsidiary) to, maintain its organizational existence and carry on its business in substantially the same manner and in substantially the same line or lines of business or line or lines of business reasonably related to the business now carried on and maintained. Any Subsidiary pledging Collateral hereunder shall be organized as a corporation, limited liability company, limited partnership or other legal entity.

**SECTION 5.16.** Dissolution. No Loan Party nor any Subsidiary of a Loan Party (other than any Structured Subsidiary) shall suffer or permit dissolution or liquidation either in whole or in part or redeem or retire any shares of its own Capital Securities or that of any Subsidiary of a Loan Party (other than any Structured Subsidiary), except: (1) through corporate or company reorganization to the extent permitted by **Section 5.17**; and (2) Restricted Payments permitted by **Section 5.12**.

**SECTION 5.17.** Consolidations, Mergers and Sales of Assets. No Loan Party will, nor will it permit any Subsidiary of a Loan Party (other than a Structured Subsidiary) to, consolidate or merge with or into, or sell, lease or otherwise transfer all or any substantial part of its assets to, any other Person, or discontinue or eliminate any business line or segment, provided that (a) pursuant to the consummation of an Acquisition permitted under **Section 5.08** (but not otherwise) a Loan Party may merge with another Person if (i) such Person was organized under the laws of the United States of America or one of its states, (ii) the Loan Party is the Person surviving such merger, (iii) immediately after giving effect to such merger, no Default shall have occurred and be continuing, and (iv) if the Borrower merges with another Loan Party, the Borrower is the Person surviving such merger; (b) Subsidiaries of a Loan Party (excluding Loan Parties) may merge with one another; and (c) the foregoing limitation on the sale, lease or other transfer of assets and on the discontinuation or elimination of a business line or segment shall not prohibit (1) a transfer of assets or the discontinuance or elimination of a business line or segment (in a single transaction or in a series of related transactions) in the ordinary course of business of the Borrower and its

Subsidiaries (other than Structured Subsidiaries) if, after giving effect thereto the Borrower and its Subsidiaries shall be in compliance on a pro forma basis, after giving effect to such transfer, discontinuation or elimination, with the terms and conditions of this Agreement and (2) divestitures of Portfolio Investments in the ordinary course of business of the Borrower and its Subsidiaries (other than Structured Subsidiaries) if, after giving effect thereto (and to any concurrent acquisitions of Portfolio Investments or payments of outstanding Loans or Other Covered Indebtedness) the (A) Borrower and its Subsidiaries shall be in compliance on a pro forma basis, after giving effect to any such divestiture, with the terms and conditions of this Agreement, and (B) the Covered Debt Amount does not exceed the Borrowing Base; provided, however, that upon the occurrence and during the continuance of a Default or an Event of Default, the Borrower shall not sell, transfer or otherwise dispose of any asset (including without limitation any Portfolio Investment) without the prior written consent of the Administrative Agent. Notwithstanding the foregoing, a Loan Party may sell, transfer or otherwise dispose of Portfolio Investments originated or purchased by the Borrower and transferred to a Structured Subsidiary so long as (x) prior to and after giving effect to such sale, transfer or other disposition (and any concurrent acquisitions of Portfolio Investments or payment of outstanding Loans) the Covered Debt Amount does not exceed the Borrowing Base and no Default exists and the Borrower delivers to the Administrative Agent a certificate of a Responsible Officer to such effect, and (y) either (i) the amount by which the Borrowing Base exceeds the Covered Debt Amount immediately prior to such release is not diminished as a result of such release or (ii) the Borrowing Base immediately after giving effect to such release is at least 120% of the Covered Debt Amount.

SECTION 5.18. Use of Proceeds. No portion of the proceeds of any Advance will be used by the Borrower or any Subsidiary (i) in connection with, either directly or indirectly, any tender offer for stock of any corporation with a view towards obtaining control of such other corporation (other than a Portfolio Investment; provided that the board of directors or comparable governing body of the Obligor in which such Investment is made has approved such offer and change of control), (ii) directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any Margin Stock, or (iii) for any purpose in violation of any applicable law or regulation. Except as otherwise provided herein, the proceeds of the Advances shall be used: (i) for working capital and other lawful corporate purposes of the Loan Parties, (ii) to pay fees and expenses incurred in connection with this Agreement and (iii) for investments in Portfolio Investments. No part of the proceeds of any Advance will be used, whether directly or indirectly, for any purpose that would violate any rule or regulation of the Board of Governors of the Federal Reserve System, including Regulations T, U or X.

SECTION 5.19. Compliance with Laws; Payment of Taxes. Each Loan Party will, and will cause each Subsidiary of a Loan Party and each member of the Controlled Group to, comply in all material respects with Applicable Laws (including but not limited to ERISA and the Patriot Act), regulations and similar requirements of governmental authorities (including but not limited to PBGC), except where the necessity of such compliance is being contested in good faith through appropriate proceedings diligently pursued. Each Loan Party will, and will cause each Subsidiary of a Loan Party to, pay promptly, prior to delinquency, all taxes, assessments, governmental charges, claims for labor, supplies, rent and other obligations which, if unpaid, might become a lien against the property of a Loan Party or any Subsidiary of a Loan Party, except liabilities being contested in good faith by appropriate proceedings diligently pursued and against which, if requested by the Administrative Agent, the Borrower shall have set up reserves in accordance with GAAP.

SECTION 5.20. Insurance. Each Loan Party will maintain, and will cause each Subsidiary of a Loan Party to maintain (either in the name of such Loan Party or in such Subsidiary's own name), with financially sound and reputable insurance companies, insurance on all its Property in at least such amounts and against at least such risks as are usually insured against in the same general area by companies of established repute engaged in the same or similar business. Upon request, the Loan Parties shall promptly furnish the Administrative Agent copies of all such insurance policies or certificates

evidencing such insurance and such other documents and evidence of insurance as the Administrative Agent shall request.

SECTION 5.21. Change in Fiscal Year. No Loan Party will make any significant change in accounting treatment or reporting practices, except as required or permitted by GAAP, or change its Fiscal Year (except to conform with the Fiscal Year of the Borrower) without the consent of the Required Lenders.

SECTION 5.22. Maintenance of Property. Each Loan Party shall, and shall cause each Subsidiary of a Loan Party to, maintain all of its properties and assets in good condition, repair and working order, ordinary wear and tear excepted.

SECTION 5.23. Environmental Notices. Each Loan Party shall furnish to the Lenders and the Administrative Agent prompt written notice of all Environmental Liabilities, pending, threatened or anticipated Environmental Proceedings, Environmental Notices, Environmental Judgments and Orders, and Environmental Releases at, on, in, under or in any way affecting in any material respects the Properties or any adjacent property, and all facts, events, or conditions that could lead to any of the foregoing.

SECTION 5.24. Environmental Matters. No Loan Party or any Subsidiary of a Loan Party will, and the Loan Parties shall use commercially reasonable efforts not to permit any Third Party to, use, produce, manufacture, process, treat, recycle, generate, store, dispose of, manage at, or otherwise handle or ship or transport to or from the Properties any Hazardous Materials except for Hazardous Materials such as cleaning solvents, pesticides and other similar materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed, managed or otherwise handled in minimal amounts in the ordinary course of business in compliance with all applicable Environmental Requirements.

SECTION 5.25. Environmental Release. Each Loan Party agrees that upon the occurrence of an Environmental Release at, under or on any of the Properties it will act immediately to investigate the extent of, and to take appropriate remedial action to eliminate, such Environmental Release, whether or not ordered or otherwise directed to do so by any Environmental Authority.

SECTION 5.26. Depository Accounts. The Borrower shall transfer, to the extent practical to do so, all of its depository accounts (other than any custody account subject to a Custodial Agreement) to EverBank not later than 90 days after the Restatement Date.

SECTION 5.27. Transactions with Affiliates. No Loan Party nor any Subsidiary of a Loan Party (other than Structured Subsidiaries) shall enter into, or be a party to, any transaction with any Affiliate of a Loan Party or such Subsidiary (which Affiliate is not a Loan Party or a Subsidiary of a Loan Party), except as permitted by law and in the ordinary course of business and pursuant to reasonable terms which are no less favorable to the Loan Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person which is not an Affiliate.

SECTION 5.28. Joinder of Subsidiaries.

(a) The Loan Parties shall cause any (i) Person which becomes a Domestic Subsidiary of a Loan Party (other than a Foreclosed Subsidiary or a Structured Subsidiary) after the Closing Date, or (ii) any Structured Subsidiary which is a Domestic Subsidiary (or a non-Domestic Subsidiary in the event that Section 956(d) of the Code is repealed or modified in a manner such that no deemed distribution shall be considered to occur as a result of the non-Domestic Subsidiary being subject to

this **Section 5.28(a)** and which no longer constitutes a “Structured Subsidiary” pursuant to the definition thereof (in which case such Person shall be deemed to be a “new” Subsidiary for purposes of this **Section 5.28**), to become a party to, and agree to be bound by the terms of, this Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents pursuant to a Joinder Agreement in the form attached hereto as Exhibit I and otherwise satisfactory to the Administrative Agent in all respects and executed and delivered to the Administrative Agent within ten (10) Business Days after the day on which such Person became a Domestic Subsidiary (or such Structured Subsidiary no longer qualifying as such). The Loan Parties shall also cause the items specified in **Section 3.01(c), (e), (g) and (h)** to be delivered to the Administrative Agent concurrently with the instrument referred to above, modified appropriately to refer to such instrument and such Subsidiary or former Structured Subsidiary.

(b) The Loan Parties shall, or shall cause any Subsidiary (other than any Structured Subsidiary) (the “**Pledgor Subsidiary**”) to pledge: (a) the lesser of (A) 65% of the voting and non-voting Capital Securities or equivalent equity interests or (B) the entire interest owned by the Loan Parties and such Pledgor Subsidiary, of any Person which becomes a Foreign Subsidiary (other than any Structured Subsidiary) after the Closing Date; provided, that no such pledge shall be required to the extent that it would result in the Loan Parties and the Pledgor Subsidiaries pledging, in the aggregate, more than 65% of the voting and non-voting Capital Securities or equivalent equity interest in such Foreign Subsidiary; provided, further, that the immediately preceding proviso shall not apply in the event that Section 956(d) of the Code is repealed or modified in a manner such that no deemed distribution shall be considered to occur as a result of such Foreign Subsidiary being subject to this **Section 5.28(b)** and (b) the entire interest owned by the Loan Parties and such Pledgor Subsidiary, of the Capital Securities or equivalent equity interest in any Person which becomes a Domestic Subsidiary (other than any Structured Subsidiary) after the Closing Date, all pursuant to a Joinder Agreement described above executed and delivered by the Loan Parties or such Pledgor Subsidiary to the Administrative Agent within ten (10) Business Days after the day on which such Person became a Domestic Subsidiary (other than a Structured Subsidiary) and shall deliver to the Collateral Custodian, as bailee for the Administrative Agent, such shares of capital stock together with stock powers executed in blank. The Loan Parties shall also cause the items specified in **Section 3.01(c), (e), (g) and (h)** to be delivered to the Administrative Agent concurrently with the Joinder Agreement referred to above, modified appropriately to refer to such Joinder Agreement, the pledgor and such Subsidiary (other than any Structured Subsidiary).

(c) Once any Subsidiary becomes a party to this Agreement in accordance with **Section 5.28(a)** or any Capital Securities (or equivalent equity interests) of a Subsidiary are pledged to the Administrative Agent in accordance with **Section 5.28(b)**, such Subsidiary thereafter shall remain a party to this Agreement and the Capital Securities (or equivalent equity interests) in such Subsidiary (including, without limitation, all initial Subsidiaries) shall remain subject to the pledge to the Administrative Agent, as the case may be, even if such Subsidiary ceases to be a Subsidiary; provided that if a Subsidiary ceases to be a Subsidiary of the Borrower as a result of the Borrower's transfer or sale of all of the Capital Securities of such Subsidiary owned by Borrower in accordance with and to the extent permitted by the terms of **Section 5.17**, the Administrative Agent and the Lenders agree to release such Subsidiary from this Agreement and release the Capital Securities of such Subsidiary from the Pledge Agreement.

(d) The Borrower acknowledges that the Administrative Agent and the Lenders have agreed to exclude each Structured Subsidiary as a Loan Party only for so long as such Person qualifies as a “Structured Subsidiary” pursuant to the definition thereof, and thereafter such Person shall no longer constitute a “Structured Subsidiary” for any purpose of this Agreement or any other Loan Document.

SECTION 5.29. No Restrictive Agreement. No Loan Party will, nor will any Loan Party permit any of its Subsidiaries (other than Structured Subsidiaries) to, enter into, after the date of this Agreement, any indenture, agreement, instrument or other arrangement that, directly or indirectly, prohibits or restrains, or has the effect of prohibiting or restraining, or imposes materially adverse conditions upon, any of the following by the Loan Party or any such Subsidiary: (i) the incurrence or payment of Debt, (ii) the granting of Liens (other than normal and customary restrictions on the granting of Liens on Capital Securities issued by a Person other than a Subsidiary in respect of any Portfolio Investment made in the ordinary course of business) or (iii) the making of loans, advances or Investments or the sale, assignment, transfer or other disposition of property, real, personal or mixed, tangible. No Loan Party will, nor will any Loan Party permit any of its Subsidiaries (other than any Structured Subsidiary) to, enter into, after the date of this Agreement, any indenture, agreement, instrument or other arrangement that, directly or indirectly, prohibits or restrains, or has the effect of prohibiting or restraining, or imposes materially adverse conditions upon, the ability of the Loan Party or any of its Subsidiaries (other than any Structured Subsidiary) to declare or pay Restricted Payments or other distributions in respect of Capital Securities of the Loan Party or any Subsidiary (other than any Structured Subsidiary).

SECTION 5.30. Partnerships and Joint Ventures. Without the prior written consent of the Required Lenders, no Loan Party shall become a general partner in any general or limited partnership or a joint venturer in any joint venture.

SECTION 5.31. Additional Debt. No Loan Party or Subsidiary of a Loan Party shall directly or indirectly issue, assume, create, incur or suffer to exist any Debt or the equivalent (including obligations under capital leases), except for: (a) the Debt owed to the Lenders and Hedge Counterparties under the Loan Documents; (b) the Debt existing and outstanding on the Restatement Date described on Schedule 5.31; (c) purchase money Debt hereafter incurred by the Borrower or any of its Subsidiaries to finance the purchase of equipment so long as (i) such Debt when incurred shall not exceed the purchase price of the asset(s) financed, and (ii) the aggregate outstanding principal amount of all Debt permitted under this clause (c) shall not at any time exceed \$1,000,000.00; (d) convertible Debt incurred after the date hereof with a maturity when incurred not less than one year after the Termination Date (after giving effect to any extensions of the Termination Date which have been exercised at the time of incurrence of the Debt but not giving effect to any extensions exercised after the incurrence of such Debt) and with terms no more restrictive than those in this Agreement, so long as such Debt is (i) unsecured and (ii) subject to subordination terms as are market for such Debt, including indefinite payment blockage on any payment default with respect to the Obligations (after the expiration of any cure periods) and not less than one year payment blockage on any non-payment default with respect to the Obligations (after the expiration of any cure periods); (e) Debt owing to a Loan Party that is incurred as the borrower of a loan or advance permitted under Section 5.11(iii); and (f) Debt of Structured Subsidiaries; provided that on the date that such Debt is incurred (for clarity, with respect to revolving loan facilities or staged advance loan facilities, “incurrence” shall be deemed to take place at the time such facility is entered into, and not upon each borrowing thereunder) the Borrower is in pro forma compliance with each of the covenants for which compliance must be regularly certified pursuant to Section 5.01(c) after giving effect to the incurrence thereof and on the date of such incurrence Borrower delivers to the Administrative Agent a certificate of a Responsible Officer to such effect. For the avoidance of doubt, any convertible Debt incurred after the date hereof shall not be deemed to be in violation of clause (d) as a result of extensions to the Termination Date effective after the original incurrence of such convertible Debt.

SECTION 5.32. Post-closing Termination of Accounts. Not later than 90 days after the Restatement Date, the Loan Parties shall terminate and close the existing bank accounts identified on Schedule 4.30 hereto, and at all times shall cause all amounts in such existing accounts to be transferred, on each Business Day, to the corresponding new account so identified on Schedule 4.30.

SECTION 5.33. Modifications of Organizational Documents. The Borrower shall not, and shall not permit any Loan Party or other Subsidiary to, amend, supplement, restate or otherwise modify its Organizational Documents or Operating Documents or other applicable document if such amendment, supplement, restatement or other modification has or would reasonably be expected to have a Material Adverse Effect.

SECTION 5.34. ERISA Exemptions. The Loan Parties shall not permit any of their respective assets to become or be deemed to be “plan assets” within the meaning of ERISA, the Code and the respective regulations promulgated thereunder.

SECTION 5.35. Hedge Transactions. The Loan Parties will not, and will not permit any of their Subsidiaries (other than Structured Subsidiaries) to, enter into any Hedge Transaction, other than Hedge Transactions entered into in the ordinary course of business to hedge or mitigate risks to which the Loan Parties are exposed in the conduct of their business or the management of their liabilities. Solely for the avoidance of doubt, the Borrower acknowledges that a Hedge Transaction entered into for speculative purposes or of a speculative nature (which shall be deemed to include any Hedge Transaction under which any Loan Party is or may become obliged to make any payment (i) in connection with the purchase by any third party of any common stock or any Debt or (ii) as a result of changes in the market value of any common stock or any Debt) is not a Hedge Transaction entered into in the ordinary course of business to hedge or mitigate risks.

SECTION 5.36. Performance of Loan Documents. Each Loan Party will at its own expense duly fulfill and comply with all obligations on its part to be fulfilled or complied with under or in connection with the Collateral and all documents related thereto and will do nothing to impair the rights of any Loan Party or the Administrative Agent, as agent for the Secured Parties, or of the Secured Parties in, to and under the Collateral. Each Loan Party shall clearly and unambiguously set forth, in a manner reasonably satisfactory to the Administrative Agent, in its financial statements filed with the Securities and Exchange Commission that the Administrative Agent, as agent for the Secured Parties has the interest therein granted by the Loan Parties pursuant to the Loan Documents.

SECTION 5.37. Operating Leases. No Loan Party nor any Subsidiary of a Loan Party shall create, assume or suffer to exist any operating lease except operating leases which: (A) (1) are entered into in the ordinary course of business, and (2) the aggregate indebtedness, liabilities and obligations of the Loan Parties under all such operating leases during any period of four (4) consecutive Fiscal Quarters shall at no time exceed \$500,000; (B) are between a Borrower or Guarantor, as landlord and a Borrower or Guarantor as tenant; or (C) are set forth on **Schedule 5.37.**

SECTION 5.38. [Intentionally omitted].

SECTION 5.39. Compliance with Investment Policies and Investment Documents. The Borrower shall, and shall cause its Subsidiaries (other than Structured Subsidiaries) to, comply at all times with its Investment Policies in all material respects and, at their own expense, timely and fully perform and comply with all material provisions, covenants and other promises required to be observed by each of them under the Portfolio Investments and the related Investment Documents. The Borrower shall furnish to the Administrative Agent, prior to its effective date, prompt notice of any changes in the Investment Policies and shall not agree to or otherwise permit to occur any modification of the Investment Policies in any manner that would or would reasonably be expected to adversely affect the interests or remedies of the Administrative Agent or the Secured Parties under this Agreement or any Loan Document or impair the collectability of any Portfolio Investment without the prior written consent of the Administrative Agent (in its sole discretion).

SECTION 5.40. Delivery of Collateral to Collateral Custodian. As soon as reasonably practical after making a Portfolio Investment but in no event greater than within sixty (60) days, the Borrower shall deliver possession of all “instruments” (within the meaning of Article 9 of the UCC) not constituting part of “chattel paper” (within the meaning of Article 9 of the UCC) that evidence any Investment, including all original promissory notes, and certificated securities to the Administrative Agent for the benefit of the Secured Parties, or to a Collateral Custodian on its behalf, indorsed in blank without recourse and transfer powers executed in blank, as applicable; provided, however, that notwithstanding the foregoing, with respect to any Pre-Positioned Investment, the Borrower shall (i) have a copy of the executed note, if any, evidencing such Pre-Positioned Investment and any certificates representing Capital Securities pledged in connection with such Pre-Positioned Investment faxed to a Collateral Custodian on the applicable date of Borrowing or Swing Borrowing with the original to be received by such Collateral Custodian within five (5) Business Days after such date of Borrowing or Swing Borrowing; provided that, prior to delivery thereof, such original and endorsement are held in the custody of a bailee that has delivered a valid, binding and effective Bailee Agreement to the Administrative Agent.

SECTION 5.41. Custody Agreements. The Borrower shall not permit any Loan Party, and the Borrower shall not permit the Adviser, on behalf of the Borrower, to enter into any custody agreement or equivalent arrangement with any person to hold securities, cash or other assets of any Loan Party unless the Person acting as custodian shall have delivered a Custodial Agreement and, if requested by the Administrative Agent, a control agreement, to the Administrative Agent (in each case in form and substance satisfactory to the Administrative Agent). Each Loan Party agrees that it shall not amend, modify or supplement any Custodial Agreement without the prior, written approval of the Administrative Agent, and the Borrower shall immediately deliver true and complete copies of such amendment, modification or supplement to Administrative Agent and its counsel.

SECTION 5.42. Adviser Information Reports. The Borrower shall deliver to the Administrative Agent any and all periodic and special reports required by Sections 4(b)(i) and 4(b)(ii) of the Advisory Agreement, immediately upon receipt of such reports from Adviser, to the extent such reports are not publicly filed.

SECTION 5.43. Notice of Adviser Events and Certain Breaches.

(a) The Borrower will, upon receipt of notice or discovery thereof, promptly send to the Administrative Agent written notice of (i) any material breach of any representation, warranty, agreement or covenant under the Advisory Agreement or any occurrence of an event for which the Adviser may terminate the Advisory Agreement for cause, (ii) any material breach of any representation, warranty, agreement or covenant under the Sub-Advisory Agreement or any occurrence of an event for which the Sub-Adviser may terminate the Sub-Advisory Agreement for cause, (iii) any event or occurrence that, upon notice, or upon the passage of time or both, would constitute such a material breach or event described in clauses (i) and (ii), in each case, promptly upon learning thereof, and (iv) the occurrence of each Adviser Event. In addition, no later than five Business Days following the Borrower’s discovery or notice of the occurrence of any of the events described in clauses (i)-(iii), the Borrower will provide to the Administrative Agent a written statement of the chief financial officer, controller, or chief executive officer of the Borrower setting forth the details of such event and the action that the Borrower proposes to take with respect thereto.

(b) Upon Borrower’s discovery or receipt of notice that the Advisory Agreement may be terminated, the Borrower shall give immediate notice of such potential termination to the Administrative Agent (“Adviser Termination Notice”). If the Borrower elects to terminate the Advisory Agreement, the Borrower shall, subject to the approval of the Borrower’s board of directors and stockholders and the consent of the Administrative Agent, such consent not to be unreasonably

withheld, conditioned or delayed, (i) identify a successor Adviser, and (ii) engage such successor Adviser in accordance with applicable Law and the Borrower's Organizational Documents to perform obligations similar to those performed by the Adviser under the Advisory Agreement.

SECTION 5.44. Custodial Agreements. Borrower (a) shall promptly provide to Adviser true and correct copies of each Custodial Agreement, including any amendments, modifications, supplements or replacements thereof, and (b) shall cause Adviser to comply with all terms and conditions of the Control Agreement and any other Custodial Agreement.

SECTION 5.45. Amendments, Waivers, and Termination of the Advisory Agreement and Sub-Advisory Agreement. Borrower shall not make any material amendment, waiver or other modification of any provision of the Advisory Agreement without the written agreement of the Administrative Agent.

SECTION 5.46. Anti-Hoarding of Assets at Structured Subsidiaries. If any Structured Subsidiary is not prohibited by any law, rule or regulation or by any contract or agreement relating to Debt from distributing all or any portion of its assets to a Loan Party, then such Structured Subsidiary shall, if a Significant Unsecured Indebtedness Event has occurred and is continuing, distribute to a Loan Party the amount of assets held by such Structured Subsidiary that such Structured Subsidiary is permitted to distribute and that, in the good faith judgment of the Borrower, such Structured Subsidiary does not reasonably expect to utilize, in the ordinary course of business, to obtain or maintain a financing from an unaffiliated third party; provided, further, however, that if a Significant Unsecured Indebtedness Event has occurred and is continuing and the value of the assets owned by such Structured Subsidiary significantly exceeds the amount of Debt of such Structured Subsidiary, even if such Structured Subsidiary is prohibited by any contract or agreement relating to Debt from distributing all or any portion of its assets to a Loan Party, the Borrower shall use its commercially reasonable efforts to take such action as is necessary to cause such Structured Subsidiary to become a Loan Party or distribute assets to a Loan Party in an amount equal to the amount of assets held by such Structured Subsidiary that, in the good faith judgment of the Borrower, such Structured Subsidiary does not reasonably expect to utilize, in the ordinary course of business, to obtain or maintain a financing from an unaffiliated third party that includes advance rates that are substantially comparable to market terms for substantially similar debt financings at such time of determination.

## ARTICLE VI DEFAULTS

SECTION 6.01. Events of Default. If one or more of the following events ("**Events of Default**") shall have occurred and be continuing:

(a) the Borrower shall fail to pay when due any principal of any Advance (including, without limitation, any Advance or portion thereof to be repaid pursuant to **Section 2.11**) or shall fail to pay any interest on any Advance within three Business Days after such interest shall become due, or any Loan Party shall fail to pay any fee or other amount payable hereunder within three Business Days after such fee or other amount becomes due; or

(b) any Loan Party shall fail to observe or perform any covenant contained in **Section 5.01(e)** and **(i), 5.02(ii)** and **(iii), 5.03, 5.04, 5.05, 5.06, 5.07, 5.08, 5.09, 5.10, 5.12, 5.13, 5.14, 5.16, 5.17, 5.18, 5.29, 5.31, 5.33, 5.34, 5.41, 5.44,** and **5.46**; or

(c) any Loan Party shall fail to observe or perform any covenant or agreement contained or incorporated by reference in this Agreement (other than those covered by clause (a) or (b) above



or clauses (n) or (q) below) or any other Loan Document; provided that such failure continues for (1) ten (10) days in the case of Section 5.01, Section 5.11 or 5.27 or (2) otherwise, thirty days, in each case after the earlier of (A) the first day on which any Loan Party has knowledge of such failure or (B) written notice thereof has been given to the Borrower by the Administrative Agent at the request of any Lender; or

(d) any representation, warranty, certification or statement made or deemed made by the Loan Parties in Article IV of this Agreement, any other Loan Document or in any financial statement, material certificate or other material document or report delivered pursuant to any Loan Document shall prove to have been untrue or misleading in any material respect when made (or deemed made); or

(e) any Loan Party or any Subsidiary of a Loan Party shall fail to make any payment in respect of Debt (other than the Notes) having an aggregate principal amount in excess of \$500,000.00 after expiration of any applicable cure or grace period; or

(f) any event or condition shall occur which results in the acceleration of the maturity of Debt outstanding of any Loan Party or any Subsidiary of a Loan Party in an aggregate principal amount in excess of \$500,000.00 or the mandatory prepayment or purchase of such Debt by any Loan Party (or its designee) or such Subsidiary of a Loan Party (or its designee) prior to the scheduled maturity thereof, or enables (or, with the giving of notice or lapse of time or both, would enable) the holders of such Debt or commitment to provide such Debt or any Person acting on such holders' behalf to accelerate the maturity thereof, terminate any such commitment or require the mandatory prepayment or purchase thereof prior to the scheduled maturity thereof, without regard to whether such holders or other Person shall have exercised or waived their right to do so; or

(g) any Loan Party or any Subsidiary of a Loan Party shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, administrator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally, or shall admit in writing its inability, to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or

(h) an involuntary case or other proceeding shall be commenced against any Loan Party or any Subsidiary of a Loan Party seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, administrator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against any Loan Party or any Subsidiary of a Loan Party under the federal bankruptcy laws as now or hereafter in effect; or

(i) any Loan Party or any member of the Controlled Group shall fail to pay when due any material amount which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or notice of intent to terminate a Plan or Plans shall be filed under Title IV of ERISA by any Loan Party, any member of the Controlled Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any such Plan or Plans or a proceeding shall be instituted

by a fiduciary of any such Plan or Plans to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any such Plan or Plans must be terminated; or

(j) one or more judgments or orders for the payment of money in an aggregate amount in excess of \$500,000.00 (after taking into account the application of insurance proceeds) shall be rendered against any Loan Party or any Subsidiary of a Loan Party and such judgment or order shall continue unsatisfied and unstayed for a period of 30 days; or

(k) a federal tax lien shall be filed against any Loan Party or any Subsidiary of a Loan Party under Section 6323 of the Code or a lien of the PBGC shall be filed against any Loan Party or any Subsidiary of a Loan Party under Section 4068 of ERISA and in either case such lien shall remain undischarged for a period of 30 days after the date of filing; or

(l) a Change in Control shall occur; or

(m) the Administrative Agent, as agent for the Secured Parties, shall fail for any reason to have a valid first priority security interest in any of the Collateral (other than by reason of any act or omission solely on behalf of the Administrative Agent); or

(n) a default or event of default shall occur and be continuing under any of the Collateral Documents or any Loan Party shall fail to observe or perform any material obligation to be observed or performed by it under any Collateral Document, and such default, event of default or failure to perform or observe any obligation continues beyond any applicable cure or grace period provided in such Collateral Document; or

(o) a default or event of default shall occur and be continuing under any of the Material Contracts that would reasonably be likely to have a Material Adverse Effect or any Loan Party shall fail to observe or perform any material provision or any payment obligation to be observed or performed by it under any Material Contract, and such default, event of default or failure to perform or observe any such provision or obligation continues beyond any applicable cure or grace period provided in such Material Contract; or

(p) (i) any of the Guarantors shall fail to pay when due any Guaranteed Obligations (after giving effect to any applicable grace period) or shall fail to pay any fee or other amount payable hereunder when due; or (ii) any Guarantor shall disaffirm, contest or deny its obligations under **Article X**; or

(q) if the Borrower at any time fails to own (directly or indirectly, through Wholly Owned Subsidiaries) 100% of the outstanding shares of the voting stock, voting membership interests or equivalent equity interests of each Guarantor; or

(r) any Loan Party shall (or shall attempt to) disaffirm, contest or deny its obligations under any Loan Document or any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms; or

(s) a Collateral Custodian that is in the possession of any Collateral (1) shall (or shall attempt to) disaffirm, contest or deny its obligations under, or terminates or attempts to terminate, or is in default of its obligations under, a Custodial Agreement or (2) ceases in any respect to be acceptable to the Administrative Agent in its reasonable discretion and, in each case, such Collateral Custodian

is not replaced by, and any Collateral held by such Collateral Custodian is not delivered to, a replacement Collateral Custodian satisfactory to the Administrative Agent within 10 days after (A) the first date of such occurrence, in the case of clause (1) or (B) the date written notice thereof has been given to the Borrower by the Administrative Agent, in the case of clause (2); or

(t) the Advisory Agreement or Sub-Advisory Agreement are terminated without the prior written consent of the Required Lenders; or

(u) the Borrower agrees or consents to, or otherwise permits any amendment, modification, change, supplement or rescission of or to the Investment Policies in whole or in part that has or would reasonably be expected to adversely affect the interests or remedies of the Administrative Agent or the Secured Parties under this Agreement or any Loan Document or impair the collectability of any Portfolio Investment without the prior written consent of the Administrative Agent; or

(v) any two (2) of Sherri Schugart, Ryan Sims, David Covington or Alejandro Paloma shall cease to be involved in the daily operations of the Borrower, unless any such person shall have been replaced with an individual, reasonably satisfactory to the Administrative Agent, not more than ninety (90) days after such person shall have ceased such involvement; or

(w) the occurrence of any event, act or condition which the Required Lenders determine either does or has a reasonable probability of causing a Material Adverse Effect,

then, and in every such event, the Administrative Agent shall (i) if requested by the Required Lenders, by written notice to the Borrower terminate the Revolver Commitments and they shall thereupon terminate and (ii) if requested by the Required Lenders, by notice to the Borrower declare the Notes (together with accrued interest thereon) and all other amounts payable hereunder and under the other Loan Documents to be, and the Notes (together with all accrued interest thereon) and all other amounts payable hereunder and under the other Loan Documents shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties; provided that if any Event of Default specified in clause (g) or (h) above occurs with respect to any Loan Party or any Subsidiary of a Loan Party, without any notice to any Loan Party or any other act by the Administrative Agent or the Lenders, the Revolver Commitments shall thereupon automatically terminate and the Notes (together with accrued interest thereon) and all other amounts payable hereunder and under the other Loan Documents shall automatically become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties. Notwithstanding the foregoing, the Administrative Agent shall have available to it all rights and remedies provided under the Loan Documents (including, without limitation, the rights of a secured party pursuant to the Collateral Documents) and in addition thereto, all other rights and remedies at law or equity, and the Administrative Agent shall exercise any one or all of them at the request of the Required Lenders.

SECTION 6.02. Notice of Default. The Administrative Agent shall give written notice to the Borrower of any Default under **Section 6.01(c)** promptly upon being requested to do so by any Lender and shall thereupon notify all the Lenders thereof.

SECTION 6.03. [Intentionally omitted.]

SECTION 6.04. Allocation of Proceeds. If an Event of Default has occurred and not been waived, and the maturity of the Notes has been accelerated pursuant to Article VI hereof, all payments received by the Administrative Agent hereunder or under the other Loan Documents, in respect

of any principal of or interest on the Obligations or any other amounts payable by the Borrower or any other Loan Party hereunder or under the other Loan Documents, shall be applied by the Administrative Agent in the following order:

(a) To payment of that portion of the Obligations constituting fees, indemnities, Credit Party Expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article VIII and Section 2.12) payable to the Administrative Agent in its capacity as such; and then

(b) To payment of that portion of the Obligations constituting indemnities, Credit Party Expenses and other amounts (other than principal, interest and fees) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article VIII and Section 2.12), ratably among them in proportion to the amounts described in this clause payable to them; and then

(c) To payment of that portion of the Obligations constituting accrued and unpaid interest on the Advances and other Obligations, and fees (including unused commitment fees and Upfront Lender fees), ratably among the Lenders in proportion to the respective amounts described in this clause payable to them; and then

(d) To payment of that portion of the Obligations constituting unpaid principal of the Swing Advances; and then

(e) To payment of that portion of the Obligations constituting unpaid principal of the Revolver Advances, ratably among the Lenders in proportion to the respective amounts described in this clause held by them; and then

(f) To payment of all other Obligations (excluding any Obligations arising from Cash Management Services and Bank Products), ratably among the Secured Parties in proportion to the respective amounts described in this clause held by them; and then

(g) To payment of all other Obligations arising from Bank Products and Cash Management Services to the extent secured under the Collateral Documents, ratably among the Secured Parties in proportion to the respective amounts described in this clause held by them; and then

(h) The balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by law.

## ARTICLE VII

### THE ADMINISTRATIVE AGENT

SECTION 7.01. Appointment and Authority. Each of the Lenders hereby irrevocably appoints EverBank to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions.

SECTION 7.02. Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders”

shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders

SECTION 7.03. Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;
- (b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and
- (c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in **Sections 9.05** and **6.01**) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower or a Lender.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in **Article III** or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

SECTION 7.04. Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the

making of an Advance that by its terms must be fulfilled to the satisfaction of a Lender the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Advance. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

SECTION 7.05. Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

SECTION 7.06. Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in the United States of America, or an Affiliate of any such bank with an office in the United States of America. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this paragraph. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this paragraph). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

SECTION 7.07. Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time

to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

SECTION 7.08. [Intentionally omitted.]

SECTION 7.09. Other Agents. The Borrower and each Lender hereby acknowledges that any Lender designated as an “Agent” on the signature pages hereof (other than the Administrative Agent) shall not have any obligations, duties or liabilities hereunder other than in its capacity as a Lender.

SECTION 7.10. Hedging Agreements, Cash Management Services and Bank Products. Except as otherwise expressly set forth herein or in any Collateral Document, no Bank Product Bank, Cash Management Bank or Hedge Counterparty that obtains the guarantees hereunder or any Collateral by virtue of the provisions hereof or of any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) or any Guaranty (including the release or impairment of any Guaranty) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this **Article VII** to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under or related to Cash Management Services, Bank Products and Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank, Bank Product Bank or Hedge Counterparty, as the case may be.

## ARTICLE VIII CHANGE IN CIRCUMSTANCES; COMPENSATION

SECTION 8.01. Basis for Determining Interest Rate Inadequate or Unfair. If on or prior to the first day of any Interest Period:

- (a) the Administrative Agent reasonably determines that deposits in Dollars (in the applicable amounts) are not being offered in the relevant market for such Interest Period, or
- (b) the Required Lenders advise the Administrative Agent that the LIBO Rate as determined by the Administrative Agent will not adequately and fairly reflect the cost to such Lenders of funding the Euro-Dollar Advances for such Interest Period,

the Administrative Agent shall forthwith give written notice thereof to the Borrower and the Lenders, whereupon until the Administrative Agent notifies the Borrower that the circumstances giving rise to such suspension no longer exist, the obligations of the Lenders to make Euro-Dollar Advances specified in such notice, or to permit continuations or conversions into Euro-Dollar Advances, shall be suspended. Unless the Borrower notifies the Administrative Agent at least two (2) Euro-Dollar Business Days before the date of any Borrowing or Swing Borrowing of Euro-Dollar Advances for which a Notice of Borrowing has previously been given, or continuation or conversion into such Euro-Dollar Advances for which a Notice of Continuation or Conversion has previously been given, that it elects not to borrow or so continue or convert on such date, such Borrowing or Swing Borrowing shall instead be made as an ABR Borrowing, or such Euro-Dollar Advance shall be converted to an ABR Advance.

SECTION 8.02. Illegality. If, a Change in Law shall make it unlawful or impossible for any Lender (or its Lending Office) to make, maintain or fund its Euro-Dollar Advances and such Lender shall so notify the Administrative Agent, the Administrative Agent shall forthwith give written notice thereof to the other Lenders and the Borrower, whereupon until such Lender notifies the Borrower and the Administrative Agent that the circumstances giving rise to such suspension no longer exist, the obligation of such Lender to make or permit continuations or conversions of Euro-Dollar Advances shall be suspended. Before giving any notice to the Administrative Agent pursuant to this Section, such Lender shall designate a different Lending Office if such designation will avoid the need for giving such notice and will not, in the judgment of such Lender, be otherwise disadvantageous to such Lender. If such Lender shall determine that it may not lawfully continue to maintain and fund any of its portion of the outstanding Euro-Dollar Advances to maturity and shall so specify in such notice, the Borrower shall immediately prepay in full the then outstanding principal amount of the Euro-Dollar Advances of such Lender, together with accrued interest thereon and any amount due such Lender pursuant to **Section 8.05**. Concurrently with prepaying such Euro-Dollar Advances, the Borrower shall borrow an ABR Advance in an equal principal amount from such Lender (on which interest and principal shall be payable contemporaneously with the related Euro-Dollar Advances of the other Lenders), and such Lender shall make such an ABR Advance.

SECTION 8.03. Increased Cost and Reduced Return.

(a) If after the date hereof, a Change in Law or compliance by any Lender (or its Leading Office) with any request or directive (whether or not having the force of law) of any Authority shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the applicable Euro-Dollar Reserve Percentage) with respect to this Agreement;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Euro-Dollar Advances by such Lender or participation therein;

and the result of any of the foregoing is to increase the cost to such Lender of making or maintaining any Euro-Dollar Advance (or of maintaining its obligation to make any such Advance), or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount) then, upon written request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(a) If any Lender determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Revolver Commitments of such Lender or the Advances made by such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change



in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(b) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(c) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

SECTION 8.04. ABR Advances Substituted for Affected Euro-Dollar Advances. If (i) the obligation of any Lender to make or maintain a Euro-Dollar Advance has been suspended pursuant to Section 8.02 or (ii) any Lender has demanded compensation under Section 8.03, and the Borrower shall, by at least five (5) Euro-Dollar Business Days' prior notice to such Lender through the Administrative Agent, have elected that the provisions of this Section shall apply to such Lender, then, unless and until such Lender notifies the Borrower that the circumstances giving rise to such suspension or demand for compensation no longer apply:

(a) all Advances which would otherwise be made by such Lender as or permitted to be continued as or converted into Euro-Dollar Advances shall instead be made as or converted into ABR Advances, (in all cases interest and principal on such Advances shall be payable contemporaneously with the related Euro-Dollar Advances of the other Lenders), and

(b) after its portion of the Euro-Dollar Advance has been repaid, all payments of principal which would otherwise be applied to repay such Euro-Dollar Advance shall be applied to repay its ABR Advance instead.

In the event that the Borrower shall elect that the provisions of this Section shall apply to any Lender, the Borrower shall remain liable for, and shall pay to such Lender as provided herein, all amounts due such Lender under Section 8.03 in respect of the period preceding the date of conversion of such Lender's portion of any Advance resulting from the Borrower's election.

SECTION 8.05. Compensation. Upon the request of any Lender, delivered to the Borrower and the Administrative Agent, the Borrower shall pay to such Lender such amount or amounts as shall compensate such Lender for any loss, cost or expense incurred by such Lender as a result of:

(a) any payment or prepayment (pursuant to Sections 2.10, 2.11, 6.01, 8.02 or otherwise) of a Euro-Dollar Advance on a date other than the last day of an Interest Period for such Advance; or

(b) any failure by the Borrower to prepay a Euro-Dollar Advance on the date for such prepayment specified in the relevant notice of prepayment hereunder; or

(c) any failure by the Borrower to borrow a Euro-Dollar Advance on the date for the Borrowing of which such Euro-Dollar Advance is a part specified on the Restatement Date;

such compensation to include, without limitation, an amount equal to the excess, if any, of (x) the amount of interest which would have accrued on the amount so paid or prepaid or not prepaid or borrowed for the period from the date of such payment, prepayment or failure to prepay or borrow to the last day of the then current Interest Period for such Euro-Dollar Advance (or, in the case of a failure to prepay or borrow, the Interest Period for such Euro-Dollar Advance which would have commenced on the date of such failure to prepay or borrow) at the applicable rate of interest for such Euro-Dollar Advance provided for herein over (y) the amount of interest (as reasonably determined by such Lender) such Lender would have paid on deposits in Dollars of comparable amounts having terms comparable to such period placed with it by leading lenders in the London interbank market (if such Advance is a Euro-Dollar Advance).

## ARTICLE IX MISCELLANEOUS

### SECTION 9.01. Notices Generally.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

(i) if to the Borrower or any other Loan Party, to it at c/o Hines Interests Limited Partnership, 2800 Post Oak Boulevard, Suite 4800, Houston, Texas 77056, Attention of Ryan T. Sims; Telephone No. (713) 621-8000; Facsimile No. (713) 966-7660;

(ii) if to the Administrative Agent, to EverBank Commercial Finance, Inc., at its address set forth on its signature page hereof, Attention of John Dale; Facsimile No. (201) 770-4762; Telephone No. (856) 505-8163;

(iii) if to a Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said **paragraph (b).**

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to **Article II** if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures

approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Change of Address, Etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF ANY MATERIALS OR INFORMATION PROVIDED BY OR ON BEHALF OF THE BORROWER OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM ANY MATERIALS OR INFORMATION PROVIDED BY OR ON BEHALF OF THE BORROWER. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH ANY MATERIALS OR INFORMATION PROVIDED BY OR ON BEHALF OF THE BORROWER OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "**Agent Parties**") have any liability to the Borrower, any Lender, the Sole Lead Arranger and Sole Bookrunner or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of any materials or information provided by or on behalf of the Borrower through the internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to the Borrower, any Lender, the Sole Lead Arranger and Sole Bookrunner or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

SECTION 9.02. No Waivers. No failure or delay by the Administrative Agent or any Lender in exercising any right, power or privilege hereunder or under any Note or other Loan Document shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in

accordance with Article VI for the benefit of all the Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Lender from exercising setoff rights in accordance with Section 9.04, or (c) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under the Bankruptcy Code or any other applicable debtor relief law.

SECTION 9.03. Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Loan Parties shall, jointly and severally, pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all reasonable out-of-pocket expenses incurred by the Administrative Agent or any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Advances made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Advances.

(b) Indemnification by the Loan Parties. The Loan Parties shall, jointly and severally, indemnify the Administrative Agent (and any sub-agent thereof) and each Lender and each Related Party of any of the foregoing Persons (each such Person being called an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, penalties, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Advance or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or Environmental Releases on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee’s obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. To the extent that a Loan Party for any reason fails to pay any amount required under paragraph (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related

Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this paragraph (c) are subject to the provisions of **Sections 9.10 and 9.13**.

(d) **Waiver of Consequential Damages, Etc.** To the fullest extent permitted by applicable law, the Loan Parties shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Advance or the use of the proceeds thereof. No Indemnitee referred to in **paragraph (b)** above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) **Payments.** All amounts due under this Section shall be payable promptly after demand therefor.

#### SECTION 9.04. **Setoffs; Sharing of Set-Offs; Application of Payments.**

(a) If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or their respective Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

(b) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Advances or other Obligations (excluding any Obligations arising under or related to Cash Management Services, Bank Products and Hedging Agreements) hereunder or under any other Loan Document resulting in such Lender's receiving payment of a proportion of the aggregate amount of its Advances and accrued interest thereon or other such Obligations (excluding any Obligations arising under or related to Cash Management Services, Bank Products and Hedging Agreements) greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Advances and such other Obligations (excluding any Obligations arising under or related to Cash Management Services, Bank Products and Hedging Agreements) of the other Lenders, or make such other adjustments as shall be

equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Advances and other amounts owing them, provided that:

- (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and
- (ii) the provisions of this paragraph shall not be construed to apply to (x) any payment made by a Loan Party pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Advances to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this paragraph shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Loan Party in the amount of such participation.

#### SECTION 9.05. Amendments and Waivers.

(a) Any provision of this Agreement, the Notes or any other Loan Documents may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Borrower and the Required Lenders (and, if the rights or duties of the Administrative Agent are affected thereby, by the Administrative Agent); provided that no such amendment or waiver shall, unless signed by all the Lenders, (i) increase the Revolver Commitment of any Lender or subject any Lender to any additional obligation (it being understood and agreed that a waiver of any condition precedent set forth in **Section 3.02** or of any Default or Event of Default is not considered an increase in Revolver Commitments of any Lender or any Lender's obligation to fund), (ii) reduce the principal of or decrease the rate of interest on any Advance or decrease any fees hereunder, (iii) defer the date fixed for any payment of principal of (including any extension of the Termination Date but excluding mandatory prepayments) or interest on any Advance or any fees hereunder; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate, (iv) reduce the amount of principal, decrease the amount of interest or decrease the amount of fees due on any date fixed for the payment thereof; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate, (v) change the percentage of the Revolver Commitments or of the aggregate unpaid principal amount of the Notes, or the percentage of Lenders, which shall be required for the Lenders or any of them to take any action under this Section or any other provision of this Agreement, (vi) change the application of any payments made under this Agreement or the other Loan Documents in a manner that would alter any pro rata sharing requirements, (vii) release, share or substitute all or substantially all of the Collateral held as security for the Obligations, (viii) change or modify the definition of "Required Lenders," or this **Section 9.05**, or (ix) change the definition of the term "Borrowing Base", "Eligible Portfolio Investment", "Unrestricted Cash and Cash Equivalents" or any component definition of any of them if as a result thereof the amounts available to be borrowed by the Borrower would be increased without the consent of each Lender, provided that the foregoing shall not limit the discretion of the Administrative Agent to change, establish or eliminate any reserves or to make determinations with respect to the eligibility or value of any Investment, (x) release any guaranty given

to support payment of the Guaranteed Obligations, or (xi) amend or waive any provision of the Loan Documents in any manner that permits a Defaulting Lender to cure its status as a Defaulting Lender without requiring such Defaulting Lender to pay in full its unfunded obligations. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver, or consent hereunder (and any amendment, waiver, or consent which by its terms requires the consent of all Lenders may be effected with the consent of all Lenders other than Defaulting Lenders) provided that, without in any way limiting **Section 9.08**, any such amendment, waiver, or consent that would increase or extend the term of the Revolver Commitment or Revolver Advances of such Defaulting Lender, extend the date fixed for the payment of principal or interest owing to such Defaulting Lender hereunder, reduce the principal amount of any obligation owing to such Defaulting Lender, reduce the amount of or the rate or amount of interest on any amount owing to such Defaulting Lender or of any fee payable to such Defaulting Lender hereunder, or alter the terms of this proviso, will require the consent of such Defaulting Lender. Notwithstanding the foregoing, (1) the Hedging Agreements, any agreement with the Administrative Agent and the agreements evidencing the Bank Products and Cash Management Services may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto and (2) any Commitment Increase meeting the conditions set forth in **Section 2.14** shall not require the consent of any Lender other than those Lenders, if any, which have agreed to increase their Revolver Commitment in connection with the proposed Commitment Increase.

(b) Notwithstanding anything in clause (a), (i) unless also signed by the Administrative Agent, no amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document, and (ii) any agreement with the Administrative Agent may be amended, or rights or privileges thereunder waived, only by means of a written agreement executed by all of the parties thereto. Additionally, notwithstanding anything to the contrary herein, each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Advances, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersede the unanimous consent provisions set forth herein and the Required Lenders shall determine whether or not to allow a Loan Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

(c) Notwithstanding anything to the contrary, unless signed by the Swingline Lender, no amendment, waiver or consent shall affect the rights or duties of the Swingline Lender under this Agreement or any other Loan Document.

(d) To the extent not inconsistent with **Section 9.05(a)(vii)** above, the Administrative Agent is authorized to release (and shall release) its Lien on any Collateral (i) that is the subject of a disposition not prohibited under this Agreement (including, without limitation, any transfer of a Portfolio Investment to a Structured Subsidiary in compliance with **Section 5.17**) or (ii) to which the Required Lenders shall have consented, and the Administrative Agent will, at the Loan Parties' expense, execute and deliver to any Loan Party such documents (including, without limitation, any UCC lien releases, re-assignments of trademarks, discharges of security interests, and other similar discharge or release documents (and, if applicable, in recordable form)) as such Loan Party shall reasonably request to evidence the release of such Lien; notwithstanding the foregoing, Portfolio Investments constituting Collateral shall be automatically released from such Lien, without any action of the Administrative Agent, in connection with any disposition of Portfolio Investments by a Loan Party that (x) occurs in the ordinary course of such Loan Party's business and (y) is not prohibited under any of the Loan Documents.

SECTION 9.06. Margin Stock Collateral. Each of the Lenders represents to the Administrative Agent and each of the other Lenders that it in good faith is not, directly or indirectly (by negative pledge or otherwise), relying upon any Margin Stock as collateral in the extension or maintenance of the credit provided for in this Agreement.

SECTION 9.07. Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of **paragraph (b)** of this Section, (ii) by way of participation in accordance with the provisions of **paragraph (d)** of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of **paragraph (f)** of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in **paragraph (d)** of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolver Commitment and the Revolver Advances at the time owing to it); provided that

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Revolver Commitment and the Revolver Advances at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Revolver Commitment (which for this purpose includes Revolver Advances outstanding thereunder) or, if the applicable Revolver Commitment is not then in effect, the principal outstanding balance of the Revolver Advances of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "**Trade Date**" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$5,000,000, unless each of the Administrative Agent and, so long as no Default has occurred and is continuing, the Borrower otherwise consent (each such consent not to be unreasonably withheld or delayed);

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Revolver Advances or the Revolver Commitment assigned;

(iii) no assignment shall be made to any Defaulting Lender or its Subsidiaries or Affiliates;

(iv) any assignment of a Revolver Commitment must be approved by the Administrative Agent unless the Person that is the proposed assignee is itself the Swingline Lender or a Lender with a Revolver Commitment (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee) and the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) a Default has occurred and is continuing at the time of such assignment, or (y) such assignment is to



a Lender, an Affiliate of a Lender or an Approved Fund, provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof; and

(v) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500, and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to **paragraph (c)** of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of **Sections 8.03** and **9.03** with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with **paragraph (d)** of this Section.

(c) **Register.** The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices in Mt. Laurel, New Jersey a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolver Commitments of, and principal amounts of the Revolver Advances owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). In addition, the Administrative Agent shall maintain on the Register the designation, and the revocation of designation, of any Lender as a Defaulting Lender of which it has received notice. The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice

(d) **Participations.** Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Revolver Commitment and/or the Revolver Advances owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument

may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 9.05(a)(i) through (x) (inclusive) that affects such Participant. Subject to paragraph (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 8.01 through 8.05 inclusive to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.04 as though it were a Lender, provided such Participant agrees to be subject to Section 9.04 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided, that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 8.03 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.12 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.12 as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

**SECTION 9.08.** Defaulting Lenders. Notwithstanding anything contained in this Agreement, if any Lender becomes a Defaulting Lender, then, to the extent permitted by Applicable Laws:

(a) during any Default Period with respect to such Defaulting Lender, such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 9.05(a);

(b) until such time as the Default Excess with respect to such Defaulting Lender shall have been reduced to zero:

except as otherwise provided in this Section 9.08, any payment of principal, interest, fees, or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VI or otherwise, and including any amounts made available to the Administrative Agent by such Defaulting Lender pursuant to Section 9.08), shall be deemed paid to and redirected by such Defaulting Lender to be applied at such time or times as

may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment of any amounts owing by such Defaulting Lender to the Swingline Lender hereunder; third, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Revolver Advances under this Agreement; fourth, as the Borrower may request, so long as no Default exists and is continuing, to the funding of any Revolver Advance in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, to the payment of any amounts owing to the Lenders or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender or the Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; sixth, so long as no Default exists and is continuing, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and seventh, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Revolver Advance in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Revolver Advance was made at a time when the conditions set forth in **Section 3.02** were satisfied or waived, such payment shall be applied solely to pay the Revolver Advance of all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Revolver Advance of that Defaulting Lender;

(c) until such time as all Defaulted Payments with respect to such Defaulting Lender shall have been paid, the Administrative Agent may (in its discretion) apply any amounts thereafter received by the Administrative Agent for the account of such Defaulting Lender to satisfy such Defaulting Lender's obligations to make such Defaulted Payments until such Defaulted Payments have been fully paid;

(d) no assignments otherwise permitted by **Section 9.07** shall be made to a Defaulting Lender or any of its Subsidiaries or Affiliates that are Distressed Persons;

(e) **Reallocation of Participations to Reduce Fronting Exposure.** All or any part of such Defaulting Lender's participation in Swing Advances shall be reallocated among the Lenders which are not a Defaulting Lender at such time (each, a "**Non-Defaulting Lender**") in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (x) the conditions set forth in **Section 3.02** are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolver Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(f) **Repayment of Swing Advances.** If the reallocation described in **subsection (e)** above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, prepay Swing Advances in an amount equal to the Swingline Lenders' Fronting Exposure. So long as any Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swing Advances unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swing Advance.

Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) as provided in the above **Section 9.08(b)** to pay amounts owed by a Defaulting Lender shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

**SECTION 9.09. Confidentiality.** Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Loan Parties or their Affiliates.

For purposes of this Section, "**Information**" means all information received from the Loan Parties or any of their Subsidiaries relating to the Loan Parties or any of their Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Loan Parties or any of their Subsidiaries. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

**SECTION 9.10. Representation by Lenders.** Each Lender hereby represents that it is a commercial lender or financial institution which makes loans in the ordinary course of its business and that it will make its Advances hereunder for its own account in the ordinary course of such business; provided, however, that, subject to **Section 9.07**, the disposition of the Note or Notes held by that Lender shall at all times be within its exclusive control.

**SECTION 9.11. Obligations Several.** The obligations of each Lender hereunder are several, and no Lender shall be responsible for the obligations or commitment of any other Lender hereunder. Nothing contained in this Agreement and no action taken by the Lenders pursuant hereto shall be deemed to constitute the Lenders to be a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt and each Lender shall be entitled to protect and enforce its rights arising out of this Agreement or any other Loan Document and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

**SECTION 9.12. Survival of Certain Obligations.** **Sections 8.03(a), 8.03(b), 8.05, 9.03 and 9.09**, and the obligations of the Loan Parties thereunder, shall survive, and shall continue to be enforceable notwithstanding, the termination of this Agreement, and the Revolver Commitments and the payment in full of the principal of and interest on all Advances.

SECTION 9.13. Governing Law. This Agreement and each Note shall be construed in accordance with and governed by the law of the State of New York.

SECTION 9.14. Severability. In case any one or more of the provisions contained in this Agreement, the Notes or any of the other Loan Documents should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby and shall be enforced to the greatest extent permitted by law.

SECTION 9.15. Interest. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the Maximum Lawful Rate. If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Lawful Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Lawful Rate, such Person may, to the extent permitted by Applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

SECTION 9.16. Interpretation. No provision of this Agreement or any of the other Loan Documents shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

SECTION 9.17. Counterparts; Integration; Effectiveness; Electronic Execution.

(a) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 3.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e. "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement

(b) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.18. Jurisdiction; Waiver of Venue; Service of Process; Waiver of Jury Trial.

(a) Submission to Jurisdiction. Each Loan Party irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of the State of New York sitting in New York County, or the federal courts sitting in the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or its properties in the courts of any jurisdiction.

(b) Waiver of Venue. The Borrower irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (a) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in **Section 9.01**. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

(d) Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.19. Independence of Covenants. All covenants under this Agreement and the other Loan Documents shall be given independent effect so that if a particular action or condition is not permitted by any such covenant, the fact that it would be permitted by an exception to, or would be otherwise allowed by, another covenant shall not avoid the occurrence of a Default if such action is taken or such condition exists.

SECTION 9.20. Concerning Certificates. All certificates required hereunder to be delivered by the Borrower, any Guarantor or any Subsidiary and that are required to be executed or certified by the Chief Financial Officer or any other authorized officer of the Borrower, any Guarantor or any Subsidiary shall be executed or certified by such officer in such capacity solely on behalf of the entity for whom he is acting, and not in any individual capacity; provided that nothing in the foregoing shall be deemed as a limitation on liability of any officer for any acts of willful misconduct, fraud, intentional misrepresentation or dishonesty in connection with such execution or certification.

SECTION 9.21. Renewal and Restatement. This Agreement amends, restates and supersedes the Existing Credit Agreement and it is the intention of the parties hereto that all liens and security interests securing the Existing Credit Agreement, continue to exist, remain valid and shall not be impaired or released hereby and shall remain in full force and effect under the terms of this Agreement and all of the Loan Documents.

## ARTICLE X GUARANTY

SECTION 10.01. Unconditional Guaranty. Each Guarantor hereby irrevocably, unconditionally and jointly and severally guarantees, each as a primary obligor and not merely as a surety, to the Administrative Agent, the Lenders and the other Secured Parties the due and punctual payment of the principal of and the premium, if any, and interest on the Guaranteed Obligations and any and all other amounts due under or pursuant to the Loan Documents, when and as the same shall become due and payable (whether at stated maturity or by optional or mandatory prepayment or by declaration, redemption or otherwise) in accordance with the terms of the Loan Documents. The Guarantors' guaranty under this Section is an absolute, present and continuing guarantee of payment and not of collectability, and is in no way conditional or contingent upon any attempt to collect from the Borrower, any of the Guarantors or any other guarantor of the Guaranteed Obligations (or any portion thereof) or upon any other action, occurrence or circumstances whatsoever. In the event that the Borrower or any Guarantor shall fail so to pay any such principal, premium, interest or other amount to the Administrative Agent, a Lender or any other Secured Party, the Guarantors will pay the same forthwith, without demand, presentment, protest or notice of any kind (all of which are waived by the Guarantors to the fullest extent permitted by law), in lawful money of the United States, at the place for payment specified in the Loan Documents or specified by such Administrative Agent in writing, to such Administrative Agent. The Guarantors further agree, promptly after demand, to pay to the Administrative Agent, the Lenders and the other Secured Parties the costs and expenses incurred by such Administrative Agent, Lender or other Secured Party in connection with enforcing the rights of such Administrative Agent, Lenders and the other Secured Parties against the Borrower and any or all of the Guarantors (whether in a bankruptcy proceeding or otherwise) following any default in payment of any of the Guaranteed Obligations or the obligations of the Guarantors hereunder, including, without limitation, the fees and expenses of counsel to the Administrative Agent, such Lenders and the other Secured Parties.

SECTION 10.02. Obligations Absolute. The obligations of the Guarantors hereunder are and shall be absolute and unconditional, irrespective of the validity, regularity or enforceability of this Agreement, any of the Guaranteed Obligations or any of the Loan Documents, shall not be subject to any counterclaim, set-off, deduction or defense based upon any claim any of the Guarantors may have against the Borrower, any other Guarantor or the Administrative Agent, any Lender or any other Secured Party, hereunder or otherwise, and shall remain in full force and effect without regard to, and shall not be released, discharged or in any way affected by, to the fullest extent permitted by law, any circumstance or condition whatsoever (whether or not any of the Guarantors shall have any knowledge or notice thereof), including, without limitation:

(a) any amendment or modification of or supplement to any of the Loan Documents or any other instrument referred to herein or therein, or any assignment or transfer of any thereof or of any interest therein, or any furnishing or acceptance of additional security for any of the Guaranteed Obligations;

(b) any waiver, consent or extension under any Loan Document or any such other instrument, or any indulgence or other action or inaction under or in respect of, or any extensions or renewals of, any Loan Document, any such other instrument or any Guaranteed Obligation;

(c) any failure, omission or delay on the part of the Administrative Agent to enforce, assert or exercise any right, power or remedy conferred on or available to the Administrative Agent or any Lender against the Borrower or any Guarantor, any Subsidiary of the Borrower or any Subsidiary of any Guarantor;

(d) any bankruptcy, insolvency, readjustment, composition, liquidation or similar proceeding with respect to the Borrower, any Guarantor, any Subsidiary of the Borrower or any Subsidiary of any Guarantor or any property of the Borrower, any Guarantor or any such Subsidiary or any unavailability of assets against which the Guaranteed Obligations, or any of them, may be enforced;

(e) any merger or consolidation of the Borrower, any Subsidiary of the Borrower or any Guarantor or any of the Guarantors into or with any other Person or any sale, lease or transfer of any or all of the assets of any of the Guarantors, the Borrower or any Subsidiary of the Borrower or any Guarantor to any Person;

(f) any failure on the part of the Borrower, any Guarantor or any Subsidiary of the Borrower or any Guarantor for any reason to comply with or perform any of the terms of any agreement with any of the Guarantors;

(g) any exercise or non-exercise by the Administrative Agent, any Lender or any other Secured Party, of any right, remedy, power or privilege under or in respect of any of the Loan Documents or the Guaranteed Obligations, including, without limitation, under this Section;

(h) any default, failure or delay, willful or otherwise, in the performance or payment of any of the Guaranteed Obligations;

(i) any furnishing or acceptance of security, or any release, substitution or exchange thereof, for any of the Guaranteed Obligations;

(j) any failure to give notice to any of the Guarantors of the occurrence of any breach or violation of, or any event of default or any default under or with respect to, any of the Loan Documents or the Guaranteed Obligations;

(k) any partial prepayment, or any assignment or transfer, of any of the Guaranteed Obligations; or

(l) any other circumstance (other than payment in full) which might otherwise constitute a legal or equitable discharge or defense of a guarantor or which might in any manner or to any extent vary the risk of such Guarantor.

The Guarantors covenant that their respective obligations hereunder will not be discharged except by complete performance of the obligations contained in the Loan Documents and this Agreement and the final payment in full of the Guaranteed Obligations. The Guarantors unconditionally waive, to the fullest extent permitted by law (A) notice of any of the matters referred to in this Section, (B) any and all rights which any of the Guarantors may now or hereafter have arising under, and any right to claim a discharge of the Guarantor's obligations hereunder by reason of the failure or refusal by the Administrative Agent, any Lender or any other Secured Party to take any action pursuant to any statute permitting a Guarantor to request that the Administrative Agent or any Lender attempt to collect the Guaranteed Obligations from the Borrower, any of the Guarantors or any other guarantor, (C) all notices which may be required by statute, rule of law or otherwise to preserve any of the rights of the Administrative Agent, any Lender or any other Secured Party



against the Guarantors, including, without limitation, presentment to or demand of payment from the Borrower, any of the Subsidiaries of the Borrower or any Guarantor, or any of the other Guarantors with respect to any Loan Document or this agreement, notice of acceptance of the Guarantors' guarantee hereunder and/or notice to the Borrower, any of the Subsidiaries of the Borrower or any Guarantor, or any Guarantor of default or protest for nonpayment or dishonor, (D) any diligence in collection from or protection of or realization upon all or any portion of the Guaranteed Obligations or any security therefor, any liability hereunder, or any party primarily or secondarily liable for all or any portion of the Guaranteed Obligations, and (E) any duty or obligation of the Administrative Agent, any Lender or any other Secured Party to proceed to collect all or any portion of the Guaranteed Obligations from, or to commence an action against, the Borrower, any Guarantor or any other Person, or to resort to any security or to any balance of any deposit account or credit on the books of the Administrative Agent, any Lender or any other Secured Party in favor of the Borrower, any Guarantor or any other Person, despite any notice or request of any of the Guarantors to do so.

SECTION 10.03. Continuing Obligations; Reinstatement. The obligations of the Guarantors under this **Article X** are continuing obligations and shall continue in full force and effect until such time as all of the Guaranteed Obligations (and any renewals and extensions thereof) shall have been finally paid and satisfied in full. The obligations of the Guarantors under this **Article X** shall continue to be effective or be automatically reinstated, as the case may be, if any payment made by the Borrower, any Guarantor or any Subsidiary of the Borrower or any Guarantor on, under or in respect of any of the Guaranteed Obligations is rescinded or must otherwise be restored or returned by the recipient upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower, any Guarantor or any such Subsidiary, or upon or as a result of the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to the Borrower, any Guarantor or any such Subsidiary or any substantial part of the property of the Borrower, any Guarantor or any such Subsidiary, or otherwise, all as though such payment had not been made. If an event permitting the acceleration of all or any portion of the Guaranteed Obligations shall at any time have occurred and be continuing, and such acceleration shall at such time be stayed, enjoined or otherwise prevented for any reason, including without limitation because of the pendency of a case or proceeding relating to the Borrower, any Guarantor or any Subsidiary of the Borrower or any Guarantor under any bankruptcy or insolvency law, for purposes of this **Article X** and the obligations of the Guarantors hereunder, such Guaranteed Obligations shall be deemed to have been accelerated with the same effect as if such Guaranteed Obligations had been accelerated in accordance with the terms of the applicable Loan Documents or of this Agreement.

SECTION 10.04. Additional Security, Etc. The Guarantors authorize the Administrative Agent on behalf of the Lenders without notice to or demand on the Guarantors and without affecting their liability hereunder, from time to time (a) to obtain additional or substitute endorsers or guarantors; (b) to exercise or refrain from exercising any rights against, and grant indulgences to, the Borrower, any Subsidiary of the Borrower or any Guarantor, any other Guarantor or others; and (c) to apply any sums, by whomsoever paid or however realized, to the payment of the principal of, premium, if any, and interest on, and other obligations consisting of, the Guaranteed Obligations. The Guarantors waive any right to require the Administrative Agent, any Lender or any other Secured Party to proceed against any additional or substitute endorsers or guarantors or the Borrower or any of their Subsidiaries or any other Person or to pursue any other remedy available to the Administrative Agent, any such Lender or any such other Secured Party.

SECTION 10.05. Information Concerning the Borrower. The Guarantors assume all responsibility for being and keeping themselves informed of the financial condition and assets of the Borrower, the other Guarantors and their respective Subsidiaries, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks which the Guarantors assume and insure hereunder, and agree that neither the Administrative Agent, any

Lender nor any other Secured Party shall have any duty to advise the Guarantors of information known to the Administrative Agent, any such Lender or any such other Secured Party regarding or in any manner relevant to any of such circumstances or risks.

SECTION 10.06. Guarantors' Subordination. The Guarantors hereby absolutely subordinate, both in right of payment and in time of payment, any present and future indebtedness of the Borrower or any Subsidiary of the Borrower or any Guarantor to any or all of the Guarantors to the indebtedness of the Borrower or any such Subsidiary or to the Administrative Agent, Lenders and the other Secured Parties (or any of them), *provided* that the Guarantors may receive scheduled payments of principal, premium (if any) and interest in respect of such present or future indebtedness so long as there is no Event of Default then in existence.

SECTION 10.07. Waivers. Notwithstanding anything herein to the contrary, the Guarantors hereby waive any right of subrogation (under contract, Section 509 of the Bankruptcy Code or otherwise) or any other right of indemnity, reimbursement or contribution and hereby waive any right to enforce any remedy that the Administrative Agent, any Lender or any other Secured Party now has or may hereafter have against the Borrower, any Guarantor or any endorser or any other guarantor of all or any part of the Guaranteed Obligations, and the Guarantors hereby waive any benefit of, and any right to participate in, any security or collateral given to the Administrative Agent, any Lender or any other Secured Party to secure payment or performance of the Guaranteed Obligations or any other liability of the Borrower to the Administrative Agent, any Lender or any other Secured Party. Each Guarantor expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Guaranteed Obligations, and all notices of acceptance of this Guaranty or of the existence, creation or incurrence of new or additional Obligations. The waivers contained in this Section shall continue and survive the termination of this Agreement and the final payment in full of the Guaranteed Obligations.

SECTION 10.08. Enforcement. In the event that the Guarantors shall fail forthwith to pay upon demand of the Administrative Agent, any Lender or any other Secured Party any amounts due pursuant to this Article X or to perform or comply with or to cause performance or compliance with any other obligation of the Guarantors under this Agreement the Administrative Agent, any Lender and any other Secured Party shall be entitled and empowered to institute any action or proceeding at law or in equity for the collection of the sums so due and unpaid or for the performance of or compliance with such terms, and may prosecute any such action or proceeding to judgment or final decree and may enforce such judgment or final decree against the Guarantors and collect in the manner provided by law out of the property of the Guarantors, wherever situated, any monies adjudged or decreed to be payable. The obligations of the Guarantors under this Agreement are continuing obligations and a fresh cause of action shall arise in respect of each default hereunder.

SECTION 10.09. Miscellaneous. Except as may otherwise be expressly agreed upon in writing, the liability of the Guarantors under this Article X shall neither affect nor be affected by any prior or subsequent guaranty by the Guarantors of any other indebtedness to the Administrative Agent, the Lenders or any other Secured Party. Notwithstanding anything in this Article X to the contrary, the maximum liability of each Guarantor hereunder shall in no event exceed the maximum amount which could be paid out by such Guarantor without rendering such Guarantor's obligations under this Article X, in whole or in part, void or voidable under applicable law, including, without limitation, (i) the Bankruptcy Code of 1978, as amended, and (ii) any applicable state or federal law relative to fraudulent conveyances.

**[PAGE INTENTIONALLY LEFT BLANK -  
SIGNATURE PAGE FOLLOWS]**



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, under seal, by their respective authorized officers as of the day and year first above written.

**HMS INCOME FUND, INC.**, a Maryland corporation, as the  
Borrower

By: /s/David M. Covington  
David M. Covington,  
Chief Accounting Officer and Treasurer

**HMS EQUITY HOLDING, LLC**, a Delaware limited liability  
company, as a Guarantor

By: HMS INCOME FUND, INC., as its Manager

By: /s/David M. Covington  
David M. Covington,  
Chief Accounting Officer and Treasurer

**HMS EQUITY HOLDING II, INC.**, a Delaware corporation, as  
a Guarantor

By: /s/ David M. Covington  
David M. Covington,  
Chief Accounting Officer and Treasurer

COMMITMENTS

**EVERBANK COMMERCIAL FINANCE, INC.,**  
as Administrative Agent and as a Lender

By: /s/ John Dale  
John Dale, Chief Credit Officer

Revolver  
Commitment:  
\$40,000,000

Lending Office  
EverBank Commercial Finance, Inc.  
10000 Midlantic Drive, Suite 400 East  
Mt. Laurel, New Jersey 08054  
Attention: John Dale, Chief Credit Officer  
Telecopy number: (201) 770-4762  
Telephone number: (856) 505-8163

And a copy to:

Stephen T. Whelan, Esq.  
Blank Rome LLP  
The Chrysler Building  
405 Lexington Avenue  
New York, New York 10174  
Telecopy number: (917) 332-3801  
Telephone number: (212) 885-5191

**GREEN BANK,**  
as a Lender

By: /s/Ling Huang  
Name: Ling Huang  
Title: Senior Vice President

Revolver  
Commitment:  
\$20,000,000

Lending Office  
Green Bank  
9545 Katy Freeway, Suite 100  
Houston, Texas 77024  
Attention:  
Telecopy number:  
Telephone number:

**CUSTOMERS BANK,**  
as a Lender

By: /s/Lyle P. Cunningham  
Name: Lyle P. Cunningham  
Title: Senior Vice President

Revolver  
Commitment:  
\$15,000,000

Lending Office  
Customers Bank  
99 Bridge Street  
Phoenixville, Pennsylvania 19460  
Attention:  
Telecopy number:  
Telephone number:

**TRUSTMARK NATIONAL BANK,**  
as a Lender

By: /s/Jeff Deutsch  
Name: Jeff Deutsch  
Title: Senior Vice President

Revolver  
Commitment:  
\$10,000,000

Lending Office  
945 Bunker Hill Road, Suite 200  
Houston, Texas 77024  
Attention: Jeff Deutsch  
Telecopy number: \_\_\_\_\_  
Telephone number: (713) 827 3717



**WHITNEY BANK,**  
as a Lender

By: /s/Nate Ellis  
Name: Nate Ellis  
Title: Vice President

Revolver  
Commitment:  
\$10,000,000

Lending Office  
4265 San Felipe Street  
Suite 200  
Houston, Texas 77027  
Attention: Wayne L. Mediamolle II  
Telecopy number: (713) 951-7172  
Telephone number: (713) 951-7107  
Email: lee.mediamolle@whitneybank.com

**SCHEDULE A**  
**DESIGNATION NOTICE**

\_\_\_\_\_, 2017

EverBank Commercial Finance, Inc.,  
as Administrative Agent  
10000 Midlantic Drive, Suite 400 East  
Mt. Laurel, New Jersey 08054  
Attention: John Dale, Chief Credit Officer

Dear Sirs:

Reference is made to the Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and in effect on the date hereof, the “**Credit Agreement**”) among HMS Income Fund, Inc. EverBank Commercial Finance, Inc., as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof. Terms defined in the Credit Agreement are used herein with the same meanings.

The undersigned is a Lender and is party to a Hedging Agreement, dated as of [\_\_\_\_\_] and enclosed as **Exhibit A** to this letter agreement, pursuant to the Credit Agreement. By executing this letter agreement, the undersigned: (i) appoints the Administrative Agent as its agent under the applicable Loan Documents and (ii) agrees to be bound by the provisions of **Articles VI and VII** of the Credit Agreement.

Very truly yours,

[NAME OF LENDER]

By:  
Name:  
Title:

Acknowledged by:

EVERBANK COMMERCIAL FINANCE, INC.,  
as Administrative Agent

By:

Name:

Title:

**SCHEDULE B**  
**REVOLVER COMMITMENT**

| <u>Lender</u>                        | <u>Revolver Commitment</u> |
|--------------------------------------|----------------------------|
| EverBank Commercial Finance,<br>Inc. | \$40,000,000               |
| Green Bank                           | \$20,000,000               |
| Customers Bank                       | \$15,000,000               |
| Trustmark National Bank              | \$10,000,000               |
| Whitney Bank                         | \$10,000,000               |
| TOTAL                                | \$95,000,000               |

SCHEDULE 1.01

MORTGAGED PROPERTIES

None.

## SCHEDULE 4.8

SUBSIDIARIES

| <b>Subsidiary</b>           | <b>Type of Organization</b> | <b>State of Organization</b> |
|-----------------------------|-----------------------------|------------------------------|
| HMS Equity Holding, LLC     | Limited Liability Company   | Delaware                     |
| HMS Equity Holding II, Inc. | Corporation                 | Delaware                     |
| HMS Funding I LLC           | Limited Liability Company   | Delaware                     |

## SCHEDULE 4.24

SUBSIDIARIES AND AFFILIATES

| <b>Subsidiary</b>           | <b>Holder of Equity Interests</b> | <b>Nature of Equity Interests</b>  | <b>Percentage of Equity Interests Held</b> | <b>Jurisdiction of Organization</b> |
|-----------------------------|-----------------------------------|------------------------------------|--|-------------------------------------|
| HMS Equity Holding, LLC     | HMS Income Fund, Inc.             | Limited Liability Company Interest | 100%                                       | Delaware                            |
| HMS Equity Holding II, Inc. | HMS Income Fund, Inc.             | Stock                              | 100%                                       | Delaware                            |
| HMS Funding I LLC           | HMS Income Fund, Inc.             | Limited Liability Company Interest | 100%                                       | Delaware                            |

## SCHEDULE 4.30

INVESTMENTS

HMS Income Fund, Inc. – Custody at Amegy Bank, a division of ZB, National Association, f/k/a Amegy Bank - #3654545 - \$23,218,350.10

HMS Income Fund, Inc. – Depository at Capital One Bank – #3822679276 – \$1,047,724.50

HMS Income Fund, Inc. – Disbursement at Capital One Bank – 3822679284 - \$663.48

HMS Income Fund, Inc. – Escrow at UMB Bank - #9871976068 - \$1,507,278.63

HMS Equity Holding, LLC - Custody at Amegy Bank, a division of ZB, National Association, f/k/a Amegy Bank - #3654545A - \$5,585,504.89

HMS Equity Holding, LLC – Disbursement at Capital One Bank - #3802487559 - \$1,095.36

HMS Equity Holding II, Inc. - Custody at Amegy Bank, a division of ZB, National Association, f/k/a Amegy Bank - #3654545B - \$845.89

HMS Equity Holding II, Inc. – Disbursement at Capital Bank - #3027008800 - \$0



## SCHEDULE 4.33

CONTRACTS

## HMS Income Fund, Inc.

- Amended and Restated Articles of Incorporation
- Amended and Restated Bylaws
- Assignment and Assumption Agreement, dated as of December 12, 2011, among Main Street Capital Corporation, Main Street Capital II, LP and Main Street Mezzanine Fund, LP, as assignors, and HMS Income LLC as assignee.
- Servicing Agreement, dated as of December 12, 2011 between Main Street Capital Partners, LLC and HMS Income LLC.
- Advisory Agreement
- Sub-Advisory Agreement, as modified by that certain Assignment and Assumption, dated as of December 31, 2013, among Main Street Capital Partners, LLC, Main Street Capital Corporation, as assignor, and MSC Adviser I, LLC, as assignee.
- Expense Support and Conditional Reimbursement Agreement, dated as of December 30, 2013, by and between the Borrower and the Adviser, as the same has been amended, supplemented, restated or otherwise modified from time to time, as disclosed on the Borrower's annual report on Form 10-K most recently filed with the Securities and Exchange Commission and any subsequent reports by the Borrower on Form 10-Q or Form 8-K filed with the Securities and Exchange Commission.
- Amended and Restated Conditional Fee Waiver Agreement, dated as of March 26, 2013, among the Borrower, the Adviser and Main Street Capital Partners, LLC, as the same has been amended, supplemented, restated or otherwise modified from time to time, as disclosed on the Borrower's annual report on Form 10-K most recently filed with the Securities and Exchange Commission and any subsequent reports by the Borrower on Form 10-Q or Form 8-K filed with the Securities and Exchange Commission.

## HMS Equity Holding, LLC

- Certificate of Formation
- Operating Agreement

## HMS Equity Holding II, Inc.

- Articles of Incorporation
- By Laws

SCHEDULE 5.11

LOANS AND ADVANCES

None.

SCHEDULE 5.14

PRINCIPAL AMOUNTS

None.

SCHEDULE 5.31

DEBT

None.

SCHEDULE 5.37

OPERATING LEASES

None.

## EXHIBIT A

NOTICE OF BORROWING

\_\_\_\_\_, 20\_\_

To: EverBank Commercial Finance, Inc., as Administrative Agent

Re: Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017, and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”), among HMS Income Fund, Inc., HMS Equity Holding, LLC, HMS Equity Holding II, Inc., Everbank Commercial Finance, Inc., as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof.

Ladies and Gentlemen:

Unless otherwise defined herein, capitalized terms used herein shall have the meanings attributable thereto in the Credit Agreement.

This Notice of Borrowing is delivered to you pursuant to **Section 2.02** of the Credit Agreement.

The Borrower hereby requests a Borrowing in the aggregate principal amount of \$ \_\_\_\_\_ to be made on \_\_\_\_\_, 20\_\_.

[The Advances included in such Borrowing are to be: **ABR Advances in the aggregate principal amount of \$ \_\_\_\_\_; Euro-Dollar Advances in the aggregate principal amount of \$ \_\_\_\_\_**].

Attached to this Notice of Borrowing are true, correct and complete copies of (a) a Borrowing Base Certification Report dated as of the date hereof, and (b) a calculation of the Borrowing Base and all components thereof.

The Borrower has caused this Notice of Borrowing to be executed and delivered by its duly authorized officer this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

All of the conditions applicable to the Borrowing requested herein as set forth in the Credit Agreement have been satisfied as of the date hereof and will remain satisfied on the date of such Borrowing, including, without limitation, those set forth in **Section 3.02** of the Credit Agreement.

HMS Income Fund, Inc., a Maryland corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT B-1

REVOLVER NOTE

[To be attached]



EXHIBIT B-2

SWING ADVANCE NOTE

[To be attached]

## EXHIBIT C

NOTICE OF CONVERSION

\_\_\_\_\_, 20\_\_\_\_

To: EverBank Commercial Finance, Inc., as Administrative Agent

Re: Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017 and thereafter amended, supplemented, or otherwise modified and in effect on the date hereof, the "**Credit Agreement**"), among HMS Income Fund, Inc., HMS Equity Holding, LLC, HMS Equity Holding II, Inc., Everbank Commercial Finance, Inc., as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof.

Gentlemen:

Unless otherwise defined herein, capitalized terms used herein shall have the meanings attributable thereto in the Credit Agreement.

This Notice of Conversion is delivered to you pursuant to **Section 2.03** of the Credit Agreement.

With respect to the [ABR Advances] [Euro-Dollar Advances] in the aggregate amount of \$\_\_\_\_\_, the Borrower hereby requests that such Advances be converted to [ABR Advances], [Euro-Dollar Advances] in the aggregate principal amount of \$\_\_\_\_\_ to be made on such date, and for interest to accrue thereon at the rate established by the Credit Agreement for [ABR Advances] [Euro-Dollar Advances].

The Borrower has caused this Notice of Conversion to be executed and delivered by its duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

HMS INCOME FUND, INC. a Maryland corporation

By:

Name:

Title:

## EXHIBIT D

BORROWING BASE CERTIFICATION REPORT

Reference is made to the Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017, and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”), among HMS Income Fund, Inc. (the “**Borrower**”), HMS Equity Holding, LLC, HMS Equity Holding II, Inc., Everbank Commercial Finance, Inc., as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof. Capitalized terms used herein have the meanings ascribed thereto in the Credit Agreement.

Pursuant to **Section 5.01(i)** of the Credit Agreement, \_\_\_\_\_, the duly authorized chief financial officer or other authorized officer of Borrower, acting in his capacity as such officer for Borrower and not in his individual capacity, hereby certifies to the Administrative Agent and the Lenders that: (i) attached hereto is a list of the Portfolio Investments that the Borrower proposes to include in the calculations of the Borrowing Base on the date hereof, together with the most recent Value and source of the determination of Value for each, (ii) such Portfolio Investments satisfy all of the requirements contained in the definitions of “**Eligible Quoted Senior Bank Loan Investments**”, “**Eligible Investment Grade Debt Securities**”, “**Eligible Core Portfolio Investments**”, “**Eligible Unquoted Senior Bank Loan Investments**”, and “**Eligible Non-Investment Grade Debt Securities**”, as applicable; (iii) the information contained herein and in the schedule(s) attached hereto is true, accurate and complete as of the date hereof; (iv) no Default has occurred and is continuing on the date hereof; and (v) the representations and warranties of the Loan Parties contained in **Article IV** of the Credit Agreement and the other Loan Documents are true on and as of the date hereof.

Certified as of the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

HMS INCOME FUND, INC., a Maryland corporation.

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

**[Attach supporting Schedule(s)]**

EXHIBIT E

OPINION LETTER COVERAGE OF  
COUNSEL FOR THE BORROWER AND GUARANTORS

[To be Attached]

## EXHIBIT F

CLOSING CERTIFICATE

Reference is made to the Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated March 6, 2017 and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”), among HMS Income Fund, Inc. (the “**Borrower**”), HMS Equity Holding, LLC, HMS Equity Holding II, Inc., Everbank Commercial Finance, Inc., as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof. Capitalized terms used herein have the meanings ascribed thereto in the Credit Agreement.

Pursuant to **Sections 3.01** and **3.02** of the Credit Agreement, David Covington, acting in his capacity as the duly authorized Chief Accounting Officer and Treasurer of the Borrower, and not in his individual capacity, hereby certifies to the Administrative Agent and the Lenders that:

(a) to the knowledge of such Person (i) no Default has occurred and is continuing on the date of the first Borrowing under the Credit Agreement; and (ii) the representations and warranties of the Borrower contained in **Article IV** of the Credit Agreement are true on and as of the date of the first Borrowing under the Credit Agreement;

(b) Borrower will comply with the Investment Policies set forth on **Exhibit “A”** attached hereto (the entity to which “we”, “us”, “our” and “Company” refer within such **Exhibit “A”** is the Borrower);

(c) any credit facilities currently in effect for the Borrower (except to the extent being so repaid with the proceeds of the initial Loan on or after the Restatement Date) and any and all liens thereunder have been terminated and released;

(d) immediately after the Borrowing to be made on the Restatement Date, the aggregate outstanding principal amount of the Revolver Advances will not exceed the lesser of: (A) the aggregate amount of the Revolver Commitments of all of the Lenders as of such date; and (B) the Borrowing Base; and

(e) as required by **Section 5.04**, the aggregate Revolver Advances, after giving effect to the Borrowing to be made on the Restatement Date minus Cash and Cash Equivalents **[does][does not]** exceed 85% of the Adjusted Borrowing Base **[and the Borrower has Liquidity in excess of 15% of the aggregate outstanding principal amount of the sum of all Revolver Advances, after giving effect to the Borrowing to be made on the Restatement Date]**.

Certified as of the [ ] day of March 2017.

BORROWER

HMS INCOME FUND, INC., a Maryland corporation

By:

David Covington, Chief Accounting Officer and  
Treasurer

**[Attach Exhibit “A”  
Investment Policies]**

## EXHIBIT G

OFFICER'S CERTIFICATE

The undersigned, David Covington, Chief Accounting Officer and Treasurer of [ ] (the "**Company**"), hereby certifies that he has been duly appointed, qualified and is acting in such capacity and that, as such, he is familiar with the facts herein certified and is duly authorized to execute and deliver this Officer's Certificate on behalf of the Company, and in such capacity hereby further certifies, in connection with the Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 among HMS Income Fund, Inc. (the "**Borrower**"), HMS Equity Holding, LLC, HMS Equity Holding II, Inc., Everbank Commercial Finance, Inc., as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof (as amended and restated on March 6, 2017, and as further amended, restated, modified or supplemented from time to time, the "**Credit Agreement**"; capitalized terms used and not otherwise defined herein having the meaning set forth therein) that:

1. Attached hereto as Exhibit A is a complete and correct copy of the Organizational Documents of the Company as in full force and effect on the date hereof as certified by the Secretary of State of the State of [ ], the Company's state of organization.

2. Attached hereto as Exhibit B is a complete and correct copy of the Operating Documents of the Company as in full force and effect on the date hereof.

3. Attached hereto as Exhibit C is a complete and correct copy of the Organizational Actions duly adopted by the [ ] of the Company, approving and authorizing the execution and delivery of the Credit Agreement, the Notes and the other Loan Documents to which the Company is a party. Such Organizational Actions have not been repealed or amended and are in full force and effect, and no other Organizational Actions have been adopted by the board of directors of the Company in connection therewith.

4. Each of the persons named on Exhibit D attached hereto is, and was at the time of executing any Loan Document on behalf of the Company, a duly appointed, qualified and acting officer of the Company with such person holding the title set forth opposite such person's name and the signature set forth opposite the name of such person, and the signatures of such person appearing on the Credit Agreement, the Notes and the other Loan Documents, is his or her genuine signature. Each such person is authorized to execute and deliver, and was authorized at the time of executing and delivering, on behalf of the Company, the Credit Agreement, the Notes and the other Loan Documents to which the Company is a party and any certificate or other documents to be executed and delivered by the Company pursuant to the Loan Documents.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Officer's Certificate as of the date first stated above.

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name: David Covington  
Title: Chief Accounting Officer and Treasurer



## EXHIBIT H

COMPLIANCE CERTIFICATE

Reference is made to the Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017, and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”), among HMS Income Fund, Inc. (the “**Borrower**”), HMS Equity Holding, LLC, HMS Equity Holding II, Inc., Everbank Commercial Finance, Inc., as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof. Capitalized terms used herein shall have the meanings ascribed thereto in the Credit Agreement.

Pursuant to **Section 5.01(c)** of the Credit Agreement, \_\_\_\_\_, acting in his capacity as the duly authorized [\_\_\_\_\_] of the Borrower and not in his individual capacity, hereby certifies to the Administrative Agent and the Lenders that the information contained in the Compliance Checklist attached hereto is true, accurate and complete as of \_\_\_\_\_, 20\_\_ (the “**Compliance Date**”), and that [no Default is in existence on and as of the date hereof.] [the following covenants and conditions have not been performed or observed and the following is a list of each such Default and/or Event of Default and its nature and status and the actions proposed by the Borrower to remedy such Default and/or Event of Default:]

Dated as of \_\_\_\_\_.

HMS INCOME FUND, INC., a Maryland corporation

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

Compliance Checklist

**[To Be Provided By the Borrower In Form and  
Content Satisfactory to Administrative Agent]**

JOINDER AND REAFFIRMATION AGREEMENT

THIS JOINDER AND REAFFIRMATION AGREEMENT (the “**Agreement**”), dated as of \_\_\_\_\_, 20\_\_, is by and among [\_\_\_\_\_] (the “**New Guarantor**”), HMS INCOME FUND, INC., a Maryland corporation (the “**Borrower**”), HMS EQUITY HOLDING, LLC, a Delaware limited liability company, HMS EQUITY HOLDING II, INC., a Delaware corporation, [[\_\_\_\_\_] and [\_\_\_\_\_] (collectively, the “**Existing Guarantors**”),] and EVERBANK COMMERCIAL FINANCE, INC. (the “**Administrative Agent**”).

The Borrower, the Existing Guarantors, the Lenders and the Administrative Agent have entered into that certain Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017, and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”). All of the defined terms in the Credit Agreement are incorporated herein by reference.

The Borrower, the Existing Guarantors and the New Guarantor have requested that the New Guarantor become a Guarantor under the Credit Agreement, a Grantor under the Security Agreement and a Pledgor under the Pledge Agreement in accordance with Section 5.28 of the Credit Agreement.

Accordingly, the Borrower, Existing Guarantors, New Guarantor and Administrative Agent hereby agree as follows:

1. The Borrower, the Existing Guarantors and the New Guarantor hereby acknowledge, agree and confirm that, by their execution of this Joinder Agreement, the New Guarantor will be deemed to be a party to the Credit Agreement, and a “**Guarantor**” for all purposes of the Credit Agreement, the Notes and the other Loan Documents, and shall have all of the obligations of a Guarantor thereunder, as if it had executed the Credit Agreement and the other Loan Documents. The Borrower, the Existing Guarantors and the New Guarantor hereby further acknowledge, agree and confirm that, by their execution of this Joinder Agreement, the New Guarantor will be deemed to be, effective as of the date hereof, (a) a party to the Security Agreement and a “**Grantor**” for all purposes of the Security Agreement and shall have all of the obligations of a Grantor thereunder as if it had executed the Security Agreement, and (b) a party to the Pledge Agreement and a “**Pledgor**” for all purposes of the Pledge Agreement and shall have all of the obligations of a Pledgor thereunder as if it had executed the Pledge Agreement. The New Guarantor assumes and agrees to be bound by and comply with, all of the terms, provisions and conditions contained in the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents applicable to the Guarantors and all duties and obligations of a Guarantor thereunder, as fully and completely as all other Guarantors thereunder, jointly and severally, individually and collectively, with all other Guarantors, including without limitation (i) all of the representations, warranties, covenants, undertakings and obligations set forth in the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents (each of which, as to the New Guarantor, shall be deemed made on the date hereof), and (ii) all waivers set forth in the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents.

2. The New Guarantor has received a copy of the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents (as well as all schedules and exhibits to each). The information on the exhibits and schedules to the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents, as applicable, are amended to provide the information shown on the attached Schedule A. In furtherance and not in limitation of the terms of the Security Agreement and

the Pledge Agreement, the New Guarantor acknowledges its present grant of a first priority security interest in all of its Collateral (as defined in the Security Agreement) and Collateral (as defined in the Pledge Agreement) to the Administrative Agent, for the benefit of the Secured Parties (as described in the Security Agreement). In furtherance and not in limitation thereof, the New Guarantor hereby, as security for the payment of the Notes, the Guaranty and all Obligations whatsoever of the Borrower and each Guarantor, hereby grants to the Administrative Agent, for the benefit of the Secured Parties (as defined in the Security Agreement) a continuing, general lien upon and security interest in and to the following described property, wherever located, whether now existing or hereafter acquired or arising, namely: (a) (i) all Accounts (as defined in the Security Agreement), General Intangibles (as defined in the Security Agreement), Documents (as defined in the Security Agreement), Chattel Paper (as defined in the Security Agreement) and Instruments (as defined in the Security Agreement) now existing or hereafter arising of the New Guarantor; (ii) all guarantees of the New Guarantor's existing and future Accounts (as defined in the Security Agreement), General Intangibles (as defined in the Security Agreement), Chattel Paper (as defined in the Security Agreement) and Instruments (as defined in the Security Agreement) and all other security held by the New Guarantor for the payment and satisfaction thereof; (iii) all Inventory (as defined in the Security Agreement) now owned or hereafter acquired by the New Guarantor; (iv) all Equipment (as defined in the Security Agreement) now owned or hereafter acquired of the New Guarantor; (v) all Intercompany Claims (as defined in the Security Agreement) now existing or hereafter arising; (vi) any and all now owned or hereafter acquired or arising Deposit Accounts (as defined in the Security Agreement), Investment Property (as defined in the Security Agreement), Letter of Credit Rights (as defined in the Security Agreement), Goods (as that term is defined in the UCC) and Supporting Obligations (as defined in the Security Agreement); (vii) all books and records of the New Guarantor (including, without limitation, computer records, tapes, discs and programs and all other media, written, electric, magnetic or otherwise, containing such records) which relate to the New Guarantor's Inventory (as defined in the Security Agreement), Equipment (as defined in the Security Agreement), Accounts (as defined in the Security Agreement), Deposit Accounts (as defined in the Security Agreement), Investment Property (as defined in the Security Agreement), Letter of Credit Rights (as defined in the Security Agreement), Goods (as defined in the Security Agreement), Supporting Obligations (as defined in the Security Agreement), General Intangibles (as defined in the Security Agreement), Chattel Paper (as defined in the Security Agreement) and Instruments (as defined in the Security Agreement) or guarantees thereof; (viii) all insurance on all of the foregoing and the proceeds of that insurance; and (ix) all cash and noncash proceeds and products of all of the foregoing and the proceeds and products of other proceeds and products; and (b) all of such New Guarantor's membership interests, limited partnership interests, common stock and other equity interests in the "**Pledged Entities**" (the entities described on the attached update to Schedule I of the Pledge Agreement) and all securities instruments or other rights convertible into or exercisable for the foregoing (the "**Equity Interests**"), together with all proceeds, profits, interests, capital accounts, accounts, contract rights, general intangibles, deposits, funds, dividends, distributions, rights to dividends, rights to distributions, including both distributions of money and of property, and other rights, claims and interests relating to or arising out of such New Guarantor's Equity Interests in the Pledged Entities, together with any and all replacements or substitutions for or proceeds of all of the foregoing (collectively, the "**Pledge Collateral**"); provided that, notwithstanding anything herein to the contrary, the Pledge Collateral shall not include, and the security interest herein shall not attach to, (i) any outstanding Equity Interests of a Foreign Subsidiary, held individually by the New Guarantor or in the aggregate with all other Pledgors in excess of 65% of the voting power of all classes of Equity Interests of such Foreign Subsidiary entitled to vote or (ii) any property rights in Equity Interests (other than Equity Interests issued by any Subsidiary), or any Operating Documents of any issuer of such Equity Interests to which New Guarantor is a party, or any of its rights or interests thereunder, if the grant of such security interest shall constitute or result in (A) the abandonment, invalidation or unenforceability of any right, title or interest of the New Guarantor therein or (B) a breach or termination pursuant to the terms of, or a default under, any such property rights or Operating Documents (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provisions) of any relevant jurisdiction or any other Applicable Law (including the Bankruptcy Code) or principles of equity). Further,

New Guarantor hereby delivers to the Administrative Agent (or to the Collateral Custodian as its agent and bailee), on behalf of the Secured Parties, including itself, herewith all certificates, instruments and documents, if any, representing the Equity Interests in the Pledged Entities to be held by the Administrative Agent as Collateral, together with a transfer power in blank duly executed by Pledgor, as well as any other deliverables required by **Section 5.28** of the Credit Agreement.

3. The New Guarantor hereby waives presentment, demand, protest, acceptance, notice of demand, protest and nonpayment and any other notice required by law relative to the Credit Agreement, the Obligations, the Notes and the other Loan Documents.

4. This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute one contract.

5. Except as set forth expressly herein, all terms of the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents, shall be and remain in full force and effect and shall constitute the legal, valid, binding and enforceable obligations of the Borrower and Guarantors to the Administrative Agent and Lenders. To the extent any terms and conditions in any of the Loan Documents shall contradict or be in conflict with any terms or conditions of the Credit Agreement, after giving effect to this Joinder Agreement, such terms and conditions are hereby deemed modified and amended accordingly to reflect the terms and conditions of the Credit Agreement as modified and amended hereby. In any event, this Joinder Agreement and the documents executed in connection therewith shall not, individually or collectively, constitute a novation.

6. To induce the Administrative Agent and Lenders to enter into this Joinder Agreement, the Borrower, the Existing Guarantors and the New Guarantor hereby (a) restate and renew each and every representation and warranty heretofore made by them under, or in connection with the execution and delivery of, the Credit Agreement, the Security Agreement, the Pledge Agreement and the other Loan Documents; (b) restate, ratify and reaffirm each and every term and condition set forth in the Credit Agreement, the Security Agreement and in the Loan Documents, effective as of the date hereof; (c) acknowledge and agree that, as of the date hereof, there exists no right of offset, defense, counterclaim or objection in favor of Borrower or any Existing Guarantor as against the Administrative Agent or any Lender with respect to the payment or performance of its Obligations; and (d) certifies that no Default or Event of Default exists.

7. This Joinder Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

8. The Borrower, the Existing Guarantors and the New Guarantor agree to pay upon request the actual costs and expenses of the Administrative Agent and Lenders reasonably incurred in connection with the preparation, execution, delivery and enforcement of this Joinder Agreement and all other Loan Documents executed in connection herewith, the closing hereof, and any other transactions contemplated hereby, including the reasonable fees and out-of-pocket expenses of Administrative Agent's legal counsel.

IN WITNESS WHEREOF, The Borrower, the Existing Guarantors and the New Guarantor have caused this Joinder Agreement to be duly executed by its authorized officers for the benefit of the Administrative Agent and the Lenders as of the day and year first above written.

NEW GUARANTOR:

[\_\_\_\_\_]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

BORROWER:

HMS INCOME FUND, INC.,  
a Maryland corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXISTING GUARANTORS:

HMS EQUITY HOLDING, LLC, a Delaware  
limited liability company

By: HMS INCOME FUND, INC.,  
Its Managing Member

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

HMS EQUITY HOLDING II, INC., a Delaware  
corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EVERBANK COMMERCIAL FINANCE, INC.,**  
as Administrative Agent and as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Schedule A to Joinder Agreement**

**[Provide Information here to update Schedules and Exhibits  
to Credit Agreement, Security Agreement, Pledge Agreement and other Loan Documents]**



FORM OF SECURITY AGREEMENT

[To be attached]

FORM OF PLEDGE AGREEMENT

[To be attached]

### ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the “**Assignment and Assumption**”) is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the “**Assignor**”) and [*Insert name of Assignee*] (the “**Assignee**”). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the “**Credit Agreement**”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in **Annex 1** attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any guarantees and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the “**Assigned Interest**”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: \_\_\_\_\_
2. Assignee: \_\_\_\_\_  
[and is an Affiliate /Approved Fund of [*identify Lender*]]
3. Borrower: HMS INCOME FUND, INC., a Maryland corporation
4. Administrative Agent: EVERBANK COMMERCIAL FINANCE INC., as the administrative agent under the Credit Agreement
5. Credit Agreement: The Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated March 6, 2017), among HMS Income Fund, Inc., HMS Equity Holding, LLC, HMS Equity Holding II, Inc., Everbank Commercial Finance, Inc., as a Lender and as Administrative Agent, and the Lenders listed on the signature pages thereof.

6. Assigned Interest:

| Revolver Commitment | Aggregate Amount of<br>Commitment/Loans for<br>all Lenders <sup>3</sup> | Amount of Commitment/<br>Loans Assigned | Percentage Assigned of<br>Commitment/Loans |
|---------------------|---|---|--|
|                     | \$  | \$                                      | %  |

[7. Trade Date: \_\_\_\_\_]

[Remainder of the page intentionally left blank]

Effective Date: \_\_\_\_\_, 20\_\_\_\_ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR  
[NAME OF ASSIGNOR]

By: \_\_\_\_\_  
Title: \_\_\_\_\_

ASSIGNEE  
[NAME OF ASSIGNEE]

By: \_\_\_\_\_  
Title: \_\_\_\_\_

[Consented to and] Accepted:

EVERBANK COMMERCIAL FINANCE, INC., as  
Administrative Agent

By \_\_\_\_\_  
Title: \_\_\_\_\_

[Consented to:]

HMS INCOME FUND, INC., a Maryland corporation

By \_\_\_\_\_  
Title: \_\_\_\_\_

HMS EQUITY HOLDING, LLC, a Delaware limited  
liability company

By: HMS INCOME FUND, INC., its Managing Member

By \_\_\_\_\_  
Title: \_\_\_\_\_

HMS EQUITY HOLDING II, INC., a  
Delaware corporation

By \_\_\_\_\_  
Title: \_\_\_\_\_

STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement (subject to receipt of such consents as may be required under the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to **Section 5.01** thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Documents, and (ii) it will perform in accordance with their terms all of the obligations that by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017, and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”), among HMS INCOME FUND, INC., a Maryland corporation, as Borrower (“**Borrower**”), HMS EQUITY HOLDING, LLC, Delaware limited liability company, HMS EQUITY HOLDING II, INC., a Delaware corporation, EVERBANK COMMERCIAL FINANCE, INC. as Administrative Agent (“**Administrative Agent**”), and each lender from time to time party thereto.

Pursuant to the provisions of Section 2.12(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_, 20[ ]



FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017, and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”), among HMS INCOME FUND, INC., a Maryland corporation, as Borrower (“**Borrower**”), HMS EQUITY HOLDING, LLC, Delaware limited liability company, HMS EQUITY HOLDING II, INC., a Delaware corporation, EVERBANK COMMERCIAL FINANCE, INC. as Administrative Agent (“**Administrative Agent**”), and each lender from time to time party thereto.

Pursuant to the provisions of Section 2.12(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_, 20[ ]

## FORM OF

## U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017, and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”), among HMS INCOME FUND, INC., a Maryland corporation, as Borrower (“**Borrower**”), HMS EQUITY HOLDING, LLC, Delaware limited liability company, HMS EQUITY HOLDING II, INC., a Delaware corporation, EVERBANK COMMERCIAL FINANCE, INC. as Administrative Agent (“**Administrative Agent**”), and each lender from time to time party thereto.

Pursuant to the provisions of Section 2.12(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-81MY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E or (ii) an IRS Form W-81MY accompanied by an IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_  
 Name:  
 Title:

Date: \_\_\_\_\_, 20[ ]

EXHIBIT M-4

FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Partnerships  
For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Senior Secured Revolving Credit Agreement dated as of March 11, 2014 (as amended and restated on March 6, 2017, and as further amended, restated, supplemented, or otherwise modified and in effect on the date hereof, the “**Credit Agreement**”), among HMS INCOME FUND, INC., a Maryland corporation, as Borrower (“**Borrower**”), HMS EQUITY HOLDING, LLC, Delaware limited liability company, HMS EQUITY HOLDING II, INC., a Delaware corporation, EVERBANK COMMERCIAL FINANCE, INC. as Administrative Agent (“**Administrative Agent**”), and each lender from time to time party thereto.

Pursuant to the provisions of Section 2.12(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-81MY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E or (ii) an IRS Form W-81MY accompanied by an IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: \_\_\_\_\_  
Name:  
Title:  
Date: \_\_\_\_\_, 20[ ]

**LIST OF SUBSIDIARIES**

HMS Equity Holding, LLC, a Delaware limited liability company

HMS Equity Holding II, Inc., a Delaware corporation

HMS Funding I LLC, a Delaware limited liability company

**CERTIFICATION  
PURSUANT TO SECTION 302 OF  
THE SARBANES-OXLEY ACT OF 2002**

I, Sherri W. Schugart, certify that:

1. I have reviewed this Annual Report on Form 10-K of HMS Income Fund, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 7, 2017

By: /s/ SHERRI W. SCHUGART

Sherri W. Schugart

Chairman, Chief Executive Officer  
and President

**CERTIFICATION  
PURSUANT TO SECTION 302 OF  
THE SARBANES-OXLEY ACT OF 2002**

I, Ryan T. Sims, certify that:

1. I have reviewed this Annual Report on Form 10-K of HMS Income Fund, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 7, 2017

By: /s/ RYAN T. SIMS

Ryan T. Sims

Chief Financial Officer and  
Secretary

**WRITTEN STATEMENT OF CHIEF EXECUTIVE OFFICER AND  
CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 906 OF THE  
SARBANES — OXLEY ACT OF 2002**

The undersigned, the Chief Executive Officer and the Chief Financial Officer of HMS Income Fund, Inc. (“the Company”), each hereby certifies that to his or her knowledge, on the date hereof:

(a) the Annual Report on Form 10-K of the Company for the year ended December 31, 2016, filed on the date hereof with the Securities and Exchange Commission (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(b) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 7, 2017

By: /s/ SHERRI W. SCHUGART

Sherri W. Schugart

Chairman, Chief Executive  
Officer and President

Date: March 7, 2017

By: /s/ RYAN T. SIMS

Ryan T. Sims

Chief Financial Officer and  
Secretary