Section 1: 8-K (FORM 8-K)

ARES MANAGEMENT CORPORATION
(Exact name of registrant as specified in its charter)

2000 Avenue of the Stars, 12th Floor, Los Angeles, CA
(Address of principal executive offices)

Registrant’s telephone number, including area code (310) 201-4100
(Former name or former address, if changed since last report) Not applicable

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

<table>
<thead>
<tr>
<th>Title of each class</th>
<th>Trading Symbol(s)</th>
<th>Name of each exchange on which registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class A Common Stock, par value $0.01 per share</td>
<td>ARES</td>
<td>New York Stock Exchange</td>
</tr>
<tr>
<td>7.00% Series A Preferred Stock, par value $0.01 per share</td>
<td>ARES.PRA</td>
<td>New York Stock Exchange</td>
</tr>
</tbody>
</table>

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐
Item 1.01 Entry into a Material Definitive Agreement.

Share Purchase Agreement

On March 27, 2020, Ares Management Corporation (the “Company”) entered into a Share Purchase Agreement (the “Purchase Agreement”) with Sumitomo Mitsui Banking Corporation (the “Investor”). Pursuant to the Purchase Agreement, the Company agreed to issue and sell to the Investor 12,130,540 shares (the “Shares”) of newly issued Class A Common Stock, par value $0.01 per share, of the Company (the “Class A Common Stock”) (the “Transaction”). The Transaction is expected to close on March 31, 2020. The Purchase Agreement contains certain representations, warranties and agreements by the Company, conditions to closing, and termination provisions. The Transaction is expected to result in gross proceeds to the Company of approximately $383.8 million before deducting offering expenses. In connection with the Transaction, the Company agreed to use its commercially reasonable efforts to amend its certificate of incorporation (the “Amendment”) to establish a new series of non-voting common stock, par value $0.01 per share (the “Non-Voting Stock”), that is pari passu with the Class A Common Stock. Following the effectiveness of the Amendment, the Investor may exchange all or a portion of the Shares for an equivalent amount of shares of the Non-Voting Stock as set forth in the Investor Rights Agreement (as defined below).

The issuance of the Shares is being made in accordance with the terms and subject to the conditions set forth in the Purchase Agreement, pursuant to an exemption from registration under Section 4(a)(2) of the Securities Act of 1933, as amended, and Rule 506 of Regulation D promulgated thereunder. The Investor made certain representations and warranties to the Company regarding, among other things, whether it is an accredited investor and its investment intent.

Investor Rights Agreement

In connection with and as a condition to the effectiveness of the Transaction, the Company expects to enter into an Investor Rights Agreement (the “Investor Rights Agreement”) with the Investor. The Investor Rights Agreement will provide, among other things, that (i) so long as the Investor and its permitted transferees (x) own at least two-thirds of the Shares and (y) do not have a Director Designation Right (as defined below), the Investor (together with its permitted transferees) will have the right to appoint one non-voting observer representative to attend meetings of the Company’s board of directors (the “Board”) and (ii) if at any time the aggregate Economic Ownership Percentage (as defined in the Investor Rights Agreement) of the Investor and its permitted transferees is equal to or greater than ten percent, the Investor (together with its permitted transferees) will have the right to designate one individual to be nominated for election as a member of the Board (such right, the “Director Designation Right”).

Subject to certain exceptions as set forth in the Investor Rights Agreement, the Shares will be subject to transfer restrictions as follows: (i) until the second anniversary of the date of the Investor Rights Agreement, the Investor may not transfer any of the Shares; (ii) following the second anniversary of the date of the Investor Rights Agreement, the Investor may transfer up to 33.33% of the Shares; (iii) following the third anniversary of the date of the Investor Rights Agreement, the Investor may transfer up to 66.66% of the Shares; and (iv) following the fourth anniversary of the date of the Investor Rights Agreement, the Investor may transfer any or all of the Shares. In addition, pursuant to the terms of the Investor Rights Agreement, the Investor and its permitted transferees will be (i) entitled to certain information rights with respect to the Company, (ii) subject to certain confidentiality obligations and (iii) entitled to certain demand and shelf registration rights.

The foregoing summaries of the Purchase Agreement and Investor Rights Agreement do not purport to be complete and are qualified in their entirety by reference to the Purchase Agreement and the form of Investor Rights Agreement, which are filed as Exhibits 10.1 and 10.2, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities

The information contained in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 3.02.

In connection with, and to satisfy a condition to the closing of, the Transaction, the Company also issued 115,199,620 shares of its Class C Common Stock (the “Class C Common Stock”) to Ares Voting LLC (“Ares VoteCo”) on March 30, 2020, in exchange for benefit to the Company (the “Class C Issuance”). The Class C Issuance will not change the aggregate voting power held by Ares VoteCo. Following the Class C Issuance, Ares VoteCo will continue to be entitled to a number of votes equal to the number of Ares Operating Group Units (as defined in the Company’s Annual Report on Form 10-K for the year ended December 31, 2019 (the “Form 10-K”)) held of record by each Ares Operating Group (as defined in the 10-K) limited partner that does not own a share of Class C Common Stock (other than the Company and its subsidiaries). As a result of the Class C Issuance, Ares VoteCo will own a number of shares of Class C Common Stock equal to the aggregate voting power of all of the shares of Class C Common Stock it owns. The Class C Common Stock is non-economic and Ares VoteCo is not entitled to (i) dividends from the Company or (ii) receive any assets of the Company in the event of any dissolution, liquidation or winding up of the Company. The issuance of the Class C Common Stock was made pursuant to an exemption from registration under Section 4(a)(2) of the Securities Act of 1933, as amended, and Rule 506 of Regulation D promulgated thereunder.
Item 5.03. Amendment to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The information contained in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 5.03. On March 25, 2020, the Board adopted resolutions authorizing a Restated Certificate of Incorporation (the “New Charter”) to, among other things, approve the creation of the Non-Voting Stock. On March 27, 2020, the New Charter was approved by the written consent of the Company’s stockholders representing 139,645,400 votes, which constituted over a majority of the voting power of the Class A Common Stock and the Class C Common Stock on a combined basis. No other votes are required or necessary to adopt the New Charter.

The New Charter establishes the Non-Voting Common Stock. The shares of Non-Voting Common Stock established by the New Charter may be issued without further approval from the Company’s stockholders. The New Charter will become effective upon its filing with the Secretary of State of the State of Delaware, which is expected to occur on the twentieth (20th) calendar day following the mailing of a definitive Information Statement on Schedule 14C to the Company’s stockholders. A copy of the New Charter is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders.

The information contained in Item 5.03 of this Current Report on Form 8-K is incorporated by reference into this Item 5.07.

Item 8.01 Other Events.

On March 30, 2020, the Company issued a press release announcing the Transaction and related strategic alliance with the Investor. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated by reference herein.

Forward-Looking Statements

This current report on 8-K contains forward-looking statements within the meaning of the federal securities laws. You can identify these statements by the Company’s use of the words “assumes,” “believes,” “estimates,” “expects,” “guidance,” “intends,” “plans,” “projects,” and similar expressions that do not relate to historical matters. You should exercise caution in interpreting and relying on forward-looking statements because they involve known and unknown risks, uncertainties, and other factors which are, in some cases, beyond the Company’s control and could materially affect actual results, performance, or achievements. For a further description of such factors, you should read the Company’s filings with the Securities and Exchange Commission. The Company does not undertake any obligation to update or revise any forward-looking statement, whether as a result of new information, future events, or otherwise.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<table>
<thead>
<tr>
<th>Exhibit Number</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>3.1</td>
<td>Form of Restated Certificate of Incorporation of Ares Management Corporation</td>
</tr>
<tr>
<td>10.1#</td>
<td>Share Purchase Agreement, dated March 27, 2020, by and among Ares Management Corporation and Sumitomo Mitsui Banking Corporation †</td>
</tr>
<tr>
<td>10.2</td>
<td>Form of Investor Rights Agreement †</td>
</tr>
<tr>
<td>101.INS*</td>
<td>XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.</td>
</tr>
<tr>
<td>104</td>
<td>Cover Page Interactive Data File - the cover page XBRL tags are embedded within the Inline XBRL document.</td>
</tr>
</tbody>
</table>

† The exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company agrees to furnish a copy of such exhibits, or any section thereof, to the SEC upon request.
SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ARES MANAGEMENT CORPORATION

Date: March 30, 2020

By: /s/ Naseem Sagati Aghili
Name: Naseem Sagati Aghili
Title: General Counsel and Secretary

Section 2: EX-3.1 (EXHIBIT 3.1)

RESTATED CERTIFICATE OF INCORPORATION
OF ARES MANAGEMENT CORPORATION

(Pursuant to Sections 242 and 245 of the General Corporation Law of the State of Delaware)

Ares Management Corporation (the “Corporation”), a corporation organized and existing under and by virtue of the provisions of the DGCL, does hereby certify as follows:

1. The Corporation’s original certificate of incorporation was filed with the Secretary of State of the State of Delaware on November 26, 2018 (the “Prior Certificate of Incorporation”).

2. This Restated Certificate of Incorporation was duly adopted by the Board of Directors of the Corporation in accordance with Sections 242 and 245 of the DGCL.

3. The required holders of the Corporation’s issued and outstanding capital stock approved and adopted this Restated Certificate of Incorporation in accordance with Sections 228, 242 and 245 of the DGCL.

4. This Restated Certificate of Incorporation restates and integrates and also further amends the Prior Certificate of Incorporation, which is hereby amended and restated in its entirety to read as follows:

ARTICLE I
NAME

The name of the Corporation is Ares Management Corporation (the “Corporation”).

ARTICLE II
REGISTERED OFFICE AND AGENT

The address of the Corporation’s registered office in the State of Delaware is Corporation Service Company, 251 Little Falls Drive, in the City of Wilmington, County of New Castle, Delaware 19808. The name of the registered agent at such address is Corporation Service Company.

ARTICLE III
PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

ARTICLE IV
AUTHORIZED STOCK

Section 4.01 Capitalization.
The total number of shares of all classes of stock that the Corporation shall have authority to issue is 3,500,000,000 which shall be divided into four classes as follows:

(i) 1,500,000,000 shares of Class A common stock, $0.01 par value per share (“Class A Common Stock”);
(ii) 500,000,000 shares of non-voting common stock, $0.01 par value per share (“Non-Voting Common Stock”);

(iii) 1,000 shares of Class B common stock, $0.01 par value per share (“Class B Common Stock”);

(iv) 499,999,000 shares of Class C common stock, $0.01 par value per share (“Class C Common Stock”); and

(v) 1,000,000,000 shares of preferred stock, $0.01 par value per share (“Preferred Stock”), of which (x) 12,400,000 shares are designated as “7.00% Series A Preferred Stock” (“Series A Preferred Stock”) and (y) the remaining 987,600,000 shares may be designated from time to time in accordance with this Article IV.

(b) The number of authorized shares of Class A Common Stock, Non-Voting Common Stock, Class B Common Stock, Class C Common Stock or Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) solely by the holders of a majority of the voting power of the Outstanding capital stock of the Corporation entitled to vote thereon, voting together as a single class, in each case, irrespective of the provisions of Section 242(b)(2) of the DGCL (or any successor provision thereto), and no other vote of the holders of any class or series of stock of the Corporation, voting together or separately as a class, shall be required therefor, unless a vote of the holders of any such class, classes or series is expressly required pursuant to this Certificate of Incorporation.

Section 4.02 Preferred Stock. The Board of Directors is authorized, by resolution or resolutions, (a) to provide, out of the unissued shares of Preferred Stock, for one or more series of Preferred Stock, and (b) with respect to each such series, to fix, without further stockholder approval (except as may be required by Article XX or any Certificate of Designation), the designation of such series, the powers (including voting powers), preferences and relative, participating, optional and other special rights of such series ofPreferred Stock, and the qualifications, limitations or restrictions thereof, and the number of shares of such series, which number the Board of Directors may, except where otherwise provided in the designation of such series, increase (but not above the total number of shares of Preferred Stock then authorized and available for issuance and not committed for other issuance) or decrease (but not below the number of shares of such series then outstanding). The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding.

Section 4.03 Splits and Combinations of Stock.

(a) Subject to Section 4.03(c), Article XX and any Certificate of Designation, the Corporation may make a pro rata distribution of shares of stock of the Corporation, or of options, rights, warrants or appreciation rights relating to shares of stock of the Corporation, or may effect a subdivision or combination of stock of the Corporation, in each case so long as, after any such event, each stockholder shall have the same percentage of each class or series of shares of stock of the Corporation as before such event, and any amounts calculated on a per share basis or stated as a number of shares of stock are proportionately adjusted.

(b) The Board of Directors shall select a Record Date as of which each distribution, subdivision or combination shall be effective and shall provide notice thereof at least 20 days prior to such Record Date to applicable Record Holders as of a date not less than 10 days prior to the date of such notice.
The Corporation shall not be required to issue fractional shares upon any distribution, subdivision or combination of shares of stock of the Corporation. If the Board of Directors determines that no fractional shares shall be issued in connection with any such distribution, subdivision or combination, the fractional shares resulting therefrom shall be treated in accordance with Section 155 of the DGCL.

In the event that the Corporation at any time or from time to time will effect a division of the Class A Common Stock into a greater number of shares (by stock split, reclassification or otherwise, other than a Stock Dividend with respect to Class A Common Stock), or in the event the outstanding Class A Common Stock will be combined or consolidated (by reclassification, reverse stock split or otherwise) into a lesser number of shares of the Class A Common Stock, in each case, then the Non-Voting Common Stock will, concurrently with the effectiveness of such event, be proportionately split, reclassified, combined, consolidated, reverse-split or otherwise, as appropriate, such that the number of shares of Class A Common Stock and Non-Voting Common Stock outstanding immediately following such event shall bear the same relationship to each other as did the number of shares of Class A Common Stock and Non-Voting Stock outstanding immediately prior to such event.

ARTICLE V
TERMS OF COMMON STOCK

Section 5.01 General. Except as otherwise required by law or as expressly provided in this Certificate of Incorporation, each share of Common Stock shall have the same powers, privileges and rights and shall rank equally, share ratably and be identical in all respects as to all matters, with each other share of Common Stock.

Section 5.02 Voting.

(a) Except as required by the DGCL or as expressly provided in this Certificate of Incorporation or the Bylaws, (i) the holders of Common Stock shall vote together as a single class on all matters on which stockholders generally are entitled to vote, and (ii) to the extent that the holders of one class of Common Stock vote with the holders of any other class, classes or series of stock of the Corporation, the holders of each other class of Common Stock shall vote together as a single class with the holders of such other class, classes or series of stock. Notwithstanding the foregoing or anything herein to the contrary, the holders of Non-Voting Common Stock shall have no voting powers on any matter on which the stockholders are required or permitted to vote, except as expressly provided in this Certificate of Incorporation or required by applicable law or regulation. The affirmative vote of the holders of a majority of the outstanding shares of Non-Voting Common Stock, voting separately as a class, shall be required to (A) amend, alter, change or repeal (x) any provision of this Certificate of Incorporation that significantly and adversely affects the powers, preferences, rights or privileges of the Non-Voting Common Stock contained in this Certificate of Incorporation or (y) Section 4.03(d), Sections 5.06-5.08 or (B) approve (or adopt any definitive document that contemplates the) consummation of a Reorganization Event in connection with which the Non-Voting Common Stock are not treated as provided in Section 5.07.

(b) Each Record Holder of Class A Common Stock shall have one vote for each share of Class A Common Stock that is Outstanding in his, her or its name on the books of the Corporation on the applicable Record Date.
(c) On any date on which the Ares Ownership Condition is satisfied, each Record Holder of Class B Common Stock shall have, for each share of Class B Common Stock that is Outstanding in his, her or its name on the books of the Corporation on the applicable Record Date, a number of votes equal to:

   (i) The difference of (x) four times the aggregate number of votes attributable to the Outstanding Class A Common Stock minus (y) the aggregate number of votes attributable to the Outstanding Class C Common Stock, in each case on the applicable Record Date, divided by

   (ii) the number of shares of Outstanding Class B Common Stock on the applicable Record Date.

(d) Unless otherwise required by law, on any date on which the Ares Ownership Condition is not satisfied, shares of Class B Common Stock shall not be (i) entitled to vote on any matter or (ii) considered to be Outstanding when sending notices of a meeting of stockholders of the Corporation to vote on any matter, calculating required votes or determining the presence of a quorum under this Certificate of Incorporation or the DGCL.

(e) The Original Class C Common Stockholder shall have, for each share of Class C Common Stock that is Outstanding in its name on the books of the Corporation on the applicable Record Date, a number of votes equal to:

   (i) the product of (x) the total number of Ares Operating Group Units held of record by each Ares Operating Group Limited Partner that does not own a share of Class C Common Stock (other than the Corporation or any of its Subsidiaries) multiplied by (y) the Exchange Rate, divided by

   (ii) the number of shares of Class C Common Stock that are Outstanding in its name on the books of the Corporation on the applicable Record Date.

(f) Each Record Holder of Class C Common Stock (other than the Original Class C Common Stockholder) shall have, for each share of Class C Common Stock that is Outstanding in his, her or its name on the books of the Corporation on the applicable Record Date, a number of votes equal to:

   (i) the product of (x) the total number of Ares Operating Group Units held of record by such holder multiplied by (y) the Exchange Rate, divided by

   (ii) the number of shares of Class C Common Stock that are Outstanding in his, her or its name on the books of the Corporation on the applicable Record Date.

(g) The number of votes to which each holder of Class C Common Stock shall be entitled shall be adjusted accordingly if (i) a stockholder of the Corporation holding Class A Common Stock, as such, becomes entitled to a number of votes other than one for each share of Outstanding Class A Common Stock held or (ii) under the terms of the Exchange Agreement the holders of Ares Operating Group Units party thereto become entitled to exchange each such Ares Operating Group Unit for a number of shares of Class A Common Stock other than one. In addition to any other vote required by the DGCL or this Certificate of Incorporation, the affirmative vote of the holders of a majority of the Outstanding Class C Common Stock, voting separately as a class, shall be required to alter, amend or repeal (or to adopt any provision inconsistent with) Section 5.02(e), Section 5.02(f) or this Section 5.02(g).
(h) If a Record Holder of Class C Common Stock, other than the Original Class C Common Stockholder, shall cease to be a record holder of an Ares Operating Group Unit, the shares of Class C Common Stock held by such Record Holder shall be automatically cancelled without any further action of any Person, and such Record Holder shall cease to be a stockholder of the Corporation with respect to the shares of Class C Common Stock so cancelled. The determination by the Board of Directors as to whether a Record Holder of Class C Common Stock is a record holder of an Ares Operating Group Unit or remains the Record Holder of such Class C Common Stock, shall be made in its sole discretion, which determination shall be conclusive and binding.

Section 5.03 Dividends. Subject to applicable law and the rights, if any, of the holders of Preferred Stock, dividends may be declared and paid ratably on the Class A Common Stock and the Non-Voting Common Stock out of the assets of the Corporation that are legally available for this purpose at such times and in such amounts as the Board of Directors in its discretion shall determine. If a dividend is declared or paid with respect to the Class A Common Stock, then the Board of Directors shall declare and pay an equivalent dividend, on a per share basis, with respect to the Non-Voting Common Stock. If the Board of Directors declares or pays a dividend with respect to the Non-Voting Common Stock, then the Board of Directors shall declare and pay an equivalent dividend, on a per share basis, with respect to the Class A Common Stock. If a Stock Dividend with respect to the Class A Common Stock consists of shares of, or rights, options or warrants to purchase or otherwise acquire, Class A Common Stock, then the equivalent Stock Dividend with respect to the Non-Voting Common Stock shall consist of shares of, or rights, option or warrants to purchase or otherwise acquire, Non-Voting Common Stock. Dividends shall not be declared or paid on the Class B Common Stock or the Class C Common Stock.

Section 5.04 Liquidation. Upon a Dissolution Event, after payment or provision for payment of the debts and other liabilities of the Corporation and subject to the rights, if any, of the holders of Preferred Stock, the holders of Class A Common Stock and Non-Voting Common Stock shall be entitled to receive the remaining assets of the Corporation available for distribution to its stockholders ratably in proportion to the number of shares of Class A Common Stock and Non-Voting Common Stock held by them. The holders of Class B Common Stock and the holders of Class C Common Stock shall not be entitled to receive any assets of the Corporation in the event of any dissolution, liquidation or winding up of the Corporation.

Section 5.05 Shares Reserved for Issuance. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock such number of shares of Class A Common Stock that shall from time to time be sufficient to effect (a) the exchange of Ares Operating Group Units pursuant to the Exchange Agreement and (b) the conversion of all outstanding shares of Non-Voting Common Stock. Nothing contained herein shall preclude the Corporation from satisfying its obligations in respect of the exchange of the Ares Operating Group Units or the conversion of shares of Non-Voting Common Stock by delivery of purchased shares of Class A Common Stock that are held in the treasury of the Corporation.

Section 5.06 Conversion of Non-Voting Common Stock.

(a) Effective immediately upon any Widely Dispersed Offering, each share of Non-Voting Common Stock so transferred shall automatically be converted into one share of Class A Common Stock. As of the close of business on the date of conversion, shares of Non-Voting Common Stock converted in accordance with this Section 5.06 shall not be deemed to be outstanding for any purpose and holders of converted Non-Voting Common Stock shall have no rights with respect to the Non-Voting Common Stock so converted, other than the right to receive the shares of Class A Common Stock (and cash in lieu of any fractional shares thereof, if any) or other securities issuable upon conversion of such Non-Voting Common Stock. Prior to the close of business on the date of conversion with respect to any share of Non-Voting Common Stock, shares of Class A Common Stock (or other securities) issuable upon conversion thereof shall not be deemed to be outstanding for any purpose and the holder of the to be converted shares of Non-Voting Common Stock shall have no rights or powers with respect to the Class A Common Stock into which such Non-Voting Common Stock shall be converted (including voting power) by virtue of holding such shares of Non-Voting Common Stock. Shares of Non-Voting Common Stock converted in accordance with this Section 5.06 shall automatically be retired and shall resume the status of authorized but unissued Non-Voting Common Stock, available for future issuance.
As promptly as practicable following any Widespread Offering, the transferor of the converted shares of Non-Voting Common Stock shall provide each of the Corporation and the Transfer Agent a written notice of the conversion of shares of Non-Voting Common Stock for shares of Class A Common Stock (a “Notice of Conversion”). In addition to any information required by applicable law or regulation, the Notice of Conversion shall state (x) the number of shares of Non-Voting Common Stock so converted in such conversion and (y) the name in which shares of Class A Common Stock to be issued upon such conversion should be registered. No later than three Business Days following delivery of the Notice of Conversion to the Corporation, (i) the Corporation shall deliver a countersigned copy of the Notice of Conversion to the office of the Transfer Agent during normal business hours and (ii) the transferor of the shares of Non-Voting Common Stock shall (a) deliver to the Transfer Agent and the Corporation an instrument of transfer, in form satisfactory to the Corporation and to the Transfer Agent, duly executed by such transferor of the shares of Non-Voting Common Stock so converted, or his, her or its duly authorized attorney, (b) furnish such other endorsements or transfer documents as may be reasonably requested by the Corporation or the Transfer Agent and (c) pay any applicable transfer and similar taxes (unless provision satisfactory to the Corporation is otherwise made therefor), if required. No later than three Business Days following the satisfaction of the conditions set forth in the immediately preceding sentence, the Corporation shall issue and deliver or cause to be issued and delivered security entitlements or evidence of book-entry notations representing shares of Class A Common Stock to the recipient(s) specified in the Notice of Conversion or such recipient’s designee.

All shares of Class A Common Stock delivered upon conversion of the Non-Voting Common Stock shall be duly authorized, validly issued, fully paid and non-assessable and clear of all liens, security interests, charges and other encumbrances (other than liens, security interests, charges and other encumbrances resulting from actions of the transferee, and any transfer restrictions arising under applicable securities laws).

Section 5.07 Reorganization Event.

So long as any shares of Non-Voting Common Stock are Outstanding, if there occurs any (i) consolidation, merger or other similar business combination of the Corporation with or into another Person, in each case, pursuant to which the Class A Common Stock will be converted into cash, securities or other property of the Corporation or another Person, (ii) sale, transfer, lease or conveyance to another Person of all or substantially all of the property or assets of the Corporation, in each case, pursuant to which the Class A Common Stock will be converted into cash, securities or other property of the Corporation or another Person or (iii) change, including by capital reorganization, reclassification or otherwise (other than a transaction resulting in an adjustment pursuant to Section 4.03(d)), of the Class A Common Stock into any other securities (any such event, a “Reorganization Event”), then, effective as of the consummation of such Reorganization Event, each Outstanding share of Non-Voting Common Stock shall remain Outstanding or shall be converted into a substantially identical non-voting security (with commensurate voting powers and conversion rights as the Non-Voting Common Stock have under this Certificate of Incorporation) of the Person surviving such Reorganization Event or other Person in which holders of shares of Class A Common Stock receive securities in connection with such Reorganization Event. In each case, each such share of Non-Voting Common Stock or substantially identical non-voting security shall not be convertible into Class A Common Stock, but rather shall be convertible into the type and amount of securities, cash and other property to which a holder of one share of Class A Common Stock would have been entitled to receive upon such Reorganization Event.
If holders of shares of Class A Common Stock have the opportunity to elect the form of consideration to be received in any Reorganization Event, the holders of Non-Voting Common Stock shall be entitled to participate in such elections as if they had converted all of their Non-Voting Common Stock into Class A Common Stock immediately prior to the election deadline.

For the avoidance of doubt, nothing set forth herein shall prohibit the Corporation from entering into or consummating a transaction constituting a Reorganization Event, so long as the Non-Voting Common Stock is treated as set forth in this Section 5.07.

Section 5.08 Common Stock Repurchase Transactions. If the Corporation makes (a) an offer to repurchase shares of Class A Common Stock from all of the holders thereof, or (b) a tender offer for any shares of Class A Common Stock, the Corporation shall also offer to repurchase or make a tender offer for, as applicable, shares of Non-Voting Common Stock pro rata based upon the number of shares of Class A Common Stock the holders of shares of Non-Voting Common Stock would be entitled to receive if such shares were converted into shares of Class A Common Stock immediately prior to such repurchase and otherwise on terms that would provide the holders of the Non-Voting Common Stock consideration and other terms equivalent to the terms offered to the holders of Class A Common Stock assuming the Non-Voting Common Stock were so converted.

ARTICLE VI
BOARD OF DIRECTORS

Section 6.01 General. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 6.02 [Reserved.]

Section 6.03 Number of Directors; Election and Removal of Directors. Subject to the rights of the holders of any series of Preferred Stock:

(a) The number of directors of the Corporation shall be fixed from time to time by the Board of Directors. Other than directors who may be elected by the holders of any series of Preferred Stock, each director shall be elected by a plurality of the votes cast at a meeting of stockholders for the election of directors. Each director shall hold office for the term for which such director is elected and thereafter until such director’s successor shall have been duly elected and qualified, or until such director’s earlier death, resignation or removal.

(b) Vacancies. Any newly created directorship or any vacancy on the Board of Directors that results from the death, resignation or removal of any director shall be filled

(i) unless clause (b)(ii)(x), (y) or (z) applies, by a vote of the majority of the remaining directors, even if less than a quorum (which majority must include Ressler until the occurrence of a Ressler Termination Event), or (ii) if (x) the Ares Ownership Condition is not satisfied, (y) no directors are remaining, or (z) the Ares Ownership Condition is satisfied, a Ressler Termination Event has not occurred, and Ressler is not a director, by a plurality of the votes cast at a meeting of stockholders entitled to vote for the election of directors.
Any director elected to fill a vacancy not resulting from a newly created directorship shall hold office for the remaining term of his or her predecessor and until his or her successor is duly elected and qualified, subject to his or her earlier death, resignation or removal.

(c) **Removal.** Any director or the entire Board of Directors may be removed:

(i) on any date on which the Ares Ownership Condition is satisfied, at any time, with or without cause, by the vote of the holders of a majority of the voting power of the Outstanding capital stock then entitled to vote at an election of directors; and

(ii) on any date on which the Ares Ownership Condition is not satisfied and the Board of Directors is classified as provided in Section 6.04(b), only (A) with cause, at a meeting of the stockholders upon the affirmative vote of Record Holders holding a majority of the voting power of the Outstanding Designated Stock and (B) to the fullest extent permitted by applicable law, if, at the same meeting, Record Holders holding a majority of the voting power of the Outstanding Designated Stock (1) nominate a replacement director (and any such nomination shall not be subject to the nomination procedures otherwise set forth in Section 2.03 of the Bylaws) and (2) also vote to elect a replacement director.

Section 6.04 **Classes of Directors; Quorum; Actions by the Board of Directors.**

(a) On January 31 of any year, if the Ares Ownership Condition is satisfied:

(i) The classification of the directors as Class A Directors, Class B Directors and Class C Directors, if any, shall cease, automatically and without further action on the part of the Corporation or any other Person.

(ii) The directors shall be divided into the following classes (unless the Board of Directors is already classified in accordance with this Section 6.04(a)):

(iii) If Ressler is a director, he shall be a Class I director (the “Class I Director”) until the occurrence of a Ressler Termination Event. Upon the occurrence of any Ressler Termination Event, Ressler shall automatically, and without further action on the part of the Corporation or any other Person, be reclassified as a Class II Director.

(iv) All other directors, including any Ressler Successor and any Preferred Directors, shall be Class II Directors (the “Class II Directors”).

(b) Subject to the rights of holders of any series of Preferred Stock, on January 31 of any year, if the Ares Ownership Condition is not satisfied:

(i) The classification of the directors as Class I Directors or Class II Directors shall cease, automatically and without further action on the part of the Corporation or any other Person.

(ii) The directors shall be divided into three classes, Class A, Class B, and Class C. Unless the Board of Directors already is classified in accordance with this Section 6.04(b), the Board of Directors may assign members of the Board of Directors already in office to such classes at the time of such classification. The number of directors in each class shall be the whole number contained in the quotient arrived at by dividing the authorized number of directors by three, and if a fraction is also contained in such quotient, then if such fraction is one-third, the extra director shall be a member of Class A and if the fraction is two-thirds, one of the extra directors shall be a member of Class A and the other shall be a member of Class B. The directors designated to Class A by the Board of Directors shall serve for an initial term that expires at the applicable Initial Annual Meeting. The directors designated to Class B by the Board of Directors shall serve for an initial term that expires at the first annual meeting of stockholders following the applicable Initial Annual Meeting. The directors designated to Class C by the Board of Directors shall serve for an initial term that expires at the second annual meeting of stockholders following the applicable Initial Annual Meeting. At each succeeding annual meeting of stockholders for the election of directors following an Initial Annual Meeting, successors to the directors whose term expires at that annual meeting shall be elected for a three-year term.
(iii) If the number of directors is changed, any increase or decrease shall be apportioned among the classes of directors so as to maintain the number of directors in each class as nearly equal as possible, and any additional director of any class elected to fill a vacancy resulting from an increase in such class shall hold office for a term that shall coincide with the remaining term of that class. A decrease in the number of directors will not shorten the term of any incumbent director.

(c) Any act of the Board of Directors shall require the approval of a majority of the directors, which, until the occurrence of a Ressler Termination Event, must also include the Class I Director (if any).

(d) In addition to the requirements under applicable law and the Bylaws, a quorum for the transaction of business at any meeting of the Board of Directors shall require a majority of the then total number of directors, which, until the occurrence of a Ressler Termination Event, must also include the Class I Director (if any).

Section 6.05 Committees.

(a) The Board of Directors may, by resolution or resolutions, designate one or more committees. Each committee shall consist of one or more of the directors, which, to the extent provided in such resolution or resolutions, shall have and may exercise, subject to applicable law, this Certificate of Incorporation and the Bylaws, the powers and authority of the Board of Directors.

(b) Unless otherwise provided in the applicable resolution or resolutions creating the committee, for any committee which has the Class I Director among its members:

(i) Any act of such committee shall require the approval of a majority of the directors constituting such committee, which, until the occurrence of a Ressler Termination Event, must also include the Class I Director (if any).

(ii) In addition to the requirements under applicable law and the Bylaws, a quorum for the transaction of business at any meeting of such committee shall consist of a majority of the directors serving on any such committee, which, until the occurrence of a Ressler Termination Event, must also include the Class I Director (if any).

ARTICLE VII CERTIFICATES; RECORD HOLDERS; TRANSFER OF STOCK OF THE CORPORATION

Section 7.01 Certificates. Notwithstanding anything otherwise to the contrary herein, unless the Board of Directors shall provide by resolution or resolutions otherwise in respect of some or all of any or all classes or series of stock of the Corporation, the stock of the Corporation shall not be evidenced by certificates. Certificates that may be issued shall be executed on behalf of the Corporation by any two duly authorized officers of the Corporation. No Certificate evidencing shares of Common Stock or Preferred Stock shall be valid for any purpose until it has been countersigned by the Transfer Agent; provided, that if the Board of Directors resolves to issue Certificates evidencing shares of Class A Common Stock, Non-Voting Common Stock, or Preferred Stock in global form, the Certificates evidencing such shares of Class A Common Stock, Non-Voting Common Stock, or Preferred Stock shall be valid upon receipt of a certificate from the Transfer Agent certifying that the Certificates evidencing such shares of Class A Common Stock, Non-Voting Common Stock, or Preferred Stock have been duly registered in accordance with the directions of the Corporation. The use of facsimile signatures affixed in the name and on behalf of the Transfer Agent on Certificates, if any, representing shares of stock of the Corporation is expressly permitted by this Certificate of Incorporation.
Section 7.02  Mutilated, Destroyed, Lost or Stolen Certificates.

(a) If any mutilated Certificate evidencing shares of stock of the Corporation is surrendered to the Transfer Agent, two authorized officers of the Corporation shall execute, and, if applicable, the Transfer Agent shall countersign and deliver in exchange therefor, a new Certificate evidencing the same number and class of stock as the Certificate so surrendered.

(b) Any two authorized officers of the Corporation shall execute and deliver, and, if applicable, the Transfer Agent shall countersign a new Certificate in place of any Certificate previously issued if the Record Holder of the Certificate:

(i) makes proof by affidavit, in form and substance satisfactory to the Corporation, that a previously issued Certificate has been lost, destroyed or stolen;

(ii) requests the issuance of a new Certificate before the Corporation has notice that the Certificate has been acquired by a purchaser for value in good faith and without notice of an adverse claim;

(iii) if requested by the Corporation, delivers to the Corporation a bond, in form and substance satisfactory to the Corporation, with surety or sureties and with fixed or open penalty as the Corporation may direct to indemnify the Corporation, the stockholders and, if applicable, the Transfer Agent against any claim that may be made on account of the alleged loss, destruction or theft of the Certificate; and (iv) satisfies any other reasonable requirements imposed by the Corporation.

(c) As a condition to the issuance of any new Certificate under this Section 7.02, the Corporation may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Transfer Agent, if applicable) connected therewith.

Section 7.03  Record Holders. The Corporation shall be entitled to recognize the Record Holder as the owner with respect to any share of stock of the Corporation and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share on the part of any other Person, regardless of whether the Corporation shall have actual or other notice thereof, except as otherwise required by law or any applicable rule, regulation, guideline or requirement of any National Securities Exchange on which such shares are listed for trading. Without limiting the foregoing, when a Person (such as a broker, dealer, bank, trust company or clearing corporation or an agent of any of the foregoing) is acting as nominee, agent or in some other representative capacity for another Person in acquiring or holding shares of stock of the Corporation, as between the Corporation, on the one hand, and such other Persons, on the other, such representative Person shall be the Record Holder of such shares.
Section 7.04 Transfer Generally

(a) The term “transfer” (A) with respect to any share of Class B Common Stock, means a sale, assignment, gift, pledge, encumbrance, hypothecation, mortgage, exchange or any other disposition by law or otherwise, (B) with respect to shares of any other stock of the Corporation, means a sale, assignment, gift, exchange or any other disposition by law or otherwise, including any transfer upon foreclosure of any pledge, encumbrance, hypothecation or mortgage, and (C) in Section 7.06 with respect to a share of any stock of the Corporation, shall mean a transaction that causes any Person to acquire beneficial ownership, or any agreement to enter into such transactions or cause any such acquisitions, of Common Stock or the right to vote or receive dividends on Common Stock.

(b) No shares of stock of the Corporation shall be transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article VII. Any transfer or purported transfer of any shares of stock of the Corporation not made in accordance with this Article VII shall be null and void.

(c) Nothing contained in this Certificate of Incorporation shall prevent or restrict a disposition by any Person of any or all of the issued and outstanding equity or other interests in a Record Holder of Class B Common Stock.

Section 7.05 Registration and Transfer of Stock

(a) The Corporation shall keep (or cause to be kept on behalf of the Corporation) a stock ledger in which, subject to such reasonable regulations as it may prescribe and subject to the provisions of Section 7.05(b), the Corporation will provide for the registration and transfer of stock of the Corporation. The Corporation shall not recognize transfers of Certificates evidencing shares of stock of the Corporation unless such transfers are effected in the manner described in this Section 7.05. Upon surrender of a Certificate for registration of transfer of any shares of stock of the Corporation evidenced by a Certificate, subject to the provisions of Section 7.05(b), any two authorized officers of the Corporation shall execute and deliver, and in the case of Class A Common Stock, Non-Voting Common Stock and Preferred Stock, the Transfer Agent shall countersign and deliver, in the name of the holder or the designated transferee or transferees, as required pursuant to the holder’s instructions, one or more new Certificates evidencing the same aggregate number and type of stock of the Corporation as was evidenced by the Certificate so surrendered.

(b) The Corporation shall not recognize any transfer of shares of stock of the Corporation evidenced by Certificates until the Certificates evidencing such shares of stock are surrendered for registration of transfer. No charge shall be imposed by the Corporation for such transfer. As a condition to the recognition of such transfer and the issuance of any Certificate under this Section 7.05, the Corporation may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed with respect thereto.

(c) Subject to (i) the foregoing provisions of this Section 7.05, (ii) Section 7.03, (iii) Section 7.04, (iv) Section 7.06, (v) with respect to any series of stock of the Corporation, the provisions of any Certificate of Designation or amendment to this Certificate of Incorporation establishing such series, and Article XX, (vi) any contractual provisions binding on any holder of shares of stock of the Corporation, and (vii) provisions of applicable law including the Securities Act, the stock of the Corporation shall be freely transferable. Stock of the Corporation may also be subject to any transfer restrictions contained in any employee related policies or equity benefit plans, programs or practices adopted on behalf of the Corporation.
Section 7.06 Additional Restrictions on Transfers.

(a) Except as provided in Section 7.06(b) below, but notwithstanding the other provisions of this Certificate of Incorporation, no transfer of any shares of stock of the Corporation shall be made if such transfer would (i) violate the then applicable U.S. federal or state securities laws or rules and regulations of the Commission, any U.S. state securities commission, or any other governmental authority with jurisdiction over such transfer, or (ii) terminate the existence or qualification of the Corporation under the laws of the jurisdiction of its incorporation.

(b) Nothing contained in this Certificate of Incorporation shall preclude the settlement of any transactions involving shares of stock of the Corporation entered into through the facilities of any National Securities Exchange on which such shares of stock are listed for trading.

(c) The restrictions on the transfer of any shares of stock of the Corporation contained herein shall be in addition to restrictions on the transfer of shares of stock of the Corporation applicable to a stockholder pursuant to the terms of any Supplemental Agreement.

Section 7.07 Forfeiture.

(a) Stock of the Corporation owned by a stockholder is subject to forfeiture or cancellation as set forth in any Supplemental Agreement applicable to such stockholder.

(b) If any Ares Owners Class Issuer Units are forfeited or cancelled for no consideration, a number of shares of Class A Common Stock held by Ares Owners LP equal to the product of the number of Ares Owners Class Issuer Units so forfeited or cancelled multiplied by the Corresponding Rate shall be automatically forfeited or cancelled.

(c) Upon the forfeiture of any shares of Class A Common Stock in accordance with this Section 7.07, such shares of Class A Common Stock shall be cancelled, the Corporation shall have no obligations with respect to such shares of Class A Common Stock and the Corporation shall modify its books and records to reflect such forfeiture and cancellation.

ARTICLE VIII
DISPOSITION OF THE CORPORATION'S ASSETS

Except as provided in Section 5.04 and Article IX, the Corporation may not sell or exchange all or substantially all of the Corporate Group’s assets, taken as a whole, in a single transaction or a series of related transactions, without a vote of the Record Holders of a majority of the voting power of (a) so long as the Ares Ownership Condition is satisfied, the Outstanding Class B Common Stock, voting separately as a class and (b) the Outstanding Designated Stock, voting together as a single class. This Article VIII shall not preclude or limit the Corporation’s ability to mortgage, pledge, hypothecate or grant a security interest in any or all of the assets of the Corporate Group (including for the benefit of Persons other than the members of the Corporate Group, including Affiliates of a Record Holder of Class B Common Stock), including, in each case, pursuant to any forced sale of any or all of the assets of the Corporate Group pursuant to the foreclosure of, or other realization upon, any such encumbrance.
ARTICLE IX

MERGER

Section 9.01 Authority. The Corporation may merge or consolidate or otherwise combine with or into one or more corporations, limited liability companies, general or limited partnerships (including limited liability partnerships and limited liability limited partnerships), statutory trusts or associations, real estate investment trusts, common law trusts, unincorporated businesses or other Persons permitted by the DGCL, in each case pursuant to a Merger Agreement in accordance with this Article IX and the DGCL (a “Business Combination”).

Section 9.02 Class B Stockholders Approval. So long as the Ares Ownership Condition is satisfied, each Merger Agreement and the Business Combination contemplated thereby shall require the prior approval of Record Holders of a majority of the Outstanding Class B Common Stock, voting separately as a class. To the fullest extent permitted by law, no Record Holder of Class B Common Stock (a) shall have any duty or obligation to consent to any Business Combination, (b) may decline to do so free of any duty or obligation whatsoever (including any fiduciary duty) to the Corporation, any stockholder, any other Person bound by this Certificate of Incorporation or any creditor of the Corporation and (c) in declining to consent to a Business Combination, shall not be required to act pursuant to any other standard imposed by this Certificate of Incorporation, any other agreement contemplated hereby or under the DGCL or any other law, rule or regulation or at equity.

Section 9.03 Other Stockholder Approval. Except as provided in Section 9.03(d) and subject to Article XX and any Certificate of Designation,

(a) Upon the approval of a Merger Agreement and the Business Combination contemplated thereby by (i) the Board of Directors and (ii) so long as the Ares Ownership Condition is satisfied, the Record Holders of a majority of the Outstanding Class B Common Stock in accordance with Section 9.02, the Board of Directors shall direct that the Merger Agreement and the Business Combination contemplated thereby be submitted to a vote of the Record Holders of Outstanding Designated Stock, whether at an annual meeting, special meeting or by written consent, in either case in accordance with the requirements of Article XVI and the DGCL. A copy or a summary of the Merger Agreement shall be included in or enclosed with the notice of a meeting or the action by written consent.

(b) The Merger Agreement and the Business Combination contemplated thereby shall be adopted and approved upon receiving the affirmative vote or consent of the Record Holders of a majority of the voting power of the Outstanding Designated Stock.

(c) After such approval by vote or consent of the Record Holders of a majority of the voting power of the Outstanding Designated Stock, and at any time prior to the filing of the certificate of merger or consolidation or similar certificate with the Secretary of State of the State of Delaware in conformity with the requirements of the DGCL, the Business Combination may be abandoned pursuant to provisions therefor, if any, set forth in the Merger Agreement.

(d) Notwithstanding anything else contained in this Certificate of Incorporation, except as otherwise provided by the DGCL, the Corporation may, without any vote of holders of Designated Stock, merge the Corporation into, or convey all of the Corporation’s assets to, a newly formed limited liability entity that has no assets, liabilities or operations at the time of such merger or conveyance other than those (i) it receives from the Corporation or (ii) arising from its incorporation or formation if (A) the Corporation has received an Opinion of Counsel that the merger or conveyance, as the case may be, would not result in the loss of the limited liability of any stockholder, (B) the sole purpose of such merger or conveyance is to effect a change in the legal form of the Corporation into another limited liability entity and (C) the governing instruments of the new entity provide the stockholders with substantially the same rights and obligations as are herein contained.
Section 9.04 **Preferred Stock.** Holders of Preferred Stock shall have no voting, approval or consent rights under this Article IX. Voting, approval and consent rights of holders of Preferred Stock shall be solely as provided for, and set forth in, Article XX, any Certificate of Designation and the DGCL.

ARTICLE X

**RIGHT TO ACQUIRE STOCK OF THE CORPORATION**

Section 10.01 **Right to Acquire Stock of the Corporation.**

(a) Notwithstanding any other provision of this Certificate of Incorporation, if at any time either:

(i) less than 10% of the total shares of any class then outstanding (other than Class B Common Stock, Class C Common Stock, Non-Voting Common Stock and Preferred Stock) is held by Persons other than Record Holders of Class B Common Stock, Holdco Members or their respective Affiliates; or (ii) the Corporation is required to register as an investment company under the U.S. Investment Company Act of 1940, the Corporation shall then have the right, which right it may assign and transfer in whole or in part to any Record Holder of Class B Common Stock or any of its Affiliates, exercisable in such Person’s sole discretion, to purchase all, but not less than all, of such shares of such class then outstanding held by Persons other than Record Holders of Class B Common Stock or any of their Affiliates, at a price (the “Purchase Price”) equal to the greater of (x) the Current Market Price as of the date three days prior to the date that the notice described in Section 10.01(b) is mailed and (y) the highest price paid by the Corporation (or any of its Affiliates acting in concert with the Corporation) for any such share of such class purchased during the 90-day period preceding the date that the notice described in Section 10.01(b) is mailed.

(b) If the Corporation or any Record Holder of Class B Common Stock or any of its Affiliates (as applicable, the “Purchaser”) elects to exercise the right to purchase stock of the Corporation granted pursuant to Section 10.01(a), the Corporation shall (i) deliver to the Transfer Agent notice of such election to purchase (the “Notice of Election to Purchase”) and (ii) cause the Transfer Agent to mail a copy of such Notice of Election to Purchase to the Record Holders of shares of such class (as of a Record Date selected by the Corporation) at least 10, but not more than 60, days prior to the Purchase Date. Such Notice of Election to Purchase shall (i) be published for a period of at least three consecutive days in at least two daily newspapers of general circulation printed in the English language and circulated in the Borough of Manhattan, New York City, (ii) specify the Purchase Date and the Purchase Price and (iii) state that the Purchaser elects to purchase such stock of the Corporation (in the case of stock evidenced by Certificates, upon surrender of Certificates representing such stock) in exchange for payment at such office or offices of the Transfer Agent as the Transfer Agent may specify or as may be required by any National Securities Exchange on which such stock is listed or admitted to trading. Any such Notice of Election to Purchase mailed to a Record Holder at his or her address as reflected in the records of the Transfer Agent shall be conclusively presumed to have been given regardless of whether the owner receives such notice.

(c) On or prior to the Purchase Date, the Purchaser shall deposit cash with the Transfer Agent in an amount sufficient to pay the aggregate purchase price of all of such stock to be purchased in accordance with this Section 10.01. If (i) the Notice of Election to Purchase shall have been duly given at least 10 days prior to the Purchase Date and (ii) on or prior to the Purchase Date the deposit described in the preceding sentence has been made for the benefit of the stockholders subject to purchase as provided herein, then from and after the Purchase Date, notwithstanding that any Certificate shall not have been surrendered for purchase, all rights of such stockholders of the Corporation shall thereupon cease, except the right to receive the Purchase Price therefor, without interest (in the case of stock evidenced by Certificates, upon surrender to the Transfer Agent of the Certificates representing such stock) and such stock shall thereupon be deemed to be transferred to the Purchaser on the record books of the Transfer Agent and the Corporation and, from and after the Purchase Date the Purchaser shall be deemed to be, and shall have all rights as, the owner of such stock of the Corporation.
ARTICLE XI
AMENDMENT OF CERTIFICATE OF INCORPORATION

Section 11.01 Amendments to be Approved by the Class B Stockholders. Notwithstanding anything to the contrary set forth herein, except as otherwise expressly provided by applicable law, Article XX or any Certificate of Designation, so long as the Ares Ownership Condition is satisfied, the Record Holders of Class B Common Stock shall have the sole right to vote on any amendment to this Certificate of Incorporation proposed by the Board of Directors that:

(a) the Board of Directors has determined

   (i) is necessary or appropriate in connection with action taken pursuant to Section 4.03.

   (ii) based on the advice of counsel, is necessary or appropriate to prevent the Corporation or the Indemnities from having a material risk of being in any manner subjected to registration under the provisions of the U.S. Investment Company Act of 1940, the U.S. Investment Advisers Act of 1940, or “plan asset” regulations adopted under the U.S. Employee Retirement Income Security Act of 1974, regardless of whether such are substantially similar to plan asset regulations currently applied or proposed by the United States Department of Labor, or (iii) is necessary or appropriate to cure any ambiguity, omission, mistake, defect or inconsistency;

(b) is expressly permitted in this Certificate of Incorporation to be voted on solely by the Record Holders of Class B Common Stock; or

(c) reflects a merger or conveyance pursuant to Section 9.03(d).

No Record Holder or beneficial owner of Class B Common Stock shall have any duty or obligation to consent to any amendment to this Certificate of Incorporation and may decline to do so in its sole and absolute discretion.

Section 11.02 Amendment Requirements.

(a) Except as provided in Articles IV and XX, Section 5.02(a), Section 11.01, subsections (b) through (f) of this Section 11.02, and the DGCL, any amendment to this Certificate of Incorporation shall require the approval of the holders of a majority of the voting power of the Outstanding Designated Stock, unless a greater or lesser percentage is required under the DGCL. Amendments to this Certificate of Incorporation may only be proposed to stockholders for adoption thereby by the Board of Directors. If such an amendment is proposed, the Board of Directors shall seek the written or electronic approval of the requisite percentage of the voting power of the Outstanding Designated Stock or call a meeting of the holders of Designated Stock to consider and vote on such proposed amendment, in each case, in accordance with the provisions of this Certificate of Incorporation and the DGCL. The Corporation shall notify all Record Holders upon final adoption of any such proposed amendments.
(b) Notwithstanding any other provision of this Certificate of Incorporation, no amendment to this Certificate of Incorporation or the Bylaws may (i) enlarge the obligations of any Record Holder of Common Stock without its consent, unless such enlargement may be deemed to have occurred as a result of an amendment approved pursuant to Section 11.02(e), or (ii) enlarge the obligations of, restrict in any way any action by or rights (including, but not limited to, voting power) of, or reduce in any way the amounts distributable, reimbursable or otherwise payable to any Record Holder of Class B Common Stock or any of its Affiliates, without such Record Holder of Class B Common Stock’s consent, which consent may be given or withheld in its sole discretion.

(c) Except as provided in Sections 9.03 and 11.01 and Article XX, any amendment that would have a material adverse effect on the rights or preferences of any class of stock of the Corporation in relation to other classes of stock of the Corporation must be approved by the holders of not less than a majority of the Outstanding stock of the class affected.

(d) In addition to any other approvals or consents that may be required by this Certificate of Incorporation, the definition of “Ares Ownership Condition” may not be amended, altered, changed, repealed or rescinded in any respect without the approval of Record Holders of a majority of the Outstanding Class B Common Stock.

(e) Notwithstanding any other provision of this Certificate of Incorporation, except for amendments adopted pursuant to Section 11.01 or as otherwise provided by Article IX, no amendment shall become effective without the affirmative vote or consent of the holders of at least 90% of the voting power of the Outstanding Designated Stock unless the Corporation obtains an Opinion of Counsel to the effect that such amendment will not affect the limited liability of any stockholder under the DGCL.

(f) Notwithstanding any other provision of this Certificate of Incorporation, no provision of this Certificate of Incorporation that requires the vote of the holders of a percentage of the voting power of the Outstanding Designated Stock to take any action shall be amended, altered, changed, repealed or rescinded in any respect that would have the effect of reducing such percentage unless such amendment is approved by the written consent or the affirmative vote of stockholders whose aggregate Outstanding Designated Stock constitutes not less than the voting or consent requirement sought to be reduced.

Section 11.03 Preferred Stock. Holders of Preferred Stock shall have no voting, approval or consent rights under this Article XI. Voting, approval and consent rights of holders of Preferred Stock shall be solely as provided for and set forth in Article XX, any Certificate of Designation and the DGCL.

ARTICLE XII
BYLAWS

Section 12.01 Bylaws. In furtherance and not in limitation of the powers conferred by the DGCL, except as expressly provided in this Certificate of Incorporation or the Bylaws, the Board of Directors is expressly authorized to adopt, amend and repeal, in whole or in part, the Bylaws without the assent or vote of the stockholders in any manner not inconsistent with the DGCL or this Certificate of Incorporation. Notwithstanding the foregoing, any adoption, amendment or repeal of the Bylaws that amends, repeals or otherwise alters any provisions of the Bylaws concerning the nomination of directors or proposal of other business at a meeting of stockholders, including Sections 2.02 and 2.03 thereof, shall require the affirmative vote of a majority of the voting power of the Outstanding Designated Stock.
Section 12.02  Class B Stockholder Approval. In addition to any vote or consent required by this Certificate of Incorporation, the Bylaws or applicable law, so long as the Ares Ownership Condition is satisfied, the amendment or repeal, in whole or in part, of Sections 3.02 through 3.14, Article IV or Article VIII of the Bylaws, or the adoption of any provision inconsistent therewith, shall require the approval of Record Holders holding a majority of the Outstanding Class B Common Stock.

ARTICLE XIII
OUTSIDE ACTIVITIES

Section 13.01  Outside Activities.

(a) To the fullest extent permitted by law, each Record Holder of Class B Common Stock, for so long as it owns Class B Common Stock, (i) agrees that its sole business will be to act as a Record Holder of Class B Common Stock and as a general partner or managing member of any partnership or limited liability company of which the Corporation is, directly or indirectly, a partner, managing member, trustee or stockholder and to undertake activities that are ancillary or related thereto (including being a stockholder of the Corporation) and (ii) shall not engage in any business or activity or incur any debts or liabilities except in connection with or incidental to (A) its performance as a Record Holder of Class B Common Stock and as a general partner, managing member, trustee or stockholder of one or more Group Members or as described in or contemplated by the Registration Statement or (B) the acquiring, owning or disposing of debt or equity securities in any Group Member.

(b) Except insofar as a Record Holder of Class B Common Stock is specifically restricted by Section 13.01(a) and except with respect to any corporate opportunity expressly offered to any Indemnitee solely through their service to the Corporate Group, to the fullest extent permitted by law, each Indemnitee shall have the right to engage in businesses of every type and description and other activities for profit and to engage in and possess an interest in other business ventures of any and every type or description, whether in businesses engaged in or anticipated to be engaged in by any Group Member, independently or with others, including business interests and activities in direct competition with the business and activities of any Group Member, and none of the same shall constitute a violation of this Certificate of Incorporation or any duty otherwise existing at law, in equity or otherwise to any Group Member, any stockholder of the Corporation or any Person who acquires an interest in the stock of the Corporation. Nothing in this Certificate of Incorporation shall be deemed to supersede any other agreement to which an Indemnitee may be party restricting such Indemnitee’s ability to have certain business interests or engage in certain business activities or ventures. To the fullest extent permitted by applicable law, but subject to the immediately preceding sentence, no Group Member or any stockholder of the Corporation shall have any rights by virtue of this Certificate of Incorporation, the DGCL or otherwise in any business interests, activities or ventures of any Indemnitee, and the Corporation hereby waives and renounces any interest or expectancy therein.

Section 13.02  Approval and Waiver. Subject to the terms of Section 13.01, but otherwise notwithstanding anything to the contrary in this Certificate of Incorporation and to the fullest extent permitted by applicable law, (i) the engagement in competitive activities by any Indemnitee (other than a Record Holder of Class B Common Stock) in accordance with the provisions of this Article XIII is hereby deemed approved by the Corporation, all stockholders and all Persons acquiring an interest in the stock of the Corporation, (ii) it shall not be a breach of any Indemnitee’s duties or any other obligation of any type whatsoever of any Indemnitee if an Indemnitee (other than a Record Holder of Class B Common Stock) engages in any such business interests or activities in preference to or to the exclusion of any Group Member, (iii) no Indemnitee shall have any obligation hereunder as a result of any duty otherwise existing at law, in equity or otherwise to present business opportunities to any Group Member, (iv) the Corporation hereby waives and renounces any interest or expectancy in such activities such that the doctrine of “corporate opportunity” or other analogous doctrine shall not apply to any Indemnitee, and (v) no Indemnitee shall be liable to the Corporation, any stockholder of the Corporation or any other Person who acquires an interest in the stock of the Corporation, by reason that such Indemnitee pursues or acquires a business opportunity for itself, directs such opportunity to another Person, does not communicate such opportunity or information to any Group Member or uses information in the possession of a Group Member to acquire or operate a business opportunity.
Section 13.03  **Acquisition of Stock.** Any Record Holder of Class B Common Stock, any of its Affiliates or Associates, and any Indemnitee may (a) acquire stock of the Corporation, and options, rights, warrants and appreciation rights relating to stock of the Corporation and (b) except as otherwise expressly provided in this Certificate of Incorporation, exercise all rights of a stockholder of the Corporation relating to such stock, options, rights, warrants and appreciation rights.

**ARTICLE XIV**
**BUSINESS COMBINATIONS**

The Corporation hereby expressly elects not to be governed by Section 203 of the DGCL.

**ARTICLE XV**
**INDEMNIFICATION, LIABILITY OF INDEMNITEES**

Section 15.01  **Indemnification.** To the fullest extent permitted by law (including, if and to the extent applicable, Section 145 of the DGCL):

(a) Subject to the limitations expressly provided for in this Certificate of Incorporation, all Indemnitees shall be indemnified and held harmless by the Corporation on an after tax basis from and against any and all Losses or other amounts arising from any and all threatened, pending or completed Proceedings, in which any Indemnitee may be involved, or is threatened to be involved, as a party or otherwise, by reason of its status as an Indemnitee, whether arising from acts or omissions to act occurring on, before or after the date of this Certificate of Incorporation. An Indemnitee shall not be indemnified and held harmless pursuant to this Section 15.01, (i) if there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which the Indemnitee is seeking indemnification pursuant to this Section 15.01, the Indemnitee acted in bad faith or with criminal intent or (ii) in connection with any Proceeding (or part thereof) commenced by such Person unless (x) the commencement of such Proceeding (or part thereof) by such Person was authorized by the Board of Directors or (y) there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that such Person was entitled to indemnification by the Corporation pursuant to Section 15.01(k).

(b) The indemnification of an Indemnitee of the type identified in clause (e) of the definition of Indemnitee shall be secondary to any and all indemnification to which such Person is entitled from, firstly, the relevant other Person, and secondly, the relevant Fund (if applicable), and will only be paid if the primary indemnification is not paid and clause (i) of the second sentence of Section 15.01(a) does not apply. No such other Person or Fund shall be entitled to contribution or indemnification from or subrogation against the Corporation, unless otherwise mandated by applicable law. If, notwithstanding the foregoing two sentences, the Corporation makes an indemnification payment or advances expenses to such an Indemnitee entitled to primary indemnification, the Corporation shall be subrogated to the rights of such Indemnitee against the Person or Persons responsible for the primary indemnification.

(c) Expenses (including legal fees and expenses) incurred by an Indemnitee who is indemnified pursuant to Section 15.01(a) in appearing at, participating in or defending any Proceeding shall, from time to time, be advanced by the Corporation prior to a final and non-appealable determination that the Indemnitee is not entitled to be indemnified upon receipt by the Corporation of an undertaking by or on behalf of the Indemnitee to repay such amount if it ultimately shall be determined that the Indemnitee is not entitled to be indemnified as authorized in this Section 15.01. Notwithstanding the preceding sentence, except as otherwise provided in Section 15.01(k), the Corporation shall be required to indemnify a Person described in such sentence in connection with any Proceeding (or part thereof) commenced by such Person only if (x) the commencement of such Proceeding (or part thereof) by such Person was authorized by the Board of Directors in its sole discretion or (y) there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that such Person was entitled to indemnification by the Corporation pursuant to Section 15.01(k).
(d) The indemnification provided by this Section 15.01 shall be in addition to any other rights to which an Indemnitee may be entitled under any agreement, insurance, pursuant to any vote of the holders of capital stock entitled to vote on such matter, as a matter of law, in equity or otherwise, both as to actions in the Indemnitee’s capacity as an Indemnitee and as to actions in any other capacity, and shall continue as to an Indemnitee who has ceased to serve in such capacity.

(e) The Corporation may purchase and maintain insurance, on behalf of the Indemnities and such other Persons as the Board of Directors shall determine in its sole discretion, against any liability that may be asserted against, or expense that may be incurred by, such Person in connection with the Corporate Group’s activities or such Person’s activities on behalf of the Corporate Group, regardless of whether the Corporate Group would have the power to indemnify such Person against such liability under the provisions of this Certificate of Incorporation.

(f) For purposes of this Section 15.01, (i) the Corporation shall be deemed to have requested an Indemnitee to serve as fiduciary of an employee benefit plan whenever the performance by it of its duties to the Corporation also imposes duties on, or otherwise involves services by, it to the plan or participants or beneficiaries of the plan; (ii) excise taxes assessed on an Indemnitee with respect to an employee benefit plan pursuant to applicable law shall constitute “fines” within the meaning of Losses in Section 15.01(a); and (iii) any action taken or omitted by an Indemnitee with respect to any employee benefit plan in the performance of its duties for a purpose reasonably believed by it to be in the best interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose that is in the best interests of the Corporation.

(g) Any indemnification pursuant to this Section 15.01 shall be made only out of the assets of the Corporation. Without limiting the foregoing, the Former General Partner shall not be personally liable for such indemnification and shall have no obligation to contribute or loan any monies or property to the Corporation to enable it to effectuate such indemnification. In no event may an Indemnitee subject any stockholders of the Corporation to personal liability by reason of the indemnification provisions set forth in this Certificate of Incorporation.

(h) An Indemnitee shall not be denied indemnification in whole or in part under this Section 15.01 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Certificate of Incorporation.

(i) The provisions of this Section 15.01 are for the benefit of the Indemnities and their heirs, successors, assigns, executors and administrators and shall not be deemed to create any rights for the benefit of any other Persons.

(j) No amendment, modification or repeal of this Section 15.01 or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future Indemnitee to be indemnified by the Corporation, nor the obligations of the Corporation to indemnify any such Indemnitee under and in accordance with the provisions of this Section 15.01 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.
(k) If a claim for indemnification (following the final disposition of the Proceeding for which indemnification is being sought) or advancement of expenses under this Section 15.01 is not paid in full within 30 days after a written claim therefor by any Indemnitee has been received by the Corporation, such Indemnitee may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expenses of prosecuting such claim, including reasonable attorneys’ fees. In any such action the Corporation shall have the burden of proving that such Indemnitee is not entitled to the requested indemnification or advancement of expenses under applicable law.

(l) This Section 15.01 shall not limit the right of the Corporation, to the extent and in the manner permitted by law, to indemnify and to advance expenses to, and purchase and maintain insurance on behalf of, Persons other than Indemnites.

Section 15.02 Liability of Indemnites. Notwithstanding anything to the contrary set forth in this Certificate of Incorporation, to the fullest extent permitted by law,

(a) No Indemnitee shall be liable to the Corporation, the stockholders of the Corporation or any other Persons who have acquired interests in stock of the Corporation, for any Losses or other amounts arising as a result of any act or omission of an Indemnitee, or for any breach of contract (including a violation of this Certificate of Incorporation) or any breach of duties (including breach of fiduciary duties) whether arising hereunder, at law, in equity or otherwise, unless there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter in question, the Indemnitee acted in bad faith or with criminal intent. The Corporation, the stockholders of the Corporation and any other Person who acquires an interest in the stock of the Corporation, each on their own behalf and on behalf of the Corporation, waives any and all rights to seek punitive damages or other damages based upon any Federal, State or other income (or similar) taxes paid or payable by any such stockholder of the Corporation or other Person.

(b) No director of the Corporation shall be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the DGCL.

(c) Any Indemnitee acting in connection with the Corporation’s business or affairs shall not be liable to the Corporation, to any stockholder, to any Record Holder or to any other Person who acquires an interest in the stock of the Corporation for such Indemnitee’s reliance on the provisions of this Certificate of Incorporation.

(d) Any amendment, modification or repeal of this Section 15.02 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the liability of the Indemnites under this Section 15.02 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted, and provided such Person became an Indemnitee hereunder prior to such amendment, modification or repeal.
Section 15.03 Other Matters Concerning the Class B Stockholders. To the fullest extent permitted by law,

(a) No Record Holder of Class B Common Stock (i) is under any obligation to consider the separate interests of the other stockholders of the Corporation (including the tax consequences to such stockholders) in deciding whether to cause the Corporation to take (or decline to take) any Determination, or (ii) shall be liable to the other stockholders of the Corporation for monetary damages or equitable relief for losses sustained, liabilities incurred or benefits not derived by such stockholders in connection with any Determination.

(b) Each Record Holder of Class B Common Stock (i) may exercise any of the powers granted to it by this Certificate of Incorporation and perform any of the duties imposed upon it hereunder either directly or by or through its agents, and (ii) shall not be responsible for any misconduct, negligence or wrongdoing on the part of any such agent appointed by such Record Holder of Class B Common Stock in good faith.

(c) Notwithstanding any other provision of this Certificate of Incorporation, if any provision of this Certificate of Incorporation, including the provisions of this Article XV, purports (i) to restrict or otherwise modify or eliminate the duties (including fiduciary duties), obligations or liabilities of a Record Holder of Class B Common Stock, the Board of Directors, any committee of the Board of Directors (including the Conflicts Committee) or any other Indemnitee, in any case otherwise existing at law or in equity, or (ii) to constitute a waiver or consent by the Corporation, the holders of stock of the Corporation, or any other Person who acquires an interest in stock of the Corporation, to any such restriction, modification or elimination, such provision shall be deemed to have been approved by the Corporation, all of the stockholders, and each other Person who has acquired an interest in the Corporation.

(d) In connection with any action taken with respect to the Corporation, any Indemnitee may (i) rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties, and (ii) consult with legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisers selected by it, and, to the fullest extent permitted by law, any act taken or omitted to be taken in reliance upon the advice or opinion (including an Opinion of Counsel) of such Persons as to matters that such Indemnitee reasonably believes to be within such Person’s professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such advice or opinion.

(e) The Corporation shall pay, or cause to be paid, all costs, fees, operating expenses and other expenses of the Corporation (including the costs, fees and expenses of attorneys, accountants or other professionals and the compensation of all personnel providing services to the Corporation) incurred in pursuing and conducting, or otherwise related to, the activities of the Corporation.

(f) The Corporation shall, in the sole discretion of a Record Holder of Class B Common Stock, bear or reimburse such Record Holder of Class B Common Stock for (i) costs, fees and expenses incurred by such Record Holder of Class B Common Stock (or any direct or indirect equityholders of such Record Holder of Class B Common Stock or, in the case of subclause (B) below, any designee of such Record Holder of Class B Common Stock) in connection with such Record Holder of Class B Common Stock or its designee serving as (A) a Record Holder of Class B Common Stock or (B) the “tax matters partner” (under Section 6231(a)(7) of the Code, prior to amendment by P.L. 114-74, or any similar provision of state or local tax laws) or “partnership representative” (under Section 6223 of the Code or any similar provision of state or local tax laws), as applicable, of the Partnership, and (ii) all other expenses allocable to the Corporate Group or otherwise incurred by such Record Holder of Class B Common Stock (or any direct or indirect equityholders of such Record Holder of Class B Common Stock) in connection with operating the Corporate Group’s business. If a Record Holder of Class B Common Stock determines in its sole discretion that such expenses are related to the business and affairs of such Record Holder of Class B Common Stock that are conducted through the Corporate Group (including expenses that relate to the business and affairs of the Corporate Group that also relate to other activities of such Record Holder of Class B Common Stock), such Record Holder of Class B Common Stock may cause the Corporation to pay or bear all expenses of such Record Holder of Class B Common Stock (or any direct or indirect equityholders of such Record Holder of Class B Common Stock), Reimbursements pursuant to this Section 15.03 shall be in addition to any reimbursement to a Record Holder of Class B Common Stock as a result of indemnification pursuant to Section 15.01.
ARTICLE XVI
MEETINGS OF STOCKHOLDERS, ACTION WITHOUT A MEETING

Section 16.01 Special Meetings. Except as otherwise required by law and subject to the rights of the holders of any series of Preferred Stock, special meetings of the stockholders of the Corporation for any purpose or purposes may be called at any time only by or at the direction of (i) the Board of Directors, (ii) each Record Holder of Class B Common Stock or (iii) stockholders of the Corporation representing 50% or more of the voting power of the Outstanding Designated Stock of the Corporation of the class or classes for which a meeting is proposed and relating to such matters for which such class or classes are entitled to vote at such meeting. The Class A Common Stock and Class C Common Stock shall not constitute separate classes for this purpose. Stockholders of the Corporation shall call a special meeting by delivering to the Board of Directors one or more requests in writing stating that the signing stockholders wish to call a special meeting and indicating the purposes for which the special meeting is to be called. Within (a) 60 days after receipt of such a call from stockholders, or (b) such greater time as may be reasonably necessary for the Corporation to comply with any statutes, rules, regulations, listing, agreements or similar requirements governing the holding of a meeting or the solicitation of proxies for use at such a meeting, notice of such meeting shall be given in accordance with the DGCL. Except as otherwise required by the DGCL, a special meeting of stockholders shall be held at a time and place determined by the Board of Directors in its sole discretion on a date not less than 10 days nor more than 60 days after the mailing of notice of the meeting.

Section 16.02 Adjournment. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting and a new Record Date need not be fixed if the time and place thereof are announced at the meeting at which the adjournment is taken, unless such adjournment shall be for more than 30 days. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each Record Holder entitled to vote at the meeting. If after the adjournment a new Record Date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix as the Record Date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each Record Holder as of the Record Date so fixed for notice of such adjourned meeting.

Section 16.03 Quorum. If the Corporation has provided at least 30 days’ advance notice of any meeting of stockholders at which directors are to be elected, then the stockholders holding at least one-third of the voting power of the Outstanding stock of the class or classes entitled to vote at such meeting, represented either in person or by proxy, shall constitute a quorum at a meeting of stockholders of such class or classes. If the Corporation has provided less than 30 days’ advance notice of any such meeting, the stockholders of the Corporation holding a majority of the voting power of the Outstanding stock of the class or classes entitled to vote at a meeting represented either in person or by proxy shall constitute a quorum at a meeting of stockholders of such class or classes, unless any such action by the stockholders of the Corporation requires approval by stockholders holding a greater percentage of the voting power of such stock, in which case the quorum shall be such greater percentage. The Class A Common Stock, Class C Common Stock and the Non-Voting Common Stock shall not constitute separate classes for purposes of constituting a quorum at a meeting of stockholders, except as otherwise required by applicable law. At any meeting of the stockholders of the Corporation duly called and held in accordance with this Certificate of Incorporation at which a quorum is present, the act of stockholders holding a majority of the votes cast at such meeting shall be deemed to constitute the act of all stockholders, unless a greater or lesser percentage is required with respect to such action under this Certificate of Incorporation or applicable law, in which case the act of the stockholders holding Outstanding stock that in the aggregate represents at least such greater or lesser percentage of the voting power shall be required. The stockholders present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum, if any action taken (other than adjournment) is approved by the required percentage of the voting power of Outstanding stock of the Corporation specified in this Certificate of Incorporation. In the absence of a quorum, any meeting of stockholders may be adjourned from time to time by the affirmative vote of stockholders holding at least a majority of the voting power of the Outstanding stock of the Corporation present and entitled to vote at such meeting represented either in person or by proxy, but no other business may be transacted, except as provided in Section 16.02.
Section 16.04  **Conduct of a Meeting.** To the fullest extent permitted by law, the Board of Directors shall have full power and authority concerning the manner of conducting any meeting of the stockholders of the Corporation or solicitation of approvals in writing, including the determination of Persons entitled to vote, the existence of a quorum, the satisfaction of the requirements of Section 16.01, the conduct of voting, the validity and effect of any proxies and the determination of any controversies, votes or challenges arising in connection with or during the meeting or voting. The Board of Directors shall designate a Person to serve as chairman of any meeting, who, to the fullest extent permitted by law, shall, among other things, be entitled to exercise the powers of the Board of Directors set forth in this Section 16.04, and the Board of Directors shall further designate a Person to take the minutes of any meeting. All minutes shall be kept with the records of the Corporation. The Board of Directors may make such other regulations consistent with applicable law and this Certificate of Incorporation as it may deem necessary or advisable concerning the conduct of any meeting of the stockholders or solicitation of stockholder action by written consent in lieu of a meeting, including regulations in regard to the appointment of proxies, the appointment and duties of inspectors of votes and approvals, the submission and examination of proxies and other evidence of the right to vote, and the revocation of ballots, proxies and written consents. Unless the Bylaws provide otherwise, elections of directors need not be by written ballot.

Section 16.05  **Action Without a Meeting.** If consented to by the Board of Directors in writing (which consent shall not be required with respect to any action to be taken solely by the Record Holders of Class B Common Stock), any action that may be taken at a meeting of the stockholders entitled to vote may be taken without a meeting, without a vote and without prior notice, if a consent or consents in writing setting forth the action so taken are signed by stockholders owning not less than the minimum percentage of the voting power of the stock of the Corporation that would be necessary to authorize or take such action at a meeting at which all the stockholders entitled to vote were present and voted and such consent or consents are delivered in the manner contemplated by Section 228 of the DGCL (unless such provision conflicts with any rule, regulation, guideline or requirement of any National Securities Exchange on which the stock of the Corporation or a class thereof are listed for trading, in which case the rule, regulation, guideline or requirement of such exchange shall govern). Prompt notice of the taking of action without a meeting shall be given to the stockholders of the Corporation entitled thereto pursuant to the DGCL.
ARTICLE XVII

BOOKS, RECORDS, ACCOUNTING

Section 17.01 Records and Accounting. The Corporation shall keep or cause to be kept at the principal office of the Corporation or any other place designated by the Board of Directors appropriate books and records with respect to the Corporation’s business. Any books and records maintained by or on behalf of the Corporation in the regular course of its business, including the record of the Record Holders of stock of the Corporation or options, rights, warrants or appreciation rights relating to stock of the Corporation, books of account and records of Corporation proceedings, may be kept on, or be in the form of, computer disks, hard drives, magnetic tape, photographs, micrographics or any other information storage device; provided that the books and records so maintained are convertible into clearly legible written form within a reasonable period of time.

Section 17.02 Fiscal Year. The fiscal year of the Corporation (each, a “Fiscal Year”) shall be a year ending December 31. The Board of Directors may change the Fiscal Year of the Corporation at any time and from time to time in each case as may be required or permitted under the Code or applicable United States Treasury Regulations and shall notify the stockholders of such change in the next regular communication to stockholders.

ARTICLE XVIII

NOTICE AND WAIVER OF NOTICE

Section 18.01 Notice.

(a) Any notice, demand, request, report, document or proxy materials required or permitted to be given or made to a stockholder pursuant to this Certificate of Incorporation shall be in writing and shall be deemed given or made when delivered in person, when sent by first class United States mail or by other means of written communication to the stockholder at the address in Section 18.01(b), or when made in any other manner, including by press release, if permitted by applicable law.

(b) Except as otherwise provided by law, any notice, report, payment, distribution or other matter to be given or made to a stockholder hereunder shall be deemed conclusively to have been given or made, and the obligation to give such notice or report or to make such payment, distribution or other matter shall be deemed conclusively to have been fully satisfied, when delivered in person or upon sending of such notice, report, payment, distribution or other matter to the Record Holder of such shares of stock of the Corporation at his or her address as shown on the records of the Transfer Agent or as otherwise shown on the records of the Corporation, regardless of any claim of any Person who may have an interest in such shares by reason of any assignment or otherwise.

(c) Notwithstanding the foregoing, if (i) applicable law shall permit the Corporation to give notices, demands, requests, reports, documents or proxy materials to stockholders via electronic mail or by the Internet or (ii) the rules of the Commission shall permit any report or proxy materials to be delivered electronically or made available via the Internet, any such notice, demand, request, report or proxy materials shall, subject to the requirements of applicable law, be deemed given or made in accordance with Section 232 of the DGCL, as applicable, or otherwise when delivered or made available via such mode of delivery.
(d) An affidavit or certificate of making of any notice, demand, request, report, document, proxy material, payment, distribution or other matter in accordance with the provisions of this Section 18.01 executed by the Corporation, the Transfer Agent, their agents or the mailing organization shall be prima facie evidence of the giving or making of such notice, demand, request, report, document, proxy material, payment, distribution or other matter. Subject to applicable law, if any notice, demand, request, report, document, proxy material, payment, distribution or other matter given or made in accordance with the provisions of this Section 18.01 is returned marked to indicate that it was unable to be delivered, such notice, demand, request, report, documents, proxy materials, payment, distribution or other matter and, if returned by the United States Postal Service (or other physical mail delivery mail service outside the United States of America), any subsequent notices, demands, requests, reports, documents, proxy materials, payments, distributions or other matters shall be deemed to have been duly given or made without further mailing (until such time as such Record Holder or another Person notifies the Transfer Agent or the Corporation of a change in his or her address) or other delivery if they are available for the stockholder at the principal office of the Corporation for a period of one year from the date of the giving or making of such notice, demand, request, report, document, proxy material, payment, distribution or other matter to the other stockholders. Any notice to the Corporation shall be deemed given if received in writing by the Corporation at its principal office. To the fullest extent permitted by law, the Corporation may rely and shall be protected in relying on any notice or other document from a stockholder if believed by it to be genuine.

Section 18.02 Waiver of Notice. A written waiver of any notice, signed by a stockholder or director, or waiver by electronic transmission by such Person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such Person. Neither the business nor the purpose of any meeting need be specified in such a waiver. Attendance of a stockholder at any meeting (in Person or by remote communication) shall constitute waiver of notice of the meeting, except (i) when the stockholder attends for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened, and takes no other action, and (ii) that attendance at a meeting is not a waiver of any right to disapprove the consideration of matters required to be included in the notice of the meeting, but not so included, if the disapproval is expressly made at the meeting.

ARTICLE XIX

EXCLUSIVE JURISDICTION

The Corporation, each stockholder of the Corporation, each Record Holder and each other Person who acquires an interest in the stock of the Corporation (each a “Consenting Party”), to the fullest extent permitted by law, (i) irrevocably agrees, unless otherwise agreed to by the Board of Directors in writing, that any Proceeding arising out of or relating in any way to this Certificate of Incorporation or any stock of the Corporation (including any Proceeding under or to interpret, apply or enforce (A) the provisions of this Certificate of Incorporation (including the validity, scope or enforceability of this Article XIX) or the Bylaws, (B) the duties, obligations or liabilities of the Corporation to the stockholders of the Corporation, or of stockholders of the Corporation to the Corporation, or among stockholders of the Corporation, (C) the rights or powers of, or restrictions on, the Corporation or any stockholder of the Corporation, (D) any provision of the DGCL or (E) any other instrument, document, agreement or certificate contemplated by any provision of the DGCL relating to the Corporation (regardless of whether such Proceedings (x) sound in contract, tort, fraud or otherwise, (y) are based on common law, statutory, equitable, legal or other grounds, or (z) are derivative or direct claims)), shall be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, any other court in the State of Delaware with subject matter jurisdiction; (ii) irrevocably submits to the exclusive jurisdiction of such courts in connection with any such Proceeding; (iii) irrevocably agrees not to, and waives any right to, assert in any Proceeding that (A) it is not personally subject to the jurisdiction of such courts or any other court to which proceedings in such courts may be appealed, (B) such Proceeding is brought in an inconvenient forum, or (C) the venue of such Proceeding is improper; (iv) expressly waives any requirement for the posting of a bond by a party bringing such Proceeding; (v) consents to process being served in any such Proceeding by mailing, certified mail, return receipt requested, a copy thereof to such party at the address in effect for notices hereunder, and agrees that such service shall constitute good and sufficient service of process and notice thereof; provided, that nothing in clause (v) hereof shall affect or limit any right to serve process in any other manner permitted by law; (vi) irrevocably waives any and all right to trial by jury in any such Proceedings; (vii) agrees that proof shall not be required that monetary damages for breach of the provisions of this Certificate of Incorporation would be difficult to calculate and that remedies at law would be inadequate and (viii) agrees that if a Proceeding that would be subject to this Article XIX if brought against a Consenting Party is brought against an employee, officer, director, agent or indemnitee of such Consenting Party or its affiliates (other than a Proceeding brought by the employer or principal of any such employee, officer, director, agent or indemnitee) for alleged actions or omissions of such employee, officer, director, agent or indemnitee undertaken as an employee, officer, director, agent or indemnitee of such Consenting Party or its affiliates, such employee, officer, director, agent or indemnitee shall be entitled to invoke this Article XIX.
ARTICLE XX
TERMS OF SERIES A PREFERRED STOCK

Section 20.01  Designation. The Series A Preferred Stock is hereby designated and created as a series of Preferred Stock. Each share of Series A Preferred Stock shall be identical in all respects to every other share of Series A Preferred Stock.

Section 20.02  Definitions. The following terms apply only to this Article XX of this Certificate of Incorporation.

“Ares Group” means the Ares Operating Group entities, the direct and indirect parents (including, without limitation, general partners) of the Ares Operating Group entities (the “Parent Entities”), any direct or indirect subsidiaries of the Parent Entities or the Ares Operating Group entities, the general partner or similar controlling entities of any investment or vehicle that is managed, advised or sponsored by the Ares Group (an “Ares Fund”), and any other entity through which any of the foregoing directly or indirectly conduct its business, but shall exclude any company in which an Ares Fund has an investment.

“Ares Issuer Group” means each of the Corporation’s direct wholly owned domestic subsidiaries and each of its domestic subsidiaries in the Ares Operating Group and any other entity that, as of the relevant time, is a guarantor to any series of Ares Senior Notes.

“Ares Senior Notes” means the 4.000% Senior Notes due 2024 issued by Ares Finance Co. LLC, or similar series of senior unsecured debt securities, in each case guaranteed by the Ares Operating Group entities.

“Below Investment Grade Rating Event” means the rating on any series of the Ares Senior Notes (or, if no Ares Senior Notes are outstanding or no Ares Senior Notes are then rated by the applicable Rating Agency, the Corporation’s long-term issuer rating by such Rating Agency) is lowered in respect of a Change of Control and any series of the Ares Senior Notes (or, if no Ares Senior Notes are outstanding or no Ares Senior Notes are then rated by the applicable Rating Agency, the Corporation’s long-term issuer rating by such Rating Agency) is rated below Investment Grade by both Rating Agencies on any date from the date of the public notice of an arrangement that could result in a Change of Control until the end of the 60-day period following public notice of the occurrence of a Change of Control (which period shall be extended until the ratings are announced if during such 60-day period the rating of any series of the Ares Senior Notes (or, if no Ares Senior Notes are outstanding or no Ares Senior Notes are then rated by the applicable Rating Agency, the Corporation’s long-term issuer rating by such Rating Agency) is under publicly announced consideration for possible downgrade by either of the Rating Agencies); provided that a Below Investment Grade Rating Event otherwise arising by virtue of a particular reduction in rating shall not be deemed to have occurred in respect of a particular Change of Control (and thus shall not be deemed a Below Investment Grade Rating Event for purposes of the definition of Change of Control Event hereunder) if a Rating Agency making the reduction in rating to which this definition would otherwise apply does not announce or publicly confirm or inform the Corporation in writing at the Corporation’s request that the reduction was the result, in whole or in part, of any event or circumstance comprised of or arising as a result of, or in respect of, the applicable Change of Control (whether or not the applicable Change of Control shall have occurred at the time of the Below Investment Grade Rating Event).
“Change of Control” means the occurrence of the following:

(i) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties and assets of the Ares Issuer Group to any “person” (as that term is used in Section 13(d)(3) of the Exchange Act), other than to a Continuing Ares Entity; or

(ii) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” (as that term is used in Section 13(d)(3) of the Exchange Act or any successor provision), other than a Continuing Ares Entity, becomes (A) the beneficial owner (within the meaning of Rule 13d-3 under the Exchange Act or any successor provision) of a controlling interest in (i) the Corporation or (ii) one or more entities that, as of the relevant time, are guarantors to any series of Ares Senior Notes and comprise all or substantially all of the assets of the Ares Issuer Group and (B) entitled to receive a Majority Economic Interest in connection with such transaction.

“Change of Control Event” means the occurrence of both a Change of Control and a Below Investment Grade Rating Event.

“Continuing Ares Entity” means any entity, immediately following any relevant date of determination, (i) that is directly or indirectly controlled by one or more individuals (or the Family Members of such persons) who, as of such date of determination, each have devoted substantially all of his or her business and professional time to the activities of the Ares Issuer Group or their subsidiaries or affiliated funds and investment vehicles during the 12-month period immediately preceding such date and (ii) in which any one or more of such individuals (or their Family Members or representatives, including a trustee or trustees) directly or indirectly, singly or as a group, holds the interests that directly or indirectly control Ares Management GP LLC or any successor entity.

“Dividend Payment Date” means March 31, June 30, September 30 and December 31 of each year, commencing September 30, 2016.

“Dividend Period” means the period from and including a Dividend Payment Date to, but excluding, the next Dividend Payment Date, except that the initial Dividend Period commences on and includes June 8, 2016.

“Fitch” means Fitch Ratings Inc. or any successor thereto.

“Investment Grade” means, with respect to Fitch, a rating of BBB- or better (or its equivalent under any successor rating categories of Fitch) and, with respect to S&P, a rating of BBB- or better (or its equivalent under any successor rating categories of S&P) (or, in each case, if such Rating Agency ceases to rate a series of the Ares Senior Notes (or, if no Ares Senior Notes are outstanding, ceases to assign a long-term issuer rating to the Corporation) for reasons outside of the Corporation’s control, the equivalent investment grade credit rating from any Rating Agency selected by the Board of Directors as a replacement Rating Agency).
“Junior Stock” means Common Stock and any other equity securities that the Corporation may issue in the future ranking, as to the payment of dividends and distributions of assets upon a Dissolution Event, junior to the Series A Preferred Stock.

“Majority Economic Interest” means any right or entitlement to receive more than 50% of the equity distributions or partner allocations (whether such right or entitlement results from ownership of partner or other equity interests, securities, instruments or agreements of any kind) made to all holders of partner or other equity interests in the Ares Issuer Group (other than entities within the Ares Issuer Group).

“Nonpayment Event” has the meaning set forth in Section 20.07(a).

“Parity Stock” means any stock of the Corporation, including Preferred Stock, that the Corporation may authorize or issue, the terms of which provide that such securities shall rank equally with the Series A Preferred Stock with respect to payment of dividends and distribution of assets upon a Dissolution Event.

“Preferred Directors” has the meaning set forth in Section 20.07(a).

“Rating Agency” means:

(i) each of Fitch and S&P; and

(ii) if either of Fitch or S&P ceases to rate any series of Ares Senior Notes (or, if no Ares Senior Notes are outstanding, ceases to assign a long-term issuer rating to the Corporation) or fails to make a rating of any series of Ares Senior Notes (or, if no Ares Senior Notes are outstanding, the long-term issuer rating of the Corporation) publicly available for reasons outside of the Corporation’s control, a “nationally recognized statistical rating organization” within the meaning of Section 3(a)(62) of the Exchange Act selected by the Board of Directors as a replacement agency for Fitch or S&P, or both, as the case may be.


“Series A Dividend Rate” means 7.00%.

“Series A Holder” means a holder of Series A Preferred Stock.

“Series A Liquidation Preference” means $25.00 per share of Series A Preferred Stock.

“Series A Liquidation Value” means the sum of the Series A Liquidation Preference and declared and unpaid dividends, if any, to, but excluding, the date of the Dissolution Event on the Series A Preferred Stock.

“Series A Record Date” means, with respect to any Dividend Payment Date, the March 15, June 15, September 15 or December 15, as the case may be, immediately preceding the relevant March 31, June 30, September 30 or December 31 Dividend Payment Date, respectively. These Series A Record Dates shall apply regardless of whether a particular Series A Record Date is a Business Day. The Series A Record Dates shall constitute Record Dates with respect to the Series A Preferred Stock for the purpose of dividends on the Series A Preferred Stock.
“Voting Preferred Stock” has the meaning set forth in Section 20.07(a).

Section 20.03 Dividends.

(a) The Series A Holders shall be entitled to receive with respect to each share of Series A Preferred Stock owned by such holder, when, as and if declared by the Board of Directors, or a duly authorized committee thereof, in its sole discretion out of funds legally available therefor, non-cumulative quarterly cash dividends, on the applicable Dividend Payment Date that corresponds to the Record Date for which the Board of Directors has declared a dividend, if any, at a rate per annum equal to the Series A Dividend Rate (subject to Section 20.06(c)) of the Series A Liquidation Preference. Such dividends shall be non-cumulative. If a Dividend Payment Date is not a Business Day, the related dividend (if declared) shall be paid on the next succeeding Business Day with the same force and effect as though paid on such Dividend Payment Date, without any increase to account for the period from such Dividend Payment Date through the date of actual payment. Dividends payable on the Series A Preferred Stock for any period less than a full Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months and the actual number of days elapsed in such period. Declared dividends will be payable on the relevant Dividend Payment Date to Series A Holders as they appear on the Corporation’s register at the close of business, New York City time, on a Series A Record Date, provided that if the Series A Record Date is not a Business Day, the declared dividends will be payable on the relevant Dividend Payment Date to Series A Holders as they appear on the Corporation’s register at the close of business, New York City time on the Business Day immediately preceding such Series A Record Date.

(b) So long as any shares of Series A Preferred Stock are Outstanding, (i) no dividend, whether in cash or property, may be declared or paid or set apart for payment on the Junior Stock for the then-current quarterly Dividend Period (other than dividends paid in Junior Stock or options, warrants or rights to subscribe for or purchase Junior Stock), and (ii) the Corporation and its Subsidiaries shall not directly or indirectly repurchase, redeem or otherwise acquire for consideration any Junior Stock, unless, in each case, dividends have been declared and paid or declared and set apart for payment on the Series A Preferred Stock for the then-current quarterly Dividend Period, other than, in each case, (x) repurchases, redemptions or other acquisitions of Ares Operating Group Units for Class A Common Stock pursuant to the Exchange Agreement or otherwise, (y) grants or vesting of awards under the Corporation’s or its Subsidiaries’ equity incentive plans and (z) repurchases, redemptions or other acquisitions of Junior Stock pursuant to any put or call agreements existing on June 8, 2016 (including any amendments, modifications or replacements thereof that do not adversely affect the Series A Holders).

(c) The Board of Directors, or a duly authorized committee thereof, may, in its sole discretion, choose to pay dividends on the Series A Preferred Stock without the payment of any dividends on any Junior Stock.

(d) When dividends are not declared and paid (or duly provided for) on any Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates pertaining to the Series A Preferred Stock, on a dividend payment date falling within the related Dividend Period) in full upon the Series A Preferred Stock or any Parity Stock, all dividends declared upon the Series A Preferred Stock and all such Parity Stock payable on such Dividend Payment Date (or, in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates, on a dividend payment date falling within the related Dividend Period) shall be declared pro rata so that the respective amounts of such dividends shall bear the same ratio to each other as all declared and unpaid dividends per share on the Series A Preferred Stock and all accumulated unpaid dividends on all Parity Stock payable on such Dividend Payment Date (or in the case of non-cumulative Parity Stock, unpaid dividends for the then-current Dividend Period (whether or not declared) and in the case of Parity Stock having dividend payment dates different from the Dividend Payment Dates pertaining to the Series A Preferred Stock, on a dividend payment date falling within the related Dividend Period) bear to each other.
(e) No dividends may be declared or paid or set apart for payment on any Series A Preferred Stock if at the same time any arrears exist or default exists in the payment of dividends on any Outstanding stock of the Corporation ranking, as to the payment of dividends and distribution of assets upon a Dissolution Event, senior to the Series A Preferred Stock, subject to any applicable terms of such Outstanding stock of the Corporation.

(f) Series A Holders shall not be entitled to any dividends, whether payable in cash or property, other than as provided in this Certificate of Incorporation and shall not be entitled to interest, or any sum in lieu of interest, in respect of any dividend payment, including any such payment which is delayed or foregone.

Section 20.04 **Rank.** The Series A Preferred Stock shall rank, with respect to payment of dividends and distribution of assets upon a Dissolution Event:

(a) junior to all of the Corporation’s existing and future indebtedness and any equity securities, including Preferred Stock, that the Corporation may authorize or issue, the terms of which provide that such securities shall rank senior to the Series A Preferred Stock with respect to payment of dividends and distribution of assets upon a Dissolution Event;

(b) equally to any Parity Stock; and

(c) senior to any Junior Stock.

Section 20.05 **Optional Redemption.**

(a) Except as set forth in Section 20.06, the Series A Preferred Stock shall not be redeemable prior to June 30, 2021. At any time or from time to time on or after June 30, 2021, subject to any limitations that may be imposed by law, the Corporation may, in the sole discretion of the Board of Directors, redeem the Series A Preferred Stock, in whole or in part, at a redemption price equal to the Series A Liquidation Preference per share of Series A Preferred Stock plus an amount equal to declared and unpaid dividends, if any, from the Dividend Payment Date immediately preceding the redemption date to, but excluding, the redemption date. If less than all of the Outstanding Series A Preferred Stock are to be redeemed, the Board of Directors shall select the Series A Preferred Stock to be redeemed from the Outstanding Series A Preferred Stock not previously called for redemption by lot or pro rata (as nearly as possible).

(b) In the event the Corporation shall redeem any or all of the Series A Preferred Stock as aforesaid in Section 20.05(a), the Corporation shall give notice of any such redemption to the Series A Holders (which such notice may be delivered prior to June 30, 2021) not more than 60 nor less than 30 days prior to the date fixed for such redemption. Failure to give notice to any Series A Holder shall not affect the validity of the proceedings for the redemption of any Series A Preferred Stock being redeemed.

(c) Notice having been given as herein provided and so long as funds sufficient to pay the redemption price for all of the Series A Preferred Stock called for redemption have been set aside for payment, from and after the redemption date, such Series A Preferred Stock called for redemption shall no longer be deemed Outstanding, and all rights of the Series A Holders thereof shall cease other than the right to receive the redemption price, without interest.
The Series A Holders shall have no right to require redemption of any Series A Preferred Stock.

Without limiting Section 20.05(c), if the Corporation shall deposit, on or prior to any date fixed for redemption of Series A Preferred Stock (pursuant to notice delivered in accordance with Section 20.05(b)), with any bank or trust company as a trust fund, funds sufficient to redeem the Series A Preferred Stock called for redemption, with irrevocable instructions and authority to such bank or trust company to pay on and after the date fixed for redemption or such earlier date as the Board of Directors may determine, to the respective Series A Holders, the redemption price thereof, then from and after the date of such deposit (although prior to the date fixed for redemption) such Series A Preferred Stock so called shall be deemed to be redeemed and such deposit shall be deemed to constitute full payment of said Series A Preferred Stock to the holders thereof and from and after the date of such deposit said Series A Preferred Stock shall no longer be deemed to be Outstanding, and the holders thereof shall cease to be holders with respect to such Series A Preferred Stock, and shall have no rights with respect thereto except only the right to receive from said bank or trust company, on the redemption date or such earlier date as the Board of Directors may determine, payment of the redemption price of such Series A Preferred Stock without interest.

Section 20.06 Change of Control Redemption.

(a) If a Change of Control Event occurs prior to June 30, 2021, within 60 days of the occurrence of such Change of Control Event, the Corporation may, in the sole discretion of the Board of Directors, redeem the Series A Preferred Stock, in whole but not in part, out of funds legally available therefor, at a redemption price equal to $25.25 per share of Series A Preferred Stock plus an amount equal to any declared and unpaid dividends to, but excluding, the redemption date.

(b) In the event the Corporation elects to redeem all of the Series A Preferred Stock as aforesaid in Section 20.06(a), the Corporation shall give notice of any such redemption to the Series A Holders at least 30 days (and no more than 60) prior to the date fixed for such redemption.

(c) If (i) a Change of Control Event occurs (whether before, on or after June 30, 2021) and (ii) the Corporation does not give notice to the Series A Holders prior to the 31st day following the Change of Control Event to redeem all the Outstanding Series A Preferred Stock, the Series A Dividend Rate shall increase by 5.00%, beginning on the 31st day following the consummation of such Change of Control Event.

(d) In connection with any Change of Control and any particular reduction in the rating on a series of the Ares Senior Notes (or, if no Ares Senior Notes are outstanding, a reduction in the Corporation’s long-term issuer rating), the Board of Directors shall request from the Rating Agencies each such Rating Agency’s written confirmation whether such reduction in the rating on each such series of Ares Senior Notes (or, if no Ares Senior Notes are outstanding, the Corporation’s long-term issuer rating) was the result, in whole or in part, of any event or circumstance comprised of or arising as a result of, or in respect of, the applicable Change of Control (whether or not the applicable Change of Control shall have occurred at the time of any Below Investment Grade Rating Event).

(e) The Series A Holders shall have no right to require redemption of any Series A Preferred Stock pursuant to this Section 20.06.
Section 20.07 Voting.

(a) Notwithstanding any provision in this Certificate of Incorporation to the contrary, and except as set forth in this Section 20.07, the Series A Preferred Stock shall not have any relative, participating, optional or other voting, consent or approval rights or powers, and the vote, consent or approval of the Series A Holders shall not be required for the taking of any action or inaction by the Corporation. If and whenever six quarterly dividends (whether or not consecutive) payable on the Series A Preferred Stock or six quarterly dividends (whether or not consecutive) payable on any series or class of Parity Stock have not been declared and paid (a “Nonpayment Event”), the number of directors then constituting the Board of Directors shall automatically be increased by two and the Series A Holders, voting together as a single class with the holders of any other class or series of Parity Stock then outstanding upon which voting rights have been conferred and are exercisable (any such other class or series, “Voting Preferred Stock”), shall have the right to elect these two additional directors (the “Preferred Directors”) at a meeting of the Series A Holders and the holders of such Voting Preferred Stock called as hereafter provided; provided, that the Board of Directors shall at no time include more than two Preferred Directors. When quarterly dividends have been declared and paid on the Series A Preferred Stock for four consecutive Dividend Periods following the Nonpayment Event, then the right of the Series A Holders and the holders of such Voting Preferred Stock to elect the two Preferred Directors shall cease and the terms of office of all Preferred Directors shall forthwith terminate immediately and the number of directors constituting the whole Board of Directors automatically shall be reduced by two. However, the right of the Series A Holders and the holders of the Voting Preferred Stock to elect two additional directors on the Board of Directors shall again vest if and whenever a Nonpayment Event has occurred, as described above.

(b) If a Nonpayment Event or a subsequent Nonpayment Event shall have occurred, the Secretary of the Corporation may, and upon the written request of any Series A Holder (addressed to the Secretary at the principal office of the Corporation) shall, call a special meeting of the Series A Holders and holders of the Voting Preferred Stock for the election of the Preferred Directors to be elected by them. The Preferred Directors elected at any such special meeting shall hold office until the next annual meeting or special meeting held in lieu thereof if such office shall not have previously terminated as above provided. The Board of Directors shall, in its sole discretion, determine a date for a special meeting applying procedures consistent with Article XVI in connection with the expiration of the term of the Preferred Directors. The Series A Holders and holders of the Voting Preferred Stock, voting together as a class, may remove any Preferred Director. If any vacancy shall occur among the Preferred Directors, a successor shall be elected by the Board of Directors, upon the nomination of the then-remaining Preferred Director or the successor of such remaining Preferred Director, to serve until the next special meeting (convened as set forth in the immediately preceding sentence) held in place thereof if such office shall not have previously terminated as above provided. Except to the extent expressly provided otherwise in this Section 20.07, any such annual or special meeting shall be called and held applying procedures consistent with Article XVI as if references to stockholders of the Corporation were references to Series A Holders and holders of Voting Preferred Stock.

(c) Notwithstanding anything to the contrary in Article IX, XI or XVI but subject to Section 20.07(d), so long as any shares of Series A Preferred Stock are Outstanding, the affirmative vote of at least 66-2/3% of the votes entitled to be cast by the Series A Holders and holders of the Voting Preferred Stock, at the time Outstanding, voting as a single class regardless of series, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary:

(i) to amend, alter or repeal any of the provisions of this Article XX relating to the Series A Preferred Stock or any series of Voting Preferred Stock, whether by merger, consolidation or otherwise, to affect materially and adversely the voting powers, rights or preferences of the Series A Holders or holders of the Voting Preferred Stock; and
(ii) to authorize, create or increase the authorized amount of, any class or series of Preferred Stock having rights
senior to the Series A Preferred Stock with respect to the payment of dividends or amounts upon any Dissolution Event; provided,
however, that,

(X) in the case of subparagraph (i) above, no such vote of the Series A Holders or the holders of the Voting
Preferred Stock, as the case may be, shall be required if in connection with any such amendment, alteration or
repeal, by merger, consolidation or otherwise, each share of Series A Preferred Stock and Voting Preferred
Stock remains Outstanding without the terms thereof being materially and adversely changed in any respect to
the holders thereof or is converted into or exchanged for preferred equity securities of the surviving entity
having the voting powers, rights or preferences thereof substantially similar to those of such Series A
Preferred Stock or the Voting Preferred Stock, as the case may be;

(Y) in the case of subparagraph (i) above, if such amendment affects materially and adversely the voting powers,
rights or preferences of one or more but not all of the classes or series of Voting Preferred Stock and the Series
A Preferred Stock at the time Outstanding, the affirmative vote of at least 66-2/3% of the votes entitled to be
cast by the holders of all such classes or series of Voting Preferred Stock and the Series A Preferred Stock so
affected, voting as a single class regardless of class or series, given in person or by proxy, either in writing
without a meeting or by vote at any meeting called for the purpose, shall be required in lieu of (or, if such
consent is required by law, in addition to) the affirmative vote of at least 66-2/3% of the votes entitled to be
cast by the holders of the Voting Preferred Stock and the Series A Holders otherwise entitled to vote as a
single class in accordance herewith; and

(Z) in the case of subparagraph (i) or (ii) above, no such vote of the Series A Holders or holders of the Voting
Preferred Stock, as the case may be, shall be required if, at or prior to the time when such action is to take
effect, provision is made for the redemption of all Series A Preferred Stock or Voting Preferred Stock, as the
case may be, at the time Outstanding.

(d) For the purposes of this Section 20.07, neither:

(i) the amendment of provisions of this Certificate of Incorporation so as to authorize or create or issue, or to
increase the authorized amount of, any Junior Stock or any Parity Stock; nor (ii) any merger, consolidation or otherwise, in which (1) the
Corporation is the surviving entity and the Series A Preferred Stock remains Outstanding with the terms thereof materially unchanged in
any respect adverse to the holders thereof; or (2) the resulting, surviving or transferee entity is organized under the laws of any state and
substitutes or exchanges the Series A Preferred Stock for other preferred equity securities having voting powers, rights and preferences
(including with respect to redemption thereof) substantially similar to that of the Series A Preferred Stock under this Certificate of
Incorporation (except for changes that do not materially and adversely affect the Series A Preferred Stock considered as a whole) shall be
deemed to materially and adversely affect the voting powers, rights or preferences of the Series A Holders or holders of Voting Preferred
Stock.
For purposes of the foregoing provisions of this Section 20.07, each Series A Holder shall have one vote per share of Series A
Preferred Stock, except that when any other series of Preferred Stock shall have the right to vote with the Series A Preferred Stock as a single class
on any matter, then the Series A Holders and the holders of such other series of Preferred Stock shall have with respect to such matters one vote
per $25.00 of stated liquidation preference.

The Corporation may, from time to time, without notice to or consent of the Series A Holders or holders of other Parity Stock, issue additional shares of Series A Preferred Stock.

Section 20.08 Liquidation Rights.

(a) Upon any Dissolution Event, after payment or provision for the liabilities of the Corporation (including the expenses of such
Dissolution Event) and the satisfaction of all claims ranking senior to the Series A Preferred Stock in accordance with Section 5.04, the Series A
Holders shall be entitled to receive out of the assets of the Corporation or proceeds thereof available for distribution to stockholders of the
Corporation, before any payment or distribution of assets is made in respect of Junior Stock, distributions equal to the Series A Liquidation Value, pro rata based on the full respective distributable amounts to which each Series A Holder is entitled pursuant to this Section 20.08(a).

(b) Upon a Dissolution Event, after each Series A Holder receives a payment equal to the Series A Liquidation Value, such Series
A Holder shall not be entitled to any further participation in any distribution of assets by the Corporation.

(c) If the assets of the Corporation available for distribution upon a Dissolution Event are insufficient to pay in full the aggregate
amount payable to the Series A Holders and holders of all other Outstanding Parity Stock, if any, such assets shall be distributed to the Series A
Holders and the holders of such Parity Stock pro rata, based on the full respective distributable amounts to which each such holder is entitled pursuant to this Section 20.08.

(d) Nothing in this Section 20.08 shall be understood to entitle the Series A Holders to be paid any amount upon the occurrence
of a Dissolution Event until holders of any classes or series of stock ranking, as to the distribution of assets upon a Dissolution Event, senior to
the Series A Preferred Stock have been paid all amounts to which such classes or series of stock are entitled.

(e) Neither the sale, conveyance, exchange or transfer, for cash, stock, securities or other consideration, of all or substantially all
of the Corporation’s property or assets nor the consolidation, merger or amalgamation of the Corporation with or into any other entity or the
consolidation, merger or amalgamation of any other entity with or into the Corporation shall be deemed to be a Dissolution Event, notwithstanding
that for other purposes, such as for tax purposes, such an event may constitute a liquidation, dissolution or winding up. In addition,
notwithstanding anything to the contrary in this Section 20.08, no payment will be made to the Series A Holders pursuant to this Section 20.08 (i)
upon the voluntary or involuntary liquidation, dissolution or winding up of any of the Corporation’s Subsidiaries or upon any reorganization of
the Corporation into another limited liability entity pursuant to the provisions of this Certificate of Incorporation that allow the Corporation to
merge or convey its assets to another limited liability entity pursuant to the provisions of this Certificate of Incorporation that allow the Corporation to
issue equity securities to the Series A Holders that have voting powers, rights and preferences that are substantially similar to the voting powers, rights and preferences of the Series A Preferred Stock pursuant to provisions of this Certificate of Incorporation that allow the Corporation to do so without approval of the stockholders of the Corporation.
Section 20.09  

Notwithstanding anything to the contrary in this Certificate of Incorporation, to the fullest extent permitted by law, no Indemnitee shall have any duties or liabilities to the Series A Holders.

ARTICLE XXI  
DEFINITIONS

Section 21.01  

Definitions. The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Certificate of Incorporation:

“Affiliate” means, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with, the Person in question.

“Ares Company” means (i) the Corporation, (ii) the Former General Partner, (iii) Ares VoteCo, (iv) any entity that is or becomes part of the Ares Operating Group and (v) any entity in which any of the foregoing directly or indirectly owns a majority interest or which any of the foregoing controls, or through which any of the foregoing directly or indirectly manages, directs or invests in any fund, investment vehicle or account, but excluding any fund, investment vehicle or account.

“Ares Holdings” means Ares Holdings L.P., a Delaware limited partnership.

“Ares Investments” means Ares Investments L.P., a Delaware limited partnership.

“Ares Offshore” means Ares Offshore Holdings L.P., a Cayman Islands exempted limited partnership.

“Ares Operating Group” means, collectively, Ares Holdings, Ares Investments and Ares Offshore and any future entity designated by the Board of Directors in its sole discretion as an Ares Operating Group entity for purposes of this Certificate of Incorporation.

“Ares Operating Group Governing Agreements” means, collectively, the Third Amended and Restated Agreement of Limited Partnership of Ares Holdings, the Third Amended and Restated Agreement of Limited Partnership of Ares Investments and the Fourth Amended and Restated Agreement of Limited Partnership of Ares Offshore (and the governing agreement then in effect of any future entity designated as an Ares Operating Group entity hereunder).

“Ares Operating Group Limited Partner” means each Person that becomes a limited partner of an Ares Operating Group entity pursuant to the terms of the relevant Ares Operating Group Governing Agreement.

“Ares Operating Group Unit” means, collectively, one “Class A Unit” in each of Ares Holdings, Ares Investments and Ares Offshore (and any future entity designated as an Ares Operating Group entity hereunder) issued under its respective Ares Operating Group Governing Agreement.

“Ares Owners Class Issuer Unit” has the meaning given to “Class Issuer Unit” in the Ares Owners LP Agreement.
“Ares Owners LP” means Ares Owners Holdings L.P., a Delaware limited partnership.


“Ares Ownership Condition” on any date means that, as of the January 31 immediately preceding such date, the Board of Directors has determined that the voting power held collectively by (a) the Record Holders of Class C Common Stock, (b) persons that were formerly employed by or had provided services to (including as a director), or are then employed by or providing services to (including as a director), the Corporation or any of its Affiliates, (c) any estate, trust, corporation, partnership or limited liability company or other entity of any kind or nature of which any person listed in clause (b) is a trustee, other fiduciary, manager, partner, member, officer, director or party, respectively, (d) any estate, trust, corporation, partnership or limited liability company or other entity of any kind or nature for the direct or indirect benefit of the spouse, parents, siblings or children of, or any other natural person who occupies the same principal residence as, any person listed in clause (b), and the spouses, ancestors or descendants of each of the foregoing, and (e) Ares Owners LP is at least 10% of the voting power of the Outstanding Designated Stock (treating as Outstanding and held by any such persons, any Common Stock of the Corporation deliverable pursuant to any equity awards granted to such persons).

“Ares Partners Holdco” means Ares Partners Holdco LLC, a Delaware limited liability company.

“Ares VoteCo” means Ares Voting LLC, a Delaware limited liability company.

“Associate” means, when used to indicate a relationship with any Person, (a) any corporation or organization of which such Person is a member, manager, director, officer or partner or is, directly or indirectly, the owner of 20% or more of any class of voting stock or other voting interest; (b) any trust or other estate in which such Person has at least a 20% beneficial interest or as to which such Person serves as trustee or in a similar fiduciary capacity; and (c) any relative or spouse of such Person, or any relative of such spouse, who has the same principal residence as such Person.

“beneficial owner” has the meaning assigned to such term in Rules 13d-3 and 13d-5 under the Exchange Act (and “beneficially own” and “beneficial ownership” shall have correlative meanings).

“Board of Directors” means the Board of Directors of the Corporation.

“Business Combination” has the meaning assigned to such term in Section 9.01.

“Business Day” means each day that is not a Saturday, Sunday or other day on which banking institutions in New York, New York are authorized or required by law to close.

“Bylaws” means the bylaws of the Corporation as in effect from time to time.

“Certificate” means a certificate issued in global form in accordance with the rules and regulations of the Depositary or in such other form as may be adopted by the Board of Directors, issued by the Corporation evidencing ownership of one or more shares of Common Stock or Preferred Stock or a certificate, in such form as may be adopted by the Board of Directors, issued by the Corporation evidencing ownership of one or more other classes of stock of the Corporation.

“Certificate of Designation” means a certificate of designation relating to any series of Preferred Stock.
“Class A Common Stock” has the meaning assigned to such term in Section 4.01(a)(i).

“Class B Common Stock” has the meaning assigned to such term in Section 4.01(a)(ii).

“Class C Common Stock” has the meaning assigned to such term in Section 4.01(a)(iii).

“Closing Price” for any day means the last sale price on such day, regular way, or in case no such sale takes place on such day, the average of the closing bid and asked prices on such day, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted for trading on the principal National Securities Exchange on which such class of stock of the Corporation is listed or admitted to trading or, if such class of stock of the Corporation is not listed or admitted to trading on any National Securities Exchange, the last quoted price on such day or, if not so quoted, the average of the high bid and low asked prices on such day in the over-the-counter market, as reported by the primary reporting system then in use in relation to such class of stock of the Corporation, or, if on any such day such class of stock of the Corporation is not quoted by any such organization, the average of the closing bid and asked prices on such day as furnished by a professional market maker making a market in such class of stock of the Corporation selected by the Corporation in its sole discretion, or if on any such day no market maker is making a market in such class of stock of the Corporation, the fair value of such class of stock of the Corporation on such day as determined by the Corporation in its sole discretion.


“Commission” means the U.S. Securities and Exchange Commission.

“Common Stock” means the Class A Common Stock, the Class B Common Stock, the Class C Common Stock and Non-Voting Common Stock.

“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“Corporate Group” means the Corporation and its Subsidiaries treated as a single consolidated entity.

“Corporation” has the meaning assigned to such term in Article I.

“Corresponding Rate” means the number of shares of Class A Common Stock that would be forfeited or cancelled upon the forfeiture or cancellation of Ares Owners Class Issuer Units pursuant to any agreements governing such Ares Owners Class Issuer Units. The Corresponding Rate shall initially be 1 for 1. The Corresponding Rate shall be adjusted accordingly by the Board of Directors in its sole discretion if there is: (a) any subdivision (by any share split, share distribution, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse share split, reclassification, reorganization, recapitalization or otherwise) of the Class A Common Stock that is not accompanied by an identical subdivision or combination of the Ares Owners Class Issuer Units; or (b) any subdivision (by any unit split, unit distribution, reclassification, reorganization, recapitalization or otherwise) or combination (by reverse unit split, reclassification, reorganization, recapitalization or otherwise) of the Ares Owners Class Issuer Units that is not accompanied by an identical subdivision or combination of the Class A Common Stock.
“Current Market Price” for any class of stock of the Corporation means the average of the daily Closing Prices per share of such class for the 20 consecutive Trading Days immediately prior to the date of determination.

“Depositary” means, with respect to any shares of stock of the Corporation issued in global form, The Depository Trust Company.

“Designated Stock” means the Class A Common Stock, the Class C Common Stock and any other stock of the Corporation that is designated as “Designated Stock” from time to time pursuant to this Certificate of Incorporation or any Certificate of Designation.

“Determination” means any determination, evaluation, election, decision, approval, authorization, consent or other action.

“DGCL” means the Delaware General Corporation Law, as the same exists or as may hereafter be amended from time to time.

“Dissolution Event” means an event giving rise to the dissolution of the Corporation.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended, supplemented or restated from time to time and any successor to such statute.

“Exchange Agreement” means the Fourth Amended and Restated Exchange Agreement, dated as of November 26, 2018, by and among the Corporation and the other parties thereto, as amended.

“Exchange Rate” means the number of shares of Class A Common Stock for which an Ares Operating Group Unit is entitled to be exchanged pursuant to the Exchange Agreement.

“Family Member” means, with respect to any individual, such individual’s spouse, domestic partner, parents, parents-in-law, siblings, children, grandchildren and any other natural person who occupies the same principal residence as such individual, and the spouses, domestic partners, descendants and ancestors of each of the foregoing.

“Fiscal Year” has the meaning assigned to such term in Section 17.02.

“Former General Partner” means Ares Management GP LLC, a Delaware limited liability company, in its capacity as the former general partner of the Partnership and any successor or permitted assign.

“Fund” means any fund, investment vehicle or account whose investments are managed or advised by the Corporation or another Group Member.

“Group” means a Person that with or through any of its Affiliates or Associates has any contract, arrangement, understanding or relationship for the purpose of acquiring, holding, voting, exercising investment power or disposing of any stock of the Corporation with any other Person that beneficially owns, or whose Affiliates or Associates beneficially own, directly or indirectly, stock of the Corporation.

“Group Member” means a member of the Corporate Group.

“Holdco Member” means any Person who is, was or will be a member of Ares Partners Holdco.
“Indemnitee” means, to the fullest extent permitted by law, (a) each member of the Board of Directors and officer of the Corporation, (b) each Record Holder of Class B Common Stock, (c) the Former General Partner, (d) any Person who is or was a “tax matters partner” (as defined in the Code prior to amendment by P.L. 114-74) or “partnership representative” (as defined in Section 6223 of the Code after amendment by P.L. 114-74), member, manager, officer or director of any Record Holder of Class B Common Stock or the Former General Partner, (e) any member, manager, officer or director of any Record Holder of Class B Common Stock or the Former General Partner who is or was serving at the request of any Record Holder of Class B Common Stock or the Former General Partner as a director, officer, manager, employee, trustee, fiduciary, partner, tax matters partner, partnership representative, member, representative, agent or advisor of another Person; provided that a Person shall not be an Indemnitee by reason of providing, on a fee-for-services basis or similar arm’s-length compensatory basis, agency, advisory, consulting, trustee, fiduciary or custodial services, (f) any Person who controls any Record Holder of Class B Common Stock or the Former General Partner and (g) any Person a Record Holder of Class B Common Stock, in its sole discretion, designates as an “Indemnitee.”

“Initial Annual Meeting” means the first annual meeting of stockholders held following any January 31 on which the Board of Directors is classified in accordance with Section 6.04(b)(i).

“Losses” means all losses, claims, damages, liabilities, joint or several, expenses (including legal fees and expenses), judgments, fines, penalties, interest, and settlements.

“Merger Agreement” means a written agreement of merger, consolidation or other business combination.

“National Securities Exchange” means an exchange registered with the Commission under Section 6(a) of the Exchange Act and any other securities exchange (whether or not registered with the Commission under Section 6(a) of the Exchange Act) that the Board of Directors shall designate as a National Securities Exchange for purposes of this Certificate of Incorporation and the Bylaws.

“Notice of Election to Purchase” has the meaning assigned to such term in Section 10.01(b).

“Opinion of Counsel” means a written opinion of counsel or, in the case of tax matters, a qualified tax advisor (who may be regular counsel or tax adviser, as the case may be, to the Corporation or any of its Affiliates) acceptable to the Board of Directors in its discretion.

“Original Class C Common Stockholder” means Ares VoteCo, so long as it is a Record Holder of Class C Common Stock.

“Outstanding” means all shares of stock of the Corporation reflected as outstanding on the Corporation’s books and records as of the date of determination. Notwithstanding the foregoing, unless otherwise required by law, if at any time any Person or Group beneficially owns 20% or more of any class of stock outstanding, no shares of stock owned by such Person or Group shall be entitled to be voted on any matter or shall be considered to be Outstanding when sending notices of a meeting of stockholders of the Corporation to vote on any matter, calculating required votes or determining the presence of a quorum under this Certificate of Incorporation or the DGCL (and such shares of stock shall not, however, be treated as a separate class of stock for purposes of this Certificate of Incorporation or the DGCL). To the fullest extent permitted by applicable law, the foregoing limitation shall not apply to (a) any Record Holder of Class B Common Stock, Ares Owners LP, any Holdco Member or any of their respective Affiliates, (b) any Person or Group who acquired 20% or more of any shares of stock of any class then Outstanding (i) directly from a Record Holder of Class B Common Stock or any of its Affiliates, (ii) directly or indirectly from a Person or Group described in clause (b)(i) so long as the Board of Directors shall have notified such Person or Group in writing that such limitation shall not apply or (iii) with the prior approval of the Board of Directors or (c) any Record Holder of Non-Voting Common Stock. The determinations of the matters described in clauses (b)(i), (ii) and (iii) of the foregoing sentence shall be conclusively determined by the Board of Directors in its sole discretion, which determination shall be final and binding on all stockholders of the Corporation. The provisions of the second sentence of this definition shall not apply to the Class B Common Stock or the Class C Common Stock.
“Partnership” means Ares Management, L.P., a Delaware limited partnership.

“Person” means an individual or a corporation, limited liability company, partnership, joint venture, trust, unincorporated organization, association (including any group, organization, co-tenancy, plan, board, council or committee), government (including a country, state, county, or any other governmental or political subdivision, agency or instrumentality thereof) or other entity (or series thereof).

“Preferred Stock” has the meaning set forth in Section 4.01(a)(iv).

“Proceeding” means any claim, demand, action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal, and including appeals.

“Purchase Date” means the date determined by the Corporation as the date for purchase of stock pursuant to Article X.

“Record Date” means (a) with respect to holders of Common Stock, the date and time established by the Board of Directors pursuant to the Bylaws or, if no such date and time is established by the Board of Directors, as provided by applicable law and (b) with respect to Preferred Stock, the date set forth in this Certificate of Incorporation (including any Certificate of Designation), or if none, the date and time established by the Board of Directors pursuant to the Bylaws or, if no such date and time is established by the Board of Directors, as provided by applicable law.

“Record Holder” means the Person in whose name a share of stock of the Corporation is registered on the books of the Corporation or, if such books are maintained by the Transfer Agent, on the books of the Transfer Agent, in each case, as of the Record Date, as applicable.

“Registration Statement” means the Registration Statement on Form S-1 (Registration No. 333-194919), filed by the Partnership with the Commission under the Securities Act.

“Related Party” means, with respect to any Person, (a) any Family Member of such Person, (b) any estate, trust, corporation, partnership, limited liability company or other Person (other than any Person of which the Former General Partner or the Corporation is a direct or indirect partner, member or manager) for the primary benefit of such Person or the Family Members of such Person, and (c) any estate, trust, corporation, partnership, limited liability company or other Person (other than any (i) Person of which the Former General Partner or the Corporation is a direct or indirect partner, member or manager or (ii) Person with securities registered under Section 12 or subject to Section 15(d) of the Securities Exchange Act of 1934) of which such Person or any Family Member of such Person is a trustee or other fiduciary.

“Ressler” means Antony P. Ressler, an individual.

“Ressler Successor” means a natural person designated by Ressler as such in writing to the members or the Secretary of Ares Partners Holdco from time to time (which writing may provide for successive natural persons to serve as the Ressler Successor or as the successor to the Ressler Successor) if a natural person previously designated as the Ressler Successor resigns or otherwise ceases to act as the Ressler Successor; provided that if Ressler does not designate a successor to the then acting Ressler Successor, such Ressler Successor may designate a successor in the same manner as Ressler.
“Ressler Termination Event” means the earlier of the date on which:

(a) Ressler and his Related Parties no longer collectively own a number of shares of Class A Common Stock and Ares Operating Group Units equal to 10% of the number of Ares Operating Group Units outstanding immediately after the consummation of the Partnership’s initial public offering and sale of common units, as contemplated by the Partnership’s Registration Statement on Form S-1 (File No. 333-194919), in each case, subject to appropriate adjustment for any stock split, Stock Dividend, reclassification, subdivision, reorganization, recapitalization or similar event, and

(b) Ressler becomes a Withdrawn Member of Ares Partners Holdco.

For purposes of this definition, Ressler and his Related Parties shall be deemed to own Class A Common Stock and Ares Operating Group Units that are deliverable to such Person (or the net proceeds from the sale of which are deliverable to such Person) pursuant to the Ares Owners LP Agreement, the Exchange Agreement or any other exchange agreement with an Ares Company, in each case, without regard to any vesting, transfer or similar restrictions set forth therein.

“Securities Act” means the U.S. Securities Act of 1933.

“Series A Preferred Stock” has the meaning set forth in Section 4.01(a)(iv).

“Stock Dividend” means any dividend payable in shares of the Corporation’s capital stock or rights, options or warrants to purchase or otherwise acquire the Corporation’s capital stock.

“Subsidiary” means, with respect to any Person, (a) a corporation of which more than 50% of the voting power of shares entitled (without regard to the occurrence of any contingency) to vote in the election of directors or other governing body of such corporation is owned, directly or indirectly, at the date of determination, by such Person, by one or more Subsidiaries of such Person or a combination thereof, (b) a partnership (whether general or limited) in which such Person or a Subsidiary of such Person is, at the date of determination, a general or limited partner of such partnership, but only if more than 50% of the partnership interests of such partnership (considering all of the partnership interests of the partnership as a single class) is owned, directly or indirectly, at the date of determination, by such Person, by one or more Subsidiaries of such Person, or a combination thereof, (c) any other Person (other than a corporation or a partnership) in which such Person, one or more Subsidiaries of such Person, or a combination thereof, directly or indirectly, at the date of determination, has (i) at least a majority ownership interest or (ii) the power to elect or direct the election of a majority of the directors or other governing body of such Person or (d) any other Person the financial information of which is consolidated by such Person for financial reporting purposes under U.S. GAAP. Each of the Ares Operating Group entities is a Subsidiary of the Corporation.

“Supplemental Agreement” means, with respect to any stockholder of the Corporation, any grant letter, fair competition agreement or other agreement with such stockholder containing terms modifying or otherwise affecting the rights or obligations of such stockholder or with respect to such stockholder’s shares of stock of the Corporation.
“Trading Day” means a day on which the principal National Securities Exchange on which such stock of the Corporation of any class is listed or admitted to trading is open for the transaction of business or, if a class of stock of the Corporation is not listed or admitted to trading on any National Securities Exchange, a day on which banking institutions in New York, New York generally are open.

“transfer” when used in this Certificate of Incorporation with respect to shares of stock of the Corporation, has the meaning assigned to such term in Section 7.04(a).

“Transfer Agent” means, with respect to any class or series of stock, such bank, trust company or other Person as shall be appointed from time to time by the Board of Directors to act as registrar and transfer agent for such class or series of stock.

“U.S. GAAP” means U.S. generally accepted accounting principles consistently applied.

“voting securities” shall have the meaning set forth in 12 C.F.R. §225.2(q) or any successor provision.

“Widely Dispersed Offering” means a transfer by any holder of shares of Non-Voting Common Stock of shares of Non-Voting Common Stock: (i) pursuant to a widespread public distribution, including any public offering or public sale of securities of the Corporation (including a public offering registered under the Securities Act of 1933 and a public sale pursuant to Rule 144 of the Securities and Exchange Commission or any similar rule then in force), (ii) to a person if, after such transfer, such person would own or control more than 50% of the outstanding voting securities of the Corporation, without any transfer from any holder of Non-Voting Common Stock (including pursuant to a merger, consolidation or similar transaction involving the Corporation, if, after such transaction, a person would own or control more than 50% of the outstanding voting securities of the Corporation (provided that the transaction has been approved by the Board of Directors or a duly authorized committee thereof)); or (iii) to a person or group of associated persons (within the meaning of the Exchange Act) in a transaction or series of related transactions in which no transferee would receive in such transaction or series of related transactions more than 2% of any class of voting securities of the Corporation.

“Withdrawn Member” means a Person who ceases to be a member of Ares Partners Holdco.

ARTICLE XXII
INCORPORATOR

The incorporator of the Corporation is Ares Management GP LLC, a Delaware limited liability company, whose mailing address is 2000 Avenue of the Stars, 12th Floor, Los Angeles, CA 90067.

ARTICLE XXIII
MISCELLANEOUS

Section 23.01 Invalidity of Provisions. If any provision of this Certificate of Incorporation is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.
Section 23.02 Interpretation.

(a) Unless a clear contrary intention appears: (i) the defined terms herein shall apply equally to both the singular and plural forms of such terms; (ii) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Certificate of Incorporation, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually; (iii) any pronoun shall include the corresponding masculine, feminine and neuter forms; (iv) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (v) reference to any law, rule or regulation means such law, rule or regulation as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any law, rule or regulation means that provision of such law, rule or regulation from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision; (vi) “hereunder,” “hereof,” “hereto,” and words of similar import shall be deemed references to this Certificate of Incorporation as a whole and not to any particular article, section or other provision hereof; (vii) numbered or lettered articles, sections and subsections herein contained refer to articles, sections and subsections of this Certificate of Incorporation; (viii) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term; (ix) “or” is used in the inclusive sense of “and/or”; (x) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto; and (xi) reference to dollars or $ shall be deemed to refer to U.S. dollars.

(b) All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Certificate of Incorporation.

** * **

[Remainder of Page Intentionally Left Blank]
IN WITNESS WHEREOF, the undersigned authorized officer of the Corporation has executed this Restated Certificate of Incorporation on this [ ] day of [ ], 2020.

By: ________________________________

Name: ________________________________
Title: ________________________________

[Signature Page to Restated Certificate of Incorporation – Ares Management Corporation]

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Section 3: EX-10.1 (EXHIBIT 10.1)

SHARE PURCHASE AGREEMENT

by and between

SUMITOMO MITSUI BANKING CORPORATION

and

ARES MANAGEMENT CORPORATION

March 27, 2020

Exhibit 10.1
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SHARE PURCHASE AGREEMENT

SHARE PURCHASE AGREEMENT (this “Agreement”), dated as of March 27, 2020, by and between Sumitomo Mitsui Banking Corporation, a Japanese joint stock company (the “Investor”), and Ares Management Corporation, a Delaware corporation (the “Company”).

WHEREAS, the Investor and the Company desire to collaborate across three areas which are expected to strengthen the existing businesses of the Company and the Investor and their respective Affiliates’ and enhance each such Person’s ability to support its clients’ needs on a global basis. In connection therewith, the Investor and the Company plan to: (i) enter into a strategic distribution agreement to market the Company’s investment products to the Investor’s clients in the Japanese market, (ii) utilize the Investor’s and its Affiliates’ capital to make investments that will support the launch of certain new businesses, and accelerate the advancement of certain existing platforms, of the Company, with a particular focus on private credit markets, and (iii) coordinate on certain capital markets financing activities in the US and Asian leveraged finance markets;

WHEREAS, the Investor and the Company intend to enter into, on the Closing Date, the Investor Rights Agreement whereby the Company and the Investor will agree to certain matters with respect to the Investor’s investment in the Company;

WHEREAS, the Investor desires to purchase from the Company, and the Company desires to issue and sell to the Investor, 12,130,540 shares (the “Shares”) of newly issued Class A Common Stock, par value $0.01 per share, of the Company (“Common Stock”), on the terms and subject to the conditions contained in this Agreement (such purchase and sale of the Shares, the “Share Purchase”);

WHEREAS, the Investor and the Company desire to make certain representations, warranties, covenants and agreements in connection with the Share Purchase; and

WHEREAS, each of the Investor and the Company has approved the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby by it in accordance with applicable Law, upon the terms and conditions contained herein.
NOW THEREFORE, in consideration of the mutual agreements, representations, warranties and covenants herein contained, the parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

“Action” shall mean any legal, governmental or regulatory investigation, action, suit, litigation, arbitration, administrative proceeding or other proceeding by or before any Governmental Entity.

“Advisers Act” shall mean the Investment Advisers Act of 1940, 15 USC § 80b-1 et seq., as amended, and the rules, regulations and interpretations promulgated thereunder.

“Affiliate” shall mean, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such specified Person. Notwithstanding the foregoing, (a) the Company and the Investor shall not be deemed to be Affiliates of each other and (b) any portfolio company or investment of, or special purpose entity formed to acquire any portfolio company or investment of the Ares Funds shall not be deemed to be an Affiliate of the Company, or the Investor.

“Amended and Restated Charter” means the amended and restated certificate of incorporation of the Company, substantially in the form attached to this Agreement as Exhibit A.

“Amended and Restated Charter Requirements” shall mean: (i) the filing of a Definitive Information Statement on Schedule 14C relating to the Amended and Restated Charter with the SEC (the “Information Statement”) and (ii) the expiration of the twenty (20) calendar day period following the filing of the Information Statement.

“AOG Class A Unit” shall mean an “Ares Operating Group Unit” as defined in the Certificate of Incorporation.

“Ares Equity Incentive Plan” shall mean the Ares 2014 Equity Incentive Plan described in the SEC Reports.

“Ares Funds” shall mean, collectively, all Funds (excluding their portfolio companies and investments and all special purpose entities formed to acquire any such portfolio companies and investments, including collateralized loan obligations) (i) sponsored or promoted by the Company or any of its Subsidiaries or (ii) for which the Company or any of its Subsidiaries acts as (A) a general partner or managing member (or in a similar capacity) or (B) an investment adviser or investment manager.

“Ares Operating Group Partnerships” shall mean Ares Holdings L.P., a Delaware limited partnership, Ares Offshore Holdings L.P., a Cayman Islands exempted limited partnership and Ares Investments L.P., a Delaware limited partnership.

“AST” shall mean American Stock Transfer & Trust Company, LLC.

“Board” shall mean the Board of Directors of the Company.

“Business Day” shall mean any day, other than a Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or Tokyo, Japan, or is a day on which banking institutions located in the State of New York or Tokyo, Japan are authorized or required by Law or other governmental action to close.

“Class C Common Stock” shall mean the Company’s Class C common stock, $0.01 par value per share.
“control” (including the terms “controlling,” “controlled by” and “under common control with”) with respect to any Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of Equity Securities, by contract or otherwise.

“Delaware Secretary” means the Secretary of State for the State of Delaware.

“Equity Securities” shall mean, with respect to any Person, (i) shares of stock, partnership interests or limited liability company interests (however designated, whether voting or non-voting) (“Capital Stock”) or other equity or voting interest in, such Person, (ii) any securities convertible into or exchangeable for shares of Capital Stock of, or other equity or voting interest in, such Person, and (iii) options, warrants, rights or other commitments or agreements to acquire from such Person, or that obligates such Person to issue, any Capital Stock of, or other equity or voting interest in, any securities convertible into or exchangeable for shares of Capital Stock of, or other equity or voting interest in, such Person.


“Fund” shall mean any collective investment vehicle (whether open-ended or closed-ended) including an investment company, a general or limited partnership, a trust and any other business entity or investment vehicle organized in any jurisdiction that provides for management fees or “carried interest” (or other similar profits allocations) to be borne by investors therein; provided that “Fund” shall not include any investment vehicle or account for which the Company or any of its Subsidiaries would not be deemed an Affiliate.

“GAAP” shall mean U.S. generally accepted accounting principles.

“Governmental Entity” means any (a) international, supranational, national, provincial, regional, federal, state, municipal, local or other government, (b) administrative, regulatory or self-regulatory agency, commission, body, task force or other authority (including any securities exchange, banking institution or other self-regulatory organization in the securities, financial services, investment or commodity industries, including NYSE), (c) quasi-governmental or private body exercising any regulatory, Tax or other governmental authority, (d) other Person that is treated as a “government entity” under the Advisers Act or (e) instrumentality, subdivision, court, tribunal or judicial or arbitral body of any Person described in the foregoing clauses (a) through (d).

“Intentional Fraud” with respect to a party means (i) an intentional misrepresentation by such party with respect to the making of the representations and warranties of such party as expressly set forth in this Agreement with the intent by such party that the other party to this Agreement rely on such misrepresentation to such other party’s material detriment and (ii) such other party reasonably relies on, and suffers losses as a result of, such misrepresentation.

“Investor Rights Agreement” shall mean the Investor Rights Agreement, dated as of the Closing Date, by and between the Company and the Investor, substantially in the form attached to this Agreement as Exhibit B.
“Law” shall mean any applicable law, statute, code, ordinance, rule, regulation, or agency requirement of any Governmental Entity, including common law.

“Lien” shall mean any lien, charge, pledge, security interest, restriction, or other encumbrance.

“Material Adverse Effect” shall mean any change, event, effect, occurrence or circumstance (each, an “Effect”) that, individually or taken together with all other Effects that have occurred prior to, and are continuing as of, the date of determination of the occurrence of the Material Adverse Effect, (A) has a material adverse effect on the business, properties, management, financial position, partners’ or members’ capital, shareholders’ equity, results of operations of the Company and its Subsidiaries taken as a whole or (B) would reasonably be expected to prevent or materially delay or materially impede the ability of the Company to perform its obligations under this Agreement, including consummation of the Share Purchase, effecting the Class C Issuance and the other transactions contemplated by this Agreement. Notwithstanding the foregoing, solely for purposes of the foregoing clause (A), the term “Material Adverse Effect” shall exclude any such Effect directly or indirectly resulting from, relating to or arising from: (a) changes in global, United States or foreign (i) national or regional economic, financial, regulatory or political conditions or events or (ii) credit, debt, financial, banking, energy or capital markets or in interest or exchange rates or (b) national or international disasters, acts of God, sabotage, war, any military conflict, outbreak of hostilities or acts of terrorism, or any escalation or worsening thereof, epidemics, pandemics or disease outbreak (including the COVID-19 virus), except, with respect to clauses (a) and (b), to the extent that the impact of such Effect is disproportionately adverse to the Company and its Subsidiaries, taken as a whole, relative to other similarly situated alternative asset management companies.

“NYSE” shall mean the New York Stock Exchange.

“Order” shall mean any writ, judgment, decree (including a consent decree), injunction, settlement, cease-and-desist order or similar order or enforcement action of any Governmental Entity (in each case, whether preliminary or final).

“Organizational Document” shall mean, as applicable, an entity’s agreement or certificate of limited partnership, limited liability company agreement, certificate of formation, certificate or articles of incorporation, bylaws or other similar organizational documents.

“Person” shall mean any individual, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Entity, or other “Person” as contemplated by Section 13(d) of the Exchange Act.

“Representatives” shall mean, with respect to any Person, such Person’s Affiliates and such Person’s and each such Affiliate’s respective directors, officers, employees, managers, trustees, principals, stockholders, members, general or limited partners, accountants, attorneys, consultants, advisors, agents and other representatives.

“SEC” shall mean the U.S. Securities and Exchange Commission.
“SEC Reports” shall mean (i) the Company’s Form 10-K for the fiscal year ended December 31, 2019, filed on February 28, 2020, and (ii) the portions of the Company’s Definitive Proxy Statement on Schedule 14A that are incorporated by reference into the Company’s Form 10-K for the fiscal year ended December 31, 2018.

“Securities Act” shall mean the Securities Act of 1933, as amended, and all of the rules and regulations promulgated of the SEC thereunder.

“SSG Transaction” shall mean the contemplated acquisition, in a single transaction, of a majority of the Capital Stock of SSG Capital Holdings Limited and certain of its affiliated entities by one or more Subsidiaries of the Company.

“Stockholder Written Consent” shall mean the written consent of Ares Owners Holdings L.P. and Ares Voting LLC, substantially in the form attached hereto as Exhibit C, irrevocably approving and adopting the Amended and Restated Charter in accordance with the Organizational Documents of the Company and the General Corporation Law of the State of Delaware (the “DGCL”).

“Subsidiary” shall mean, with respect to any Person, any other Person of which at least a majority of the securities or ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or managers (or other similar governing body) is directly or indirectly owned or controlled by such Person and/or by one or more of its Subsidiaries. Notwithstanding the foregoing, the Subsidiaries of the Company shall not include the Ares Funds or their portfolio companies or investments, or special purpose entities formed to acquire any such portfolio companies or investments, including collateralized loan obligations.

“Tax Returns” shall mean returns, reports, information statements, claims for refund, declarations of estimated Taxes and similar filings, including any schedule or attachment thereto and any amendment thereof, with respect to Taxes filed or required to be filed with the Internal Revenue Service of the United States or any other taxing authority.

“Taxes” shall mean any and all taxes, levies, fees, imposest, duties and charges of whatever kind (including any interest, penalties or additions to the tax imposed in connection therewith or with respect thereto) imposed by any Governmental Entity, including taxes imposed on, or measured by, income, franchise, profits or gross receipts, and any ad valorem, value added, sales, use, service, real or personal property, Equity Security, license, payroll, withholding, employment, social security, workers’ compensation, unemployment compensation, utility, severance, production, excursion, stamp, occupation, premium, windfall profits, transfer and gains taxes and customs or duties.
1.2 **Other Defined Terms.** In addition, the following terms shall have the meanings ascribed to them in the corresponding Section of this Agreement:

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ARTICLE II

PURCHASE AND SALE OF THE SECURITIES

2.1 Closing.

(a) The closing of the Share Purchase (the “Closing”) shall take place (i) remotely via the exchange of documents and signatures at 8:00 a.m. (New York City time) on the second (2nd) Business Day immediately following the date of this Agreement, subject to the satisfaction or, to the extent permitted by applicable Law, waiver by the party or parties entitled to the benefit thereof of the conditions set forth in Article VI (other than those conditions that by their terms are to be satisfied at the Closing or on the Closing Date, but subject to the satisfaction or, to the extent permitted by applicable Law, waiver by the party or parties entitled to the benefit thereof of those conditions at the Closing) or (ii) at such other place, time or date as may be mutually agreed upon in writing by the parties (the date on which the Closing takes place being the “Closing Date”).

(b) At the Closing:

(i) The Company will issue, sell, transfer and deliver to the Investor all the Shares, which Shares shall be issued, sold, transferred and delivered with full legal and beneficial title and ownership, free and clear of all Liens (other than those arising under applicable securities Laws, the Investor Rights Agreement or as a result of the actions of the Investor) together with all rights attached thereto, and the Investor shall deliver, or cause to be delivered, to the Company, an aggregate purchase price equal to $383,810,300 to the account set forth on Exhibit D by wire transfer of immediately available funds; and

(ii) the Company shall (A) instruct AST, or cause AST to be instructed, to create a book-entry account for the Investor and credit the Investor’s account with the Shares, (B) deliver to the Investor evidence reasonably satisfactory to the Investor of the foregoing and that the Shares have been issued to the Investor in book-entry form and (C) take all other actions as may be necessary to issue, sell, transfer and deliver to the Investor all the Shares in book-entry form.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby represents and warrants, as of the date of this Agreement and as of the Closing Date (except to the extent that any representation or warranty is expressly made as of an earlier date, in which case such representation or warranty needs only be true and correct as of such earlier date), to the Investor as follows. Each representation and warranty contained in this Article III is subject to, and qualified by, the disclosures in the SEC Documents (other than any disclosures in any SEC Documents contained in (i) the “Risk Factors” or “Forward-Looking Statements” sections or (ii) other forward-looking statements to the extent that they are predictive or forward-looking in nature).

3.1 Organization and Power. The Company and each of its Subsidiaries and each of the Ares Funds (a) have been duly organized and are validly existing and in good standing (to the extent such concept exists in the jurisdiction in question) under the laws of their respective jurisdictions of organization, (b) are duly qualified to do business and are in good standing in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and (c) have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except, in each case (except, in the case of clause (a), in respect of the Company), where the failure to be so qualified or in good standing or have such power or authority would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect. The Company does not own or control, directly or indirectly, any corporation, association or other entity other than (i) the subsidiaries listed in Exhibit 21.1 to the Company’s Form 10-K for the fiscal year ended December 31, 2019, (ii) subsidiaries omitted from Exhibit 21.1 that, if considered in the aggregate as a single subsidiary, would not constitute a “significant subsidiary” of the Company as defined in Rule 1-02(w) of Regulation S-X or (iii) the Ares Funds or their portfolio companies or investments or special purpose entities formed to acquire any such portfolio companies or investments, including collateralized loan obligations.
3.2 **Authorization.** The Company has full right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder, including consummation of the purchase and sale of the Shares, the filing of the Amended and Restated Charter with the Delaware Secretary (subject to receipt of the Stockholder Written Consent and satisfaction of the Amended and Restated Charter Requirements) and to effect the Class C Issuance. All action required to be taken for the due and proper authorization, execution and delivery by it of this Agreement and the due and proper authorization of the consummation by it of the transactions contemplated hereby has been duly and validly taken and, assuming due execution and delivery by the Investor, this Agreement constitutes a valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors’ rights and to general equity principles (the “Bankruptcy and Equity Exception”). This Agreement has been duly authorized, executed and delivered by the Company.

3.3 **The Shares.** The Shares have been duly authorized and, when issued in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable. The issuance of the Shares will not be subject to any right of first refusal, preemptive rights, co-sale rights or other similar rights.

3.4 **Capitalization.**

(a) As of March 26, 2020, the issued and outstanding Capital Stock of the Company consisted of the following: (i) 120,231,891 shares of Common Stock, (ii) 1,000 shares of Class B common stock, par value $0.01 per share, (iii) 1 share of Class C Common Stock (which is held by Ares Voting LLC) and (iv) 12,400,000 shares of 7.00% Series A Preferred Stock, $0.01 par value per share. As of March 26, 2020, there are 115,199,621 AOG Class A Units issued and outstanding, other than those issued and outstanding AOG Class A Units held by the Company and its Subsidiaries. All of the outstanding shares of Capital Stock have been duly authorized and validly issued, and are fully paid and non-assessable. Except as otherwise disclosed in the SEC Reports or as set forth in the Investor Rights Agreement, there are no restrictions upon the voting or transfer of any Shares pursuant to any agreement or instrument to which any of the Company or any of its Subsidiaries is a party or by which any of such entities may be bound.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, all of the outstanding shares of Equity Securities of each Subsidiary that are owned, directly or indirectly, by the Company (i) have been duly and validly authorized and issued and are fully paid (in the case of any Subsidiaries that are organized as limited liability companies, limited partnerships or other business entities, to the extent required under the applicable limited liability company, limited partnership or other organizational agreement) and non-assessable (except in the case of interests held by general partners or similar entities under the applicable laws of other jurisdictions, and in the case of any Subsidiaries that are organized as limited liability companies, as such non-assessability may be affected by Section 18-607 or Section 18-804 of the Delaware Limited Liability Company Act or similar provisions under the applicable laws of other jurisdictions or the applicable limited liability company agreement and, in the case of any Subsidiaries that are organized as limited partnerships, as such non-assessability may be affected by Section 17-607 or Section 17-804 of the Delaware Revised Uniform Limited Partnership Act (the “Delaware RULPA”) or similar provisions under the applicable laws of other jurisdictions or the applicable limited partnership agreement) and (ii) are owned, directly or indirectly by the Company, free and clear of any Liens.

(c) All of the outstanding partnership units, and the partnership interests represented thereby, of each of the Ares Operating Group Partnerships (collectively, the “Ares Operating Group Units”) have been duly and validly authorized and issued and the holders thereof will have no obligation to make payments or contributions to the Ares Operating Group Partnerships solely by reason of their ownership of such Ares Operating Group Units (except in the case of interests held by general partners or similar entities under the applicable laws of other jurisdictions and as such non-assessability may be affected by Section 17-607 or Section 17-804 of the Delaware RULPA or similar provisions under the applicable laws of other jurisdictions or the applicable partnership agreements of the Ares Operating Group Partnerships). All Ares Operating Group Units that are owned directly or indirectly by Ares Holdings Inc., a Delaware corporation, Ares Offshore Holdings, Ltd., a Cayman Islands limited company, Ares AI Holdings L.P., a Delaware limited partnership, and the Company, as described in the SEC Reports, are owned free and clear of any Liens.
Except (i) as described in the SEC Reports, (ii) in connection with the SSG Transaction, or (iii) for issuances under the Ares 2014 Equity Incentive Plan, there are no preemptive rights or other rights to subscribe for or to purchase, any Equity Securities of the Company or any of the Ares Operating Group Partnerships, as applicable, and there are no outstanding options, warrants or other securities exercisable for, or any other securities convertible into or exchangeable for, any securities of the Company or any of the Ares Operating Group Partnerships.

3.5 **No Conflict.** The execution, delivery and performance by the Company of this Agreement, the issuance and sale of the Shares pursuant to this Agreement by the Company and the consummation of the purchase and sale of the Shares and the other transactions contemplated by this Agreement, including filing of the Amended and Restated Charter with the Delaware Secretary (subject to receipt of the Stockholder Written Consent and satisfaction of the Amended and Restated Charter Requirements) and the Class C Issuance, will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of, any Liens upon any property or assets of the Company or any of the Ares Operating Group Partnerships pursuant to any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of the Ares Operating Group Partnerships is a party, or by which the Company or any of the Ares Operating Group Partnerships are bound, or to which any of the property or assets of the Company or any of the Ares Operating Group Partnerships is subject, (ii) result in any violation of the provisions of the Organizational Documents of the Company or any of the Ares Operating Group Partnerships or (iii) result in the violation of any Law or Order, except in the case of clauses (i) and (iii) above, for any such conflict, breach, violation or default that would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect.

3.6 **Consents.** No consent, approval, authorization, order, license, registration or qualification of or with any Governmental Entity (any of the foregoing being a “Consent”) is required for the execution, delivery and performance by the Company of this Agreement, the issuance and sale of the Shares and the consummation of the transactions contemplated by this Agreement, including filing of the Amended and Restated Charter with the Delaware Secretary and the Class C Issuance, except, (a) in the case of the Amended and Restated Charter, for receipt of the Stockholder Written Consent and the Amended and Restated Charter Requirements and (b) in each case, for such Consents (i) as may be required under applicable state securities laws in connection with the Share Purchase by the Investor or (ii) the absence of which would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect.

3.7 **SEC Documents; Financial Statements.**

(a) Each of the documents filed by the Company with the SEC (the “SEC Documents”) since January 1, 2017, as of its respective filing date, complied in all material respects with the requirements of the Securities Act and the Exchange Act, as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such SEC Document. Except to the extent that information contained in any SEC Document has been revised or superseded by a later filed SEC Document filed and publicly available prior to the date of this Agreement, as of their respective filing dates, none of the SEC Documents contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(b) The consolidated financial statements and the related notes thereto of the Company and its consolidated Subsidiaries included or incorporated by reference in the SEC Reports present fairly in all material respects the financial position of the Company and its consolidated Subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified. Such consolidated financial statements have been prepared in conformity with U.S. GAAP applied on a consistent basis throughout the periods covered thereby; and the other financial information included or incorporated by reference in the SEC Reports has been derived from the accounting records of the Company and its consolidated Subsidiaries, presents fairly in all material respects the information shown thereby, and has been compiled on a basis consistent in all material respects with that of the audited financial statements included or incorporated by reference in the SEC Reports.
3.8 Disclosure and Accounting Controls.

(a) The Company maintains a system of “disclosure controls and procedures” (as defined in Rule 13a-15(e) of the Exchange Act) that has been designed to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company’s management as appropriate to allow timely decisions regarding required disclosure. The Company and its Subsidiaries have carried out evaluations of the effectiveness of their disclosure controls and procedures as required by Rule 13a-15 of the Exchange Act.

(b) The Company maintains systems of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are (A) executed in accordance with management’s general or specific authorizations and (B) recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (ii) access to assets is permitted only in accordance with management’s general or specific authorization, (iii) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences and (iv) interactive data in eXtensible Business Reporting Language included or incorporated by reference in each of the SEC Reports is prepared in all material respects in accordance with the SEC’s rules and guidelines applicable thereto. Except as disclosed in the SEC Reports, since the end of the Company’s predecessors’ most recent audited fiscal year, there has been no change in the Company’s or its predecessors’ internal control over financial reporting that has materially adversely affected, or is reasonably likely to materially adversely affect, the Company’s internal control over financial reporting. Except as disclosed in the SEC Reports, the Company is not aware of any material weakness in its internal controls over financial reporting.

3.9 Independent Accountants. Ernst & Young LLP, who has certified certain financial statements of the Company and its consolidated subsidiaries included or incorporated by reference in the SEC Reports is, and was during the periods covered by such reports, an independent registered public accounting firm with respect to the entities purported to be covered thereby within the applicable rules and regulations adopted by the SEC and the Public Company Accounting Oversight Board (United States) and as required by the Securities Act.

3.10 Litigation. Except as (a) described in the SEC Reports or (b) disclosed to the Investor or its Representatives in writing prior to the date of this Agreement, there are no Actions pending to which the Company or any Ares Operating Group Partnership is or may be a party or to which any property or assets of the Company or any Ares Operating Group Partnership is or may be a party or subject that, individually or in the aggregate, if determined adversely to the Company or any of its Subsidiaries, have or would reasonably be expected to have a Material Adverse Effect. No Actions are, to the knowledge of the Company, threatened in writing or contemplated by any Governmental Entity or threatened in writing by any other Person, in each case, except for those which would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect.

3.11 Title to Properties. Except as disclosed in the SEC Reports, the Company and its Subsidiaries have good and marketable title to, or have valid and marketable rights to lease or otherwise use, all items of real and personal property and assets that are material to the respective businesses of the Company and its Subsidiaries, in each case free and clear of all Liens and defects and imperfections of title except those that (i) do not materially interfere with the use made and proposed to be made of such property by the Company and its Subsidiaries or (ii) would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect.
3.12 **Intellectual Property.** The Company and its Subsidiaries own or possess, or can acquire on reasonable terms adequate rights to use, all material patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses and know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) necessary for the conduct of their respective businesses as currently conducted, except where the failure to own or possess such rights would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect. The Company and its Subsidiaries have not received any notice of any claim of infringement, misappropriation or conflict with the asserted rights of others in connection with its patents, patent rights, licenses, inventions, trademarks, service marks, trade names, copyrights and know-how, which would, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect.

3.13 **No Undisclosed Relationships.** No relationship, direct or indirect, exists between or among any of the Company and its Subsidiaries or any Ares Fund, on the one hand, and any related person (as defined in Item 404 of Regulation S-K under the Securities Act) thereof, on the other, that is required to be described in the SEC Reports and that is not so described in the SEC Reports.

3.14 **Permits.** The Company and its Subsidiaries possess all licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate Governmental Entities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in the SEC Reports, except where the failure to possess or make the same would not, individually or in the aggregate, have a Material Adverse Effect. Except as described in the SEC Reports or as would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect, neither the Company nor any of its Subsidiaries has received written notice of any revocation or modification of any such license, certificate, permit or authorization or has any reason to believe that any such license, certificate, permit or authorization will not be renewed in the ordinary course.

3.15 **Labor Matters.** No labor disturbance by or dispute with employees of the Company or any of its Subsidiaries exists or, to the knowledge of the Company, is contemplated or threatened, and the Company and the Ares Operating Group Partnerships are not aware of any existing or imminent labor disturbance by, or dispute with, the employees of the Company’s or any of its Subsidiaries’ principal suppliers, contractors or customers, except, in each case, as would not reasonably be expected to have a Material Adverse Effect.

3.16 **Environmental Compliance.** The Company and its Subsidiaries (a) are in compliance with any and all applicable federal, state, local and foreign laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (“Environmental Laws”), (b) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (c) are in compliance with all terms of any such permit, license or approval, except where failure to receive or comply with such permits, licenses or other approvals or comply with such Environmental Laws or would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect.
3.17 Compliance with ERISA. Except as would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect, (i) each employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), that is subject to Title IV of ERISA (each, a “Plan”) and is maintained, administered or contributed to by the Company or any of its Affiliates, that together with the Company would be deemed a “single employer” within the meaning of Section 4001(b)(1) of ERISA (each, an “ERISA Affiliate”) for employees or former employees of the Company and its ERISA Affiliates, other than a “multiemployer plan” within the meaning of Section 3(37) of ERISA has been maintained in compliance with its terms and the requirements of all applicable statutes, orders, rules and regulations, including ERISA and the Internal Revenue Code of 1986, as amended (the “Code”), (ii) the Company, each member of its controlled group and each Ares Fund are, and at all times have been, in compliance with ERISA, (iii) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, excluding transactions effected pursuant to a class, statutory or administrative exemption, has occurred with respect to any such Plan or with respect to the Company, any member of its controlled group or any Ares Fund, (iv) for each such Plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, the minimum funding standard of Section 412 of the Code has been satisfied (without taking into account any waiver thereof), (v) no “reportable event” (within the meaning of Section 4043(c) of ERISA) has occurred with respect to any such Plan for which the Company would have material liability, other than events for which the 30-day notice period has been waived, and (vi) neither the Company nor any of its ERISA Affiliates has incurred or reasonably expects to incur any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation, in the ordinary course and without default) with respect to any such Plan.

3.18 Taxes. Except as otherwise disclosed in the SEC Reports or as would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect: (i) the Company and its Subsidiaries and the Ares Funds have paid (A) all Taxes required to be paid by them through the Closing Date, except for Taxes being contested in good faith by appropriate proceedings for which adequate reserves are maintained in accordance with GAAP in the consolidated financial statements and the related notes thereto of the Company and its consolidated Subsidiaries and (B) any and all assessments, fines, interest, fees and penalties levied against them or any of them to the extent that any of the foregoing has become due and payable through the Closing Date, (ii) the Company and its Subsidiaries and the Ares Funds have filed (or requested valid extensions thereof) all Tax Returns required to be filed through the Closing Date, (iii) there is no Tax deficiency that has been, or would reasonably be expected to be, asserted against any of the Company or its Subsidiaries, any of the Ares Funds or any of their respective properties, assets, or (iv) there are no Tax audits or investigations currently ongoing with respect to the Company, its Subsidiaries, or the any of the Ares Funds, of which the Company or its Subsidiaries have written notice.

3.19 Insurance. (a) The Company and its Subsidiaries have insurance covering their respective properties, operations, personnel and businesses, which insurance is in such amounts and insures against such losses and risks as the Company reasonably believes to be commercially reasonable and customary for the businesses in which they are engaged; and (b) neither the Company nor any of its Subsidiaries has (i) received notice from any insurer or agent of such insurer that capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires, or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business, except in the case of each of clauses (a) and (b), as would not have or reasonably be expected to have a Material Adverse Effect.

3.20 No Unlawful Payments. Neither the Company nor any of its Subsidiaries or any of the Ares Funds, nor, to the knowledge of the Company, any director, officer agent, employee or other person associated with or acting on behalf of any of the Company or any of its Subsidiaries or any of the Ares Funds has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity, (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds, (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended or (iv) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment. None of the proceeds from the sale of the Shares will be used in a way that would have led to a breach of the Company’s representations in Section 3.20 (i) to (iv) had such proceeds been used in such way prior to or on the Closing Date.
3.21 Compliance with Anti-Money Laundering Laws. The operations of the Company and its Subsidiaries and the Ares Funds are, and have been conducted at all times in compliance with, (i) applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended (the “CFTRA”), and (ii) all applicable money laundering statutes, applicable rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any other governmental agency (collectively, the “Other Anti-Money Laundering Laws”) having jurisdiction over any of the Company or any of its Subsidiaries or any of the Ares Funds; and no Action involving any of the Company or any of its Subsidiaries or any of the Ares Funds with respect to the CFTRA or Other Anti-Money Laundering Laws is pending or, to the knowledge of the Company, threatened. None of the proceeds from the sale of the Shares will be used in violation of the CFTRA or Other Anti-Money Laundering Laws having jurisdiction over any of the Company or any of its Subsidiaries or any of the Ares Funds.

3.22 No Conflicts with Sanctions Laws. None of the Company or its Subsidiaries, the Ares Funds or, to the knowledge of the Company, any of their respective directors, officers, agents, employees or Affiliates is currently subject to any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the United National Security Council, the European Union or Her Majesty’s Treasury, and none of the proceeds from the sale of the Shares will be used in violation of any of the foregoing sanction laws.

3.23 No Restrictions on Subsidiaries. No Subsidiary of the Company is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such Subsidiary’s Capital Stock, from repaying to the Company any loans or advances to such Subsidiary from the Company or from transferring any of such Subsidiary’s properties or assets to the Company or any other Subsidiary of the Company, except as disclosed in the SEC Reports or as would not reasonably be expected to materially reduce the distributions to be received by the Ares Operating Group Partnerships, taken as a whole, from their direct and indirect Subsidiaries.
3.24 **Securities Law Exemptions.** Assuming the accuracy of the representations and warranties of the Investor in this Agreement, it is not necessary under applicable Law, in connection with the issuance and sale of the Shares to the Investor, for the Company to register the Shares under the Securities Act.

3.25 **Absence of Certain Changes.** Since December 31, 2019, (a) there has not been any Material Adverse Effect, and (b) except as disclosed to the Investor or its Representatives in writing prior to the date of this Agreement, neither the Company nor any of its Subsidiaries has entered into any transaction or agreement that is material to the Company and its Subsidiaries, taken as a whole, or incurred any liability or obligation, direct or contingent, that is material to the Company and its Subsidiaries, taken as a whole, excluding, for purposes of this clause (b), (i) any liabilities or obligations, direct or contingent, resulting from, relating to or arising from epidemics, pandemics or disease outbreaks, (including the COVID-19 virus), including all related impacts therefrom on economic, financial or energy market conditions, and (ii) the SSG Transaction.

3.26 **No Defaults.** Neither the Company nor any of its Subsidiaries is: (a) in violation of its charter or bylaws or similar Organizational Documents; (b) in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound or to which any of the property or assets of the Company or any of its Subsidiaries is subject; or (c) in violation of any Law or Order, except, in the case of (i) the foregoing clause (a) (solely as to the Company’s Subsidiaries), for any such violation that would not be material to the Company and its Subsidiaries, taken as a whole, and (ii) the foregoing clauses (b) and (c), for any such default or violation that would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect.

3.27 **Brokers.** The Company has not retained, utilized or been represented by any broker, investment banker, financial advisor or finder in connection with the transactions contemplated by this Agreement whose fees or expenses the Investor could be required to pay.
3.28 **NYSE.** Shares of the Common Stock are registered pursuant to Section 12(b) of the Exchange Act and are listed on NYSE. There is no Action (i) pending by the Company, (ii) pending by any other Person and for which the Company has received written notice prior to the date of this Agreement or (iii) to the knowledge of the Company, pending or threatened by any other Person otherwise to terminate the registration of the Common Stock under the Exchange Act or to delist the Common Stock from NYSE. The Company has not received any notification that the SEC or NYSE is currently contemplating terminating such registration or listing. The issuance and sale of the Shares and the performance by the Company of its other obligations hereunder does not and will not contravene NYSE rules or regulations or require any vote of the shareholders of the Company under the NYSE rules or regulations (except for the receipt of the Stockholder Written Consent).

3.29 **Investment Company Act.** Each of the Company and its Subsidiaries is not, and, immediately after giving effect to the sale of the Shares pursuant to this Agreement by the Company, none of them will be, required to register as an “investment company” or an entity “controlled” by an “investment company” within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the SEC thereunder (collectively, the “Investment Company Act”).

3.30 **Investment Advisers Act.** Each of the Company and its Subsidiaries and the Ares Funds (i) that is required to be in compliance with, or registered, licensed or qualified pursuant to, the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, the Investment Company Act, and the rules and regulations promulgated thereunder, or the U.K. Financial Services and Markets Act 2000 and the rules and regulations promulgated thereunder, is in compliance with, or registered, licensed or qualified pursuant to, such laws, rules and regulations (and such registration, license or qualification is in full force and effect), to the extent applicable, except as disclosed in the SEC Reports or where the failure to be in such compliance or so registered, licensed or qualified would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect or (ii) that is required to be registered, licensed or qualified as a broker-dealer or as a commodity trading advisor, a commodity pool operator or a futures commission merchant or any or all of the foregoing, as applicable, is so registered, licensed or qualified in each jurisdiction where the conduct of its business requires such registration, license or qualification (and such registration, license or qualification is in full force and effect), and is in compliance with all applicable laws requiring any such registration, licensing or qualification, except as disclosed in the SEC Reports or where the failure to be so registered, licensed, qualified or in compliance would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect.

3.31 **Sarbanes-Oxley Act.** The Company and its Subsidiaries are in material compliance with all provisions of the Sarbanes-Oxley Act of 2002, as amended and the rules and regulations promulgated in connection therewith that are then in effect and with which the Company and its Subsidiaries are required to comply.

3.32 **No Downgrade.** Since December 31, 2019, no downgrading has occurred in the rating accorded any debt securities or preferred stock of, or guaranteed by, the Company, any of the Ares Operating Group Partnerships or Ares Finance Co. LLC that is rated by a “nationally recognized statistical rating organization,” as such term is defined in Section 3(a)(62) of the Exchange Act, and no such organization has publicly announced that it has under surveillance or review with possible negative implications, or has changed its outlook with respect to, its rating of any such debt securities or preferred stock (other than an announcement with positive implications of a possible upgrading).
3.33  **No Other Representations and Warranties.** Except for the representations and warranties contained in Article IV and any schedules or certificates delivered in connection herewith, the Company (i) acknowledges that the Investor has made no other representation or warranty, express or implied, written or oral, and (ii) to the maximum extent permitted by applicable Law, disclaims any such representation or warranty, whether by the Investor or any other Person, with respect to the Investor or with respect to any other information provided to or made available to the Company or any of its Representatives in connection with the transactions contemplated hereby.

**ARTICLE IV**

**REPRESENTATIONS AND WARRANTIES OF THE INVESTOR**

The Investor hereby represents and warrants, as of the date of this Agreement and as of the Closing Date (except to the extent that any representation or warranty is expressly made as of an earlier date, in which case such representation or warranty needs only be true and correct as of such earlier date), to the Company as follows:

4.1  **Organization.** The Investor is a legal entity duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization.

4.2  **Authorization.** The Investor has full right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder. All action required to be taken for the due and proper authorization, execution and delivery by it of this Agreement and the due and proper authorization of the consummation by it of the transactions contemplated hereby has been duly and validly taken and, assuming due execution and delivery by the Company, this Agreement constitutes a valid and binding agreement of the Investor enforceable against the Investor in accordance with its terms, subject to the Bankruptcy and Equity Exception. This Agreement has been duly authorized, executed and delivered by the Investor.

4.3  **No Conflict.** The execution, delivery and performance of this Agreement by the Investor, the purchase of the Shares, and the consummation of the other transactions contemplated hereby, do not and will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any Lien upon any property or assets of the Investor or any of its Subsidiaries pursuant to any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Investor or any of its Subsidiaries is a party or by which the Investor or any of its Subsidiaries is bound or to which any of the property or assets of the Investor or any of its Subsidiaries is subject, (ii) result in any violation of the provisions of the Organizational Documents of the Investor or any of its Subsidiaries or (iii) result in the violation of any Law or Order, except, in the case of each of clauses (i) and (iii), as would not, individually or in the aggregate, reasonably be expected to prevent or materially delay or materially impede the ability of the Investor to perform its obligations under this Agreement (a “Investor Adverse Effect”).

4.4  **Consents.** No Consent is required for the execution, delivery and performance by the Investor in connection with the execution, delivery or performance of this Agreement and the consummation of the transactions contemplated hereby, except for such Consents the failure of which to make or obtain would not, individually or in the aggregate, have or reasonably be expected to have an Investor Adverse Effect.
4.5 **Brokers.** The Investor has not retained, utilized or been represented by any broker or finder in connection with the transactions contemplated by this Agreement whose fees the Company could be required to pay.

4.6 **Purchase Entirely for Own Account.** The Investor (a) is acquiring the Shares for its own account solely for the purpose of investment, not as nominee or agent, and not with a view to, or for sale in connection with, any distribution of the Shares in violation of the Securities Act, (b) has no present intention of selling, granting any participation in, or otherwise distributing the same and (c) has no present agreement, undertaking, arrangement, obligation or commitment providing for the disposition of the Shares.

4.7 **Investor Status.** The Investor is an “accredited investor” as defined in Rule 501 of Regulation D promulgated under the Securities Act.

4.8 **Information.** The Investor and its Representatives, if any, have been furnished with all materials relating to the business, finances and operations of the Company and materials relating to the offer and sale of the Shares that have been requested by it. The Investor and its Representatives, if any, have been afforded the opportunity to ask questions of the Company. Neither such inquiries nor any other due diligence investigations conducted by the Investor or its Representatives, if any, shall modify, amend or affect the Investor’s right to rely on the Company’s representations and warranties contained herein. The Investor understands that its investment in the Shares involves a high degree of risk. The Investor has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Shares.

4.9 **Securities Not Registered.**

(a) The Investor understands that the Shares will not have been registered pursuant to the Securities Act or any applicable state securities laws, that the Shares will be characterized as “restricted securities” under federal securities laws, and that under such laws and applicable regulations the Shares cannot be sold or otherwise disposed of without registration under the Securities Act or an exemption therefrom.

(b) The Investor understands that any book-entry shares notations evidencing the Shares and any securities issued in respect thereof or in exchange therefor, will bear the following legends (or substantially similar legends) to the extent applicable (along with any other legends that may be required under applicable Law):

> “THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR AN APPLICABLE EXEMPTION THEREFROM.

> THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF THE COMPANY THAT (A) THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (I) PURSUANT TO ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, INCLUDING RULE 144 OR REGULATION S UNDER THE SECURITIES ACT (IF AVAILABLE), (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, OR (III) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, IN EACH OF CASES (I) THROUGH (III) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY SUBSEQUENT INVESTOR OF THIS SECURITY FROM IT OF THE RESALE RESTRICTIONS REFERRED TO IN (A) ABOVE.”
4.10 **No Other Representations or Warranties.** The Investor has (a) conducted its own independent inquiry and (b) relied only upon the advice of its own legal counsel, accountant, financial and other advisors and the representations and warranties contained in Article III in determining the legal, tax, financial and other consequences of this Agreement and the transactions contemplated hereby for the Investor. Except for the representations and warranties contained in Article III and any certificates delivered in connection herewith, the Investor (i) acknowledges that the Company has made no other representation or warranty, express or implied, written or oral, and (ii) to the maximum extent permitted by applicable Law, disclaims the existence of, reliance upon or inducement by, any such representation or warranty, whether by the Company or any other Person, with respect to the Company or with respect to any other information (including pro forma financial information, financial projections or other forward-looking statements) provided to or made available to the Investor or any of its Representatives in connection with the transactions contemplated hereby.

**ARTICLE V**

**COVENANTS**

5.1 **Public Announcements.** The initial press release to be issued with respect to the transactions contemplated by this Agreement shall be in the form heretofore agreed to by the Investor and the Company. Except with respect to any dispute between the parties regarding this Agreement or the transactions contemplated hereby, the Investor and the Company shall provide an opportunity for the other party to review and comment upon any press release or other public statements or any filings with any third party or any Governmental Entity relating to this Agreement or the transactions contemplated hereby, including the Share Purchase, and shall not, and shall not permit any of their Affiliates to, issue any such press release or make any such public statement or filing prior to providing such opportunity to review and comment. Notwithstanding the foregoing, nothing in this Section 5.1 shall restrict or limit the right or ability of either party from engaging in, or require disclosure to or consultation with the other party in connection with engaging in, (i) the making of such public statements or filings as such party may reasonably determine are required by applicable Law, Governmental Entity, court process or by obligations pursuant to any listing agreement with any national securities exchange or national securities quotation system, (ii) communications with rating agencies and regulators, including with the Federal Reserve Board, or (iii) the making of internal announcements to their respective employees or other public communications, in either case, that are consistent in all material respects with the prior public disclosures regarding the transactions contemplated by this Agreement.
5.2 **Amended and Restated Charter.** Promptly following the date of this Agreement, the Company shall use its commercially reasonable efforts to obtain the approval of the Amended and Restated Charter by the holders of a majority of the voting power of the Outstanding Designated Stock (as defined in the Company’s Certificate of Incorporation). Promptly following the Closing, the Company shall use its commercially reasonable efforts to file a Preliminary Information Statement on Schedule 14C relating to the Amended and Restated Charter (the “Preliminary Information Statement”) with the SEC. Promptly following the 10-day period following the filing with the SEC of the Preliminary Information Statement provided for in Rule 14c-5 under the Exchange Act, the Company shall use its commercially reasonable efforts to file the Information Statement with the SEC. Promptly following the expiration of the 20-calendar day period following the filing of the Information Statement, the Company shall execute and deliver to the Delaware Secretary the Amended and Restated Charter.

5.3 **Efforts.** Subject to the terms and conditions set forth in this Agreement, the Investor and the Company shall cooperate with each other and use (and shall cause their respective Affiliates to use) their respective commercially reasonable efforts to take or cause to be taken all actions, and to do or cause to be done, all things reasonably necessary, proper or advisable on their part under this Agreement and applicable Law, to consummate the transactions contemplated under this Agreement as promptly as practicable.

5.4 **Post-Closing Covenants.** From the Closing until such time as the Amended and Restated Charter is duly executed and delivered to the Delaware Secretary and effective under the DGCL, the Company shall not (and shall cause its Subsidiaries not to) take any action that would or would reasonably be expected to result in the Investor’s “voting percentage” (as that concept is calculated and interpreted pursuant to 12 C.F.R. 225.2(u) or in any successor regulation or published interpretation of the Federal Reserve Board then in effect for purposes of the Bank Holding Company Act of 1956, as amended, and all related rules, regulations and published guidance) of the Company to exceed 4.90%, including any buy-back or repurchase of Common Stock by the Company.

**ARTICLE VI**

**CONDITIONS PRECEDENT**

6.1 **Mutual Conditions of Closing.** The obligations of the Company and the Investor to consummate the transactions to be consummated at the Closing is subject to the satisfaction, or mutual written waiver, of the following conditions precedent:

(a) There shall not be any Law or Order in effect that enjoins, prohibits, prevents or materially alters the terms of the transactions contemplated by this Agreement.

(b) There shall not be any Action pending by any Governmental Entity of competent jurisdiction that seeks any Order that would reasonably be expected to result in the Investor’s “voting percentage” as that concept is calculated and interpreted pursuant to 12 C.F.R. 225.2(u) or in any successor regulation or published interpretation of the Federal Reserve Board then in effect for purposes of the Bank Holding Company Act of 1956, as amended, and all related rules, regulations and published guidance) of the Company to exceed 4.90%, including any buy-back or repurchase of Common Stock by the Company.

6.2 **Conditions to the Obligation of the Investor to Consume the Closing.** The obligation of the Investor to consummate the transactions to be consummated at the Closing, and to purchase and pay for the Shares pursuant to this Agreement, is subject to the satisfaction, or due waiver in writing by the Investor, of the following conditions:

(a) the Company shall have performed and complied in all material respects with all of the covenants and agreements contained in this Agreement that are required to be performed or complied with by it on or prior to the Closing Date;
(b) the representations and warranties of the Company contained in (i) Article III (other than those representations and warranties contained in the first sentence of Section 3.1(a) (solely in respect of the Company) and Sections 3.2, 3.3, 3.5(ii), 3.25(a) and 3.27) shall be true, complete and correct, determined without regarding to any qualification as to materiality or “Material Adverse Effect,” at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date (except in the case of representations and warranties that are made as of a specified date, which shall be true, complete and correct, determined without regarding to any qualification as to materiality or “Material Adverse Effect,” at and as of as of such specified date), except, in each case, for such failures to be true, complete and correct as would not, individually or in the aggregate, have or reasonably be expected to have a Material Adverse Effect; (ii) the first sentence of Section 3.1(a) (solely in respect of the Company) and Sections 3.2, 3.3, 3.5(ii) and 3.27 shall be true, complete and correct in all respects at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date (except in the case of representations and warranties that are made as of a specified date, which shall be true, complete and correct, at and as of as of such specified date), except, in each case, for de minimis failures to be true, complete and correct; and (iii) Section 3.25(a) shall be true, complete and correct in all respects at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date;

(c) the Company shall have delivered to the Investor a certificate, dated as of the Closing Date, executed by the Chief Executive Officer of the Company, to the effect that the conditions set forth in Sections 6.2(a) and (b) have been satisfied;

(d) the Investor shall have received an acknowledgement from AST, substantially in the form attached to this Agreement as Exhibit E, that (i) AST has been instructed by the Company to create a book-entry account for the Investor and credit the Investor’s account with the Shares and (ii) the Company has issued 115,199,620 shares of Class C Common Stock to Ares Voting LLC (the “Class C Issuance”);

(e) the Company shall have delivered to the Investor the Investor Rights Agreement, duly executed by the Company;

(f) the Investor shall have received an executed opinion from counsel for the Company, dated as of the Closing Date, in the form attached to this Agreement as Exhibit F;

(g) the Investor shall have received evidence reasonably satisfactory to the Investor that the Company shall have (i) filed a supplemental listing application with the NYSE with respect to the issuance of the Shares and (ii) the Shares have been approved for listing on the NYSE; and

(h) the Investor shall have received the duly executed Stockholder Written Consent.
6.3 **Conditions to the Obligations of the Company to Consummate the Closing.** The obligation of the Company to consummate the transactions to be consummated at the Closing, and to sell to the Investor the Shares pursuant to this Agreement, is subject to the satisfaction of the following conditions:

(a) the Investor shall have performed and complied in all material respects with all of the covenants and agreements contained in this Agreement that are required to be performed or complied with by it on or prior to the Closing Dates;

(b) the representations and warranties of the Investor contained in (i) Article IV (other than those representations and warranties contained in Sections 4.1, 4.2, 4.3(ii) and 4.5) shall be true, complete and correct, determined without regard to any qualification as to materiality or "Investor Adverse Effect" at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date (except in the case of representations and warranties that are made as of a specified date, which shall be true, complete and correct, determined without regard to any qualification as to materiality or "Investor Adverse Effect," at and as of of such specified date), except for such failures to be true, complete and correct as would not, individually or in the aggregate, have or reasonably be expected to have an Investor Adverse Effect; and (ii) Sections 4.1, 4.2, 4.3(ii) and 4.5 shall be true, complete and correct in all respects at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date (except in the case of representations and warranties that are made as of a specified date, which shall be true, complete and correct, at and as of of such specified date), except for de minimis failures to be true, complete and correct;

(c) the Investor shall have delivered to the Company a certificate, dated the Closing Date and executed by a duly authorized officer of the Investor, to the effect that the conditions set forth in Sections 6.3(a) and (b) have been satisfied; and

(d) the Investor shall have delivered to the Company the Investor Rights Agreement, duly executed by the Investor.

**ARTICLE VII**

**TERMINATION**

7.1 **Conditions of Termination.** Notwithstanding anything to the contrary contained herein, this Agreement may be terminated at any time before the Closing: (a) by the mutual written consent of the Company and the Investor, (b) by either the Company or the Investor if the Closing shall not have occurred on or before April 9, 2020 (the "Outside Date"), (c) by the Company if (i) the Investor shall have breached any representation, warranty, covenant or agreement of the Investor set forth in this Agreement, (ii) such breach or misrepresentation is not cured or capable of being cured by the Outside Date, and (iii) such breach or misrepresentation would cause any of the conditions set forth in Section 6.3(a) or (b) not to be satisfied, (d) by the Investor if (i) the Company shall have breached any representation, warranty, covenant or agreement of the Company set forth in this Agreement, (ii) such breach or misrepresentation is not cured or capable of being cured by the Outside Date, and (iii) such breach or misrepresentation would cause any of the conditions set forth in Section 6.2(a) or (b) not to be satisfied or (e) by the Investor if a duly executed copy of the Stockholder Written Consent shall not have been delivered to the Investor by 5:00 p.m., New York City time, on March 30, 2020. Notwithstanding the foregoing, the right to terminate this Agreement pursuant to the preceding clause (b) shall not be available to a party whose failure to fulfill any obligation under this Agreement shall have been the principal cause of, or shall have primarily resulted in, the failure of the Closing to occur on or prior to such date.
7.2 **Effect of Termination.** In the event of any termination pursuant to Section 7.1, this Agreement shall become null and void and have no further effect, with no liability on the part of the Company or the Investor or their respective Affiliates or Representatives, with respect to this Agreement, except (a) for the terms of this Section 7.2 and Article VIII which shall survive the termination of this Agreement, (b) nothing in this Section 7.2 shall relieve any party from liability or damages incurred or suffered by any other party resulting or arising from any willful and intentional (x) breach of any representation or warranty of such first party or (y) failure of such first party to perform a covenant herein or (c) for fraud.

**ARTICLE VIII**

**MISCELLANEOUS PROVISIONS**

8.1 **Survival.** The (i) representations and warranties set forth in the first sentence of Section 3.1, Sections 3.2, 3.3, 3.5(ii), 3.27, 4.1, 4.2, 4.3(ii) and 4.5 shall survive the execution and delivery of this Agreement and the Closing indefinitely, (ii) representations and warranties set forth in the second sentence of Section 3.7(a), including any rights arising out of any breach of such representations and warranties, shall survive the execution and delivery of this Agreement and the Closing for a period of twenty four (24) months following the Closing Date and shall thereafter terminate and (iii) all other representations and warranties set forth in this Agreement and/or in any certificate, statement or instrument delivered pursuant to this Agreement, including any rights arising out of any breach of such representations and warranties, shall terminate effective as of Closing Date and shall not survive the Closing, in each case, regardless of any investigation made by or on behalf of the Company or the Investor. The covenants made in this Agreement shall survive the Closing indefinitely until fully performed in accordance with their terms, and remain operative and in full force and effect in accordance with their terms, regardless of acceptance of any of the Shares and payment therefor and repayment, conversion or repurchase thereof. From and after the Closing, (A) the right to bring a claim arising out of a breach of any representation (subject to the survival periods set forth above) is the sole and exclusive remedy of the parties with respect to any and all rights, claims and causes of action resulting from, arising out of or relating to this Agreement or the Share Purchase (whether at law or equity, in contract, in tort or otherwise) and (B) each party waives, to the fullest extent permitted under applicable Law, any and all other rights, claims and causes of action resulting from, arising out of or relating to, this Agreement or the Share Purchase that it may have against the other party or their Representatives (whether at law or equity, in contract, in tort or otherwise). The foregoing sentence shall not preclude any party from seeking any remedy, or asserting any right, claim or cause of action, (x) with respect to covenants made in this Agreement until fully performed in accordance with their terms, (y) pursuant to the Investor Rights Agreement or (z) with respect to Intentional Fraud.
8.2 Interpretation. Except as the context otherwise requires, the terms “either,” “or,” “neither,” “nor,” and “any” when used in this Agreement are not exclusive. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and subsection references are to this Agreement unless otherwise specified. The headings in this Agreement are included for convenience of reference only and will not limit or otherwise affect the meaning or interpretation of this Agreement. All references to any Article, Section, subsection, clause or Exhibit are to the corresponding Article, Section, subsection or clause of, or Exhibit to, this Agreement. References to a party or the parties means a party to this Agreement or the parties to this Agreement, unless the context otherwise requires. Whenever the words “include,” “includes” or “including” are used in this Agreement, they will be deemed to be followed by the words “without limitation.” The phrases “the date of this Agreement,” “the date hereof” and terms of similar import, unless the context otherwise requires, will be deemed to refer to the date set forth in the first paragraph of this Agreement. The meanings given to terms defined herein will be equally applicable to both the singular and plural forms of such terms. The term “dollars” and character “$” means United States dollars. All matters to be agreed to by any party must be agreed to in writing by such party unless otherwise indicated herein. Except as otherwise specified herein, references to agreements, policies, standards, guidelines or instruments, or to statutes or regulations, are to such agreements, policies, standards, guidelines or instruments, or statutes or regulations, as amended or supplemented from time to time (or to successors thereto). All references in this Agreement to the Subsidiaries of a Person shall be deemed to include all direct and indirect Subsidiaries of such Person, unless otherwise indicated or the context otherwise requires. References to “days” shall refer to calendar days unless Business Days are specified. References to any party shall include such party’s successors and permitted assigns. Accounting terms not otherwise defined have the meaning assigned to them in accordance with United States GAAP. The word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other theory extends, and such phrase shall not mean “if.”

8.3 Notices. All notices, requests, consents, and other communications under this Agreement shall be in writing and shall be deemed delivered (a) three (3) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid, (b) one (1) Business Day after being sent via a reputable nationwide overnight courier service guaranteeing next business day delivery or (c) on the date of delivery if delivered personally or (d) on the date of delivery if delivered via facsimile or e-mail (if confirmation of transmission is received by the sender or no failure message is generated), in each case to the intended recipient as set forth below:

(a) if to the Company, addressed as follows:

Ares Management Corporation
2000 Avenue of the Stars
12th Floor
Los Angeles, CA 90067
Attention: Naseem Sagati Aghili, General Counsel
Email: nsagati@aresmgmt.com
with copies (which shall not constitute notice) to:

Kirkland & Ellis LLP
2049 Century Park East
Suite 3700
Los Angeles, California 90067
Attention: Jonathan Benloulou, P.C.; Pippa Bond, P.C.
Fax: (310) 552-5900
Email: jonathan.benloulou@kirkland.com, pippa.bond@kirkland.com

(b) if to the Investor, addressed as follows:

Sumitomo Mitsui Banking Corporation
277 Park Avenue
New York, NY 10172, U.S.A.
Attn: Daisuke Tanaka
Tomohiro Homma
Atsushi Kubo
Email: Daisuke_Tanaka.ny@smbcgroup.com
Tomohiro_Homma@smbcgroup.com
Atsushi_Kubo@smbcgroup.com

with copies (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
One Manhattan West, 401 9th Avenue
New York, New York 10001
Attention: Sven G. Mickisch
Michael J. Zeidel
Email: Sven.Mickisch@skadden.com
Michael.Zeidel@skadden.com

Any party may change the address to which notices, requests, consents or other communications hereunder are to be delivered by giving the other parties notice in the manner set forth in this Section 8.3. Legal counsel for any party (as specified in this Section 8.3) may send to any other party any notices, requests, demands or other communications required or permitted to be given under this Agreement by such party on behalf of such party.

8.4 Severability. In the event that any provision of this Agreement, or the application thereof, becomes, or is declared by a court of competent jurisdiction to be, illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.
8.5  **Governing Law; Jurisdiction; WAIVER OF JURY TRIAL.**

(a) This Agreement, and all claims or causes of action (whether in contract, tort or otherwise) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution, administration, performance or enforcement of this Agreement ("Transaction Litigation"), shall be governed by and enforced and construed in accordance with the Laws of the State of Delaware (including its statute of limitations), regardless of the Laws that might otherwise govern under applicable principles of conflicts of law thereof.

(b) Each of the parties irrevocably (i) agrees that any action, suit, proceeding or counterclaim brought by any party arising out of or based upon any Transaction Litigation shall be instituted in the Court of Chancery of the State of Delaware (provided, that if jurisdiction is not then available in such court, then any such action, suit, proceeding or counterclaim shall be brought in any federal court located in the State of Delaware or in any other Delaware state court) (any of the foregoing Delaware courts, a "Delaware Court"); (ii) waives, to the fullest extent it may effectively do so, any objection which it may now or hereafter have to the laying of venue of any such proceeding; and (iii) submits to the non-exclusive jurisdiction of a Delaware Court in any such action, suit, proceeding or counterclaim. Any final and nonappealable judgment against any party in any Transaction Litigation shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on judgment, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment.

(c) EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY TRANSACTION LITIGATION. EACH PARTY AGREES AND ACKNOWLEDGES THAT: (I) NO REPRESENTATIVE OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IF THERE IS ANY TRANSACTION LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (II) SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (III) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY; AND (IV) THE OTHER PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATES IN THIS SECTION 8.5(c).

8.6  **Delays or Omissions; Waiver.** No delay or omission to exercise any right, power, or remedy accruing to a party upon any breach or default of another party under this Agreement shall impair any such right, power, or remedy of such party, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring. Nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or be construed as, a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition of this Agreement. Any agreement on the part of a party or the parties to any waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party or parties, as applicable, from whom such waiver is sought. Any delay in exercising any right under this Agreement shall not constitute a waiver of such right.
8.7 **Specific Performance.** The parties agree that the obligations imposed on them in this Agreement are special, unique and of an extraordinary character, and that irreparable damages for which money damages, even if available, would not be an adequate remedy, would occur in the event that the parties do not perform the provisions of this Agreement in accordance with its specified terms or otherwise breach such provisions. The parties acknowledge and agree that the parties shall be entitled to an injunction, specific performance and other equitable relief to prevent or restrain breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof. The rights in this Section 8.7 are in addition to any other remedy to which a party may be entitled at law or in equity, and the exercise by a party of one remedy shall not preclude the exercise of any other remedy. The parties further agree to waive any requirement for the securing or posting of any bond or other security in connection with the obtaining of any such injunctive or other equitable relief. Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief as provided herein on the basis that (x) any party has an adequate remedy at law or (y) an award of specific performance is not an appropriate remedy for any reason at law or equity.

8.8 **Fees; Expenses.** All fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby and thereby shall be paid by the party incurring them, whether or not the transactions contemplated hereby and thereby are consummated.

8.9 **Assignment.** Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of Law or otherwise by either of the parties without the prior written consent of the other party. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and permitted assigns. Any purported assignment other than in compliance with the terms hereof shall be void ab initio.

8.10 **No Third Party Beneficiaries.** This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. This Agreement does not create any rights, claims or benefits inuring to any Person that is not a party to this Agreement nor create or establish any third party beneficiary hereto. Without limiting the foregoing, the representations and warranties in this Agreement are the product of negotiations among the parties and are for the sole benefit of the parties. In some instances, the representations and warranties in this Agreement may represent an allocation among the parties of risks associated with particular matters regardless of the knowledge of either of the parties. Consequently, Persons other than the parties to this Agreement may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

8.11 **Counterparts.** This Agreement may be executed and delivered (including by facsimile or electronic transmission) in any number of counterparts, and by the different parties in separate counterparts, each of which when executed shall be deemed an original, but all of which taken together shall constitute a single instrument.
8.12 **Entire Agreement; Amendments.** This Agreement and the documents and instruments and other agreements among the parties to this Agreement as contemplated by or referred to herein, including Exhibit A and Exhibit B, constitute the entire agreement between the parties respecting the subject matter hereof and supersede all prior agreements, negotiations, understandings, representations and statements respecting the subject matter hereof, whether written or oral. No modification, alteration or change in any of the terms of this Agreement shall be valid or binding upon the parties unless made in writing and duly executed by the Company and the Investor.

8.13 **Drafting.** Each of the parties acknowledges that it has (a) been represented by independent counsel of its choice throughout all negotiations that have preceded the execution of this Agreement and (b) executed the same with consent and upon the advice of said independent counsel. The parties have participated jointly in the negotiation and drafting of this Agreement. Consequently, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

[Remainder of the Page Intentionally Left Blank]
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers as of the date first above written.

**INVESTOR:**

SUMITOMO MITSUI BANKING CORPORATION

By:  /s/ Yoshihiro Hyakutome
     Name: Yoshihiro Hyakutome
     Title: Managing Executive Officer
     CEO, Americas Division

**COMPANY:**

ARES MANAGEMENT CORPORATION

By:  /s/ Michael J Arougheti
     Name: Michael J Arougheti
     Title: Chief Executive Officer

[Signature Page to Share Purchase Agreement]
Exhibit A

Form of Amended and Restated Charter

(see attached)
Exhibit B

Form of Investor Rights Agreement

(see attached)
Exhibit C
Form of Stockholder Written Consent

(see attached)
Exhibit E

AST Acknowledgement Letter

(see attached)
Section 4: EX-10.2 (EXHIBIT 10.2)

INVESTOR RIGHTS AGREEMENT
BY AND BETWEEN
SUMITOMO MITSUI BANKING CORPORATION
AND
ARES MANAGEMENT CORPORATION
Dated as of [March 31], 2020
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EXHIBITS

Exhibit A – Form of Board Agreement
Exhibit B – Form of Joinder Agreement
INVESTOR RIGHTS AGREEMENT

THIS INVESTOR RIGHTS AGREEMENT (this “Agreement”) is entered into as of [March 31], 2020, by and between Sumitomo Mitsui Banking Corporation, a Japanese joint stock company (the “Investor”), and Ares Management Corporation, a Delaware corporation (the “Company”). Unless otherwise indicated, references to articles, exhibits and sections shall be to articles, exhibits and sections of this Agreement.

WHEREAS, prior to the execution of this Agreement, the parties hereto entered into that certain Share Purchase Agreement (the “Purchase Agreement”), dated as of March 27, 2020, by and between the Investor and the Company pursuant to which, on the date hereof, the Investor is acquiring from the Company newly issued shares of Class A Common Stock (as defined below) (the “Shares” and, together with any shares of Class A Common Stock and Nonvoting Stock that are Beneficially Owned by the Stockholders at any applicable time, whether acquired or obtained by acquisition, purchase, dividend, exchange, conversion, issuance, stock split or otherwise, the “Subject Shares”) in consideration for an investment by the Investor in the Company (such transaction, the “Investment Transaction”);

WHEREAS, as a result of the Investment Transaction, the Investor will become the Beneficial Owner of the Shares; and

WHEREAS, the parties hereto desire to enter into this Agreement to establish certain arrangements and rights of the Stockholders, including with respect to the Subject Shares.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01. Certain Defined Terms. For purposes of this Agreement, the following terms shall have the respective meanings set forth or as referenced below:

“Affiliate” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control, with such specified Person. Notwithstanding the foregoing, (i) neither the Company nor any of its Subsidiaries shall be deemed to be an Affiliate of the Stockholders or their Affiliates, (ii) neither the Stockholders nor any of their Affiliates shall be deemed to be an Affiliate of the Company or any of its Affiliates and (iii) no portfolio company or investment or special purpose entity formed to acquire any such portfolio company or investment or special purpose entity formed to acquire any such portfolio company or investment of the Ares Funds shall be deemed to be an Affiliate of the Company or any of its Affiliates or any Stockholder or any of its Affiliates.

“Agreement” shall have the meaning assigned to it in the preamble.
“Ares Funds” means, collectively, all Funds (excluding their portfolio companies and investments and all special purpose entities formed to acquire any such portfolio companies and investments, including collateralized loan obligations) (i) sponsored or promoted by the Company or any of its Subsidiaries or (ii) for which the Company or any of its Subsidiaries acts as (A) a general partner or managing member (or in a similar capacity) or (B) an investment adviser or investment manager.

“Ares Operating Group Partnerships” shall mean Ares Holdings L.P., a Delaware limited partnership, Ares Offshore Holdings L.P., a Cayman Islands exempted limited partnership and Ares Investments L.P., a Delaware limited partnership.

“Ares Operating Group Unit” shall have the meaning assigned to it in the Certificate of Incorporation.

“Ares Ownership Condition” shall have the meaning assigned to it in the Certificate of Incorporation, as of the date of this Agreement.

“Amended and Restated Charter” means the Amended and Restated Certificate of Incorporation of the Company, substantially in the form attached to the Share Purchase Agreement as Exhibit A thereto.

“AST” means the American Stock Transfer & Trust Company, LLC.

“Beneficial Owner” or any variation thereof, including “Beneficial Ownership,” “Beneficially Owns” and “Beneficially Owned,” shall have the meaning ascribed to it in Rule 13d-3 of the Exchange Act.

“BHCA” means the Bank Holding Company Act of 1956, as amended, and all related rules, regulations and published guidance.

“Board” means the board of directors of the Company.

“Board Agreement” means a confidentiality and board participation agreement to be executed and delivered by and between the Company, on the one hand, and an Observer or a Stockholder Designee (as defined in Section 4.02), as applicable, on the other hand, in form and substance substantially consistent with Exhibit A.

“Business Day” means a day, other than Saturday, Sunday or other day on which commercial banks in New York, New York, USA or Tokyo, Japan are authorized or required by applicable laws to close.

“Bylaws” means the bylaws of the Company, as may be amended, supplemented and/or restated from time to time.

“Certificate of Incorporation” means the certificate of incorporation of the Company, as may be amended, supplemented and/or restated from time to time, including following the filing of the Amended and Restated Charter with (and acceptance thereof by) the Delaware Secretary, the Amended and Restated Charter.
“Change of Control” means any (i) merger, reorganization, consolidation, tender offer, self-tender, exchange offer, stock acquisition, business combination or other similar transaction or series of related transactions to which the Company or its Affiliates is a party, as a result of which the holders of the Company Stock outstanding immediately prior to such transaction or transactions would cease to Beneficially Own a majority of the voting power of all shares of capital stock or other securities of the surviving Person (or, if such surviving Person is a Subsidiary of another Person, of such other Person constituting the ultimate parent thereof) that are then entitled to vote generally in the election of directors (and not solely upon the occurrence and during the continuation of certain specified events) immediately after such transaction or transactions, (ii) sale or other transfer or disposition of a majority or greater of the Company’s consolidated assets (including Ares Operating Group Units or capital stock of Subsidiaries of the Company) to another Person that is not an Affiliate, or (iii) approval by the stockholders of the Company of any plan of liquidation or dissolution of the Company.

“Class A Common Stock” means the Company’s Class A common stock, $0.01 par value per share.

“Class B Common Stock” means the Company’s Class B common stock, $0.01 par value per share.

“Class C Common Stock” means the Company’s Class C common stock, $0.01 par value per share.

“Commission” means the United States Securities and Exchange Commission or any successor agency.

“Company” shall have the meaning assigned to it in the preamble.

“Company Securities” means any (i) shares of Company Stock and (ii) other securities convertible into or exercisable or exchangeable for shares of Company Stock, including the Ares Operating Group Units (whether or not currently so convertible, exercisable or exchangeable or only convertible, exercisable or exchangeable upon the passage of time, the satisfaction of any conditions, the occurrence of any action, change, circumstance or event or any combination of the foregoing).

“Company Stock” means, collectively, the Class A Common Stock, the Class B Common Stock, the Class C Common Stock and any Nonvoting Stock.

“Confidential Information” shall have the meaning assigned to it in Section 6.06(a).

“control” (including the correlative meanings of the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person means the power to, directly or indirectly, direct or cause the direction of the affairs of management of such Person, whether through the ownership of voting securities, by the right to appoint a majority of the members of such Person’s board of directors or managers (or other similar governing body), by contract or otherwise.

“Control Event” shall have the meaning assigned to it in Section 6.01(a).
“Corporate Opportunity” shall have the meaning assigned to it in Section 4.03.

“Delaware Court” shall have the meaning assigned to it in Section 7.11(a).

“Delaware Secretary” means the Secretary of State for the State of Delaware.

“Demand Registration” shall have the meaning assigned to it in Section 5.02.

“Demand Registration Statement” shall have the meaning assigned to it in Section 5.02.

“Demanding Holder” shall have the meaning assigned to it in Section 5.02.

“Director” means any member of the Board (other than any advisory, emeritus, honorary or non-voting observer member of the Board).

“Director Designation Right” shall have the meaning assigned to it in Section 4.02(a).

“Director Designation Right Event” shall have the meaning assigned to it in Section 4.02(a).

“Economic Ownership Percentage” means, with respect to the Stockholders, at any time, the quotient, expressed as a percentage, of (i) the total number of Subject Shares owned by the Stockholders divided by (ii) the total number of Ares Operating Group Units. “Economic Ownership Percentage” shall be subject to appropriate adjustment for any unit or stock split, or dividend, distribution, reclassification, subdivision, reorganization, recapitalization or similar event with respect to the Company or any of the issuers of Ares Operating Group Units.

“Exchange” shall have the meaning assigned to it in Section 2.01.


“Exchange Event” means any action, change, circumstance, occurrence or event that results, or could reasonably be expected to result, in the Stockholders and any other affiliate of the Stockholders for purposes of the BHCA, in the aggregate, Holding Company Securities representing more than the Voting Percentage Limit.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System.

“Filings” means any (a) annual, quarterly and current reports and other documents filed or furnished by the Company or any of its Subsidiaries under the Exchange Act; (b) annual reports to stockholders, annual and quarterly statutory statements of the Company or any of its Subsidiaries; and (c) registration statements, prospectuses documents filed or furnished by the Company or any of its Subsidiaries under the Securities Act (other than any registration statement, any Issuer Free Writing Prospectus, any prospectus or preliminary prospectus or any amendment thereof or supplement thereto to the extent that Section 5.06(a) of this Agreement applies).
“FINRA” means the Financial Industry Regulatory Authority or any successor agency.

“Fund” means any collective investment vehicle (whether open-ended or closed-ended), including an investment company, a general or limited partnership, a trust and any other business entity or investment vehicle organized in any jurisdiction that provides for management fees or “carried interest” (or other similar profits allocations) to be borne by investors therein.

“Hold” or “Held” and any derivation thereof, means ownership, control, or the power to vote, as those terms or phrases are construed for purposes of the BHCA.


“Independent Committee” shall have the meaning assigned to it in Section 4.01(a).

“Initial Shares” means, collectively, the Shares and any shares of Nonvoting Stock into which the Shares are converted or exchanged, whether in one or multiple conversions or exchanges, in accordance with the terms of this Agreement, so long as such Shares or any shares of Nonvoting Stock into which such Shares are converted or exchanged are Beneficially Owned or Held by the Investor, any other Stockholder or any other affiliate of the Stockholders for purposes of the BHCA.

“Inspectors” shall have the meaning assigned to it in Section 5.04(a)(viii).

“Investment Transaction” shall have the meaning assigned to it in the Recitals.

“Investor” shall have the meaning assigned to it in the preamble.

“Issuer Free Writing Prospectus” means an issuer free writing prospectus, as defined in Rule 433 under the Securities Act.

“Joinder Agreement” means a joinder to this Agreement, in form and substance substantially consistent with Exhibit B.

“Losses” shall have the meaning assigned to it in Section 5.06(a)(i).

“Nonvoting Stock” means the class of nonvoting common stock of the Company authorized pursuant to the Amended and Restated Charter.

“Observer” shall have the meaning assigned to it in Section 4.01(a).

“Offering Expenses” shall have the meaning assigned to it in Section 5.05(a).

“Permitted Transferee” means, with respect to the Investor or any other Stockholder, any wholly owned Subsidiary of Sumitomo Mitsui Financial Group, Inc. or the Investor, that becomes a party to this Agreement by delivering an executed Joinder Agreement to the Company.
“Person” means any individual, firm, corporation, partnership, limited liability company or other entity, and shall include any successor (by merger or otherwise) of such entity.

“Records” shall have the meaning assigned to it in Section 5.04(a)(viii).

“Registrable Amount” means a number of shares of Class A Common Stock and Nonvoting Stock such that the aggregate gross proceeds of an offering of such shares of Class A Common Stock and Nonvoting Stock would reasonably be expected to generate sale proceeds for the holders thereof (in the aggregate) of equal to or greater than $50 million.

“Registrable Securities” means any Subject Shares. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (i) a registration statement registering such securities under the Securities Act has been declared effective and such securities have been sold or otherwise transferred by the holder thereof pursuant to such effective registration statement or (ii) such securities are sold in accordance with Rule 144 (or any successor provision) promulgated under the Securities Act and any restrictive legend is removed therefrom.

“Registration Expenses” shall have the meaning assigned to it in Section 5.05(a).

“Regulatory Hardship” shall have the meaning assigned to it in Section 3.03(a).

“Regulatory Hardship Transfer” shall have the meaning assigned to it in Section 3.03(b).

“Representatives” with respect to any Person means such Person’s Affiliates, and the directors, officers, employees, financial and legal advisors, accountants, consultants and other representatives of such Person and its Affiliates.

“Requested Information” shall have the meaning assigned to it in Section 5.06(d)(iii).

“Requesting Holder” shall have the meaning assigned to it in Section 5.02.

“Rule 144” shall have the meaning assigned to it in Section 6.04(a).

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Selling Holders” shall have the meaning assigned to it in Section 5.04(a)(i).

“Share Purchase Agreement” shall have the meaning assigned to it in the Recitals.

“Shelf Notice” shall have the meaning assigned to it in Section 5.01(a).

“Shelf Registration” shall have the meaning assigned to it in Section 5.01(a).

“Shelf Registration Effectiveness Period” shall have the meaning assigned to it in Section 5.01(a).
“Shelf Registration Statement” shall have the meaning assigned to it in Section 5.01(a).

“Shelf Takedown Notice” shall have the meaning assigned to it in Section 5.01(e).

“Shelf Underwritten Offering” shall have the meaning assigned to it in Section 5.01(e).

“Stockholder” means the Investor and each Permitted Transferee for so long as any such Person owns Subject Shares.

“Subject Shares” shall have the meaning assigned to it in the Recitals.

“Subsidiary” means with respect to any Person (i) a corporation, fifty percent (50%) or more of the voting or capital stock of which is, directly or indirectly owned by such Person, (ii) any other partnership, joint venture, association, joint stock company, trust, unincorporated organization or other entity in which such Person, directly or indirectly, owns fifty percent (50%) or more of the equity economic interest thereof or has the power to elect or direct the election of fifty percent (50%) or more of the members of the governing body of such entity or otherwise has control over such entity (e.g., as the managing partner of a partnership), or (iii) any entities that would be considered subsidiaries of such Person within the meaning of Regulation S-K or Regulation S-X of the Commission. Notwithstanding the foregoing, the Subsidiaries of the Company shall not include the Ares Funds or their portfolio companies or investments, or special purpose entities formed to acquire any such portfolio companies or investments, including collateralized loan obligations.

“Suspension Period” shall have the meaning assigned to it in Section 5.01(d).

“Transaction Litigation” shall have the meaning assigned to it in Section 7.05.

“Transfer” means, directly or indirectly, to sell, transfer, assign, pledge, hypothecate, encumber, or similarly dispose of (by merger, disposition, operation of law or otherwise), either voluntarily or involuntarily, or to enter into any contract, option or other arrangement or understanding with respect to the sale, transfer, assignment, or similar disposition of (by merger, disposition, operation of law or otherwise), any Company Securities or any interest in any Company Securities, including in any hedging, derivative, swap, securities lending or similar agreements, arrangements or understandings or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of any Company Securities. The direct or indirect Transfer of any securities of a Person that owns a security or any interest therein shall be deemed to be a Transfer by such Person of such security or any interest therein. Notwithstanding the foregoing: (a) a merger, amalgamation, plan of arrangement or consolidation or similar business combination transaction in which any Stockholder is a constituent entity shall not be deemed to be a Transfer of any Company Securities or any interest in any Company Securities Beneficially Owned by such Stockholder or any of its wholly owned Subsidiaries so long as (i) the surviving Person of such transaction remains subject to, and bound by, the obligations of such Stockholder under this Agreement and (ii) the Initial Shares Beneficially Owned by such Stockholder and any of its wholly owned Subsidiaries represent ten percent (10%) or less of the total assets (based on the carrying value of such Initial Shares) of such Stockholder and its wholly owned Subsidiaries, taken as a whole, immediately prior to entry into a definitive agreement in respect of such transaction and (b) the sale, transfer, assignment or similar disposition of equity interests or other securities of Sumitomo Mitsui Financial Group, Inc. or any of its wholly owned Subsidiaries shall not be deemed to be a Transfer of any Company Securities or any interest in any Company Securities Beneficially Owned by such Stockholder or any of its wholly owned Subsidiaries so long as the Initial Shares Beneficially Owned by Sumitomo Mitsui Financial Group, Inc. or such Subsidiaries, as applicable, and any of its wholly owned Subsidiaries represent ten percent (10%) or less of the total assets (based on the carrying value of such Initial Shares) of Sumitomo Mitsui Financial Group, Inc. or its Subsidiaries, as applicable, and any of its wholly owned Subsidiaries, taken as a whole, immediately prior to entry into a definitive agreement in respect of such transaction.
“Transfer Exceptions” shall have the meaning assigned to it in Section 3.02(a).

“Underwriting Agreement” means any underwriting agreement between the Company and the underwriters named therein.

“Underwritten Offering” means a sale of securities of the Company to an underwriter or underwriters for reoffering to the public, whether in a marketed transaction or in an overnight or block trade.

“Voluntary Exchange Event” shall have the meaning assigned to it in Section 2.02(a).

“Voting Percentage Limit” means, as of any given time, a “voting percentage” (as that concept is calculated and interpreted pursuant to 12 C.F.R. 225.2(u) or in any successor regulation or published interpretation of the Federal Reserve Board then in effect for purposes of the BHCA) of 4.90%.

Section 1.02. Construction. For the purposes of this Agreement (i) words (including capitalized terms defined herein) in the singular shall be held to include the plural and vice versa and words (including capitalized terms defined herein) of one gender shall be held to include other genders as the context requires; (ii) the terms “hereof,” “hereunder,” “hereto,” “herein” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and subsection references are to this Agreement unless otherwise specified; (iii) the word “including” and words of similar import when used in this Agreement means “including, without limitation”; (iv) all references to any period of days shall be deemed to be to the relevant number of calendar days unless otherwise specified; (v) all references herein to “$” or dollars shall refer to United States dollars, unless otherwise specified; (vi) Person shall be deemed to “Beneficially Own” securities if such Person is deemed to be a “beneficial owner” within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act’ (vii) except as the context otherwise requires, the terms “either,” “or,” “neither,” “nor,” and “any” when used in this Agreement are not exclusive; (viii) all references herein to any Article, Section, subsection, clause, or Exhibit are to the corresponding Article, Section, subsection or clause of, or Exhibit to, this Agreement; (ix) except as otherwise specified herein, references to agreements, contracts, policies, standards, guidelines or instruments, or to statutes or regulations, are to such agreements, contracts, policies, standards, guidelines or instruments, or statutes or regulations, as amended or supplemented from time to time (or to successors thereto); (x) all references herein to the Subsidiaries of a Person shall be deemed to include all direct and indirect Subsidiaries of such Person, unless otherwise indicated or the context otherwise requires; (xi) the word “extent” in the phrase “to the extent” means the degree to which a subject or other theory extends, and such phrase shall not mean “if”; (xii) references to any party to this Agreement shall include such party’s successors and permitted assigns; (xiv) accounting terms not otherwise defined have the meaning assigned to them in accordance with United States generally accepted accounting principles.
ARTICLE 2
SHARE OWNERSHIP

Section 2.01. Mandatory Exchange of Class A Common Stock and Nonvoting Stock. If, at any time, any Stockholder or the Company becomes aware of any pending, proposed or contemplated Exchange Event, then (i) such Stockholder or the Company, as applicable, shall promptly provide written notice to the other parties of such Exchange Event and (ii) prior to the consummation of the Exchange Event, effect an exchange whereby each share of Class A Common Stock Held by the Stockholders and their affiliates (for purposes of the BHCA) in excess of the Voting Percentage Limit is exchanged for an equal number of shares of Nonvoting Stock (any such exchange, together with any exchange pursuant to Section 2.02, an “Exchange”). Any Exchange shall be subject to satisfaction of all requirements under applicable laws, rules and regulations, and each of the Stockholders and the Company shall use their respective commercially reasonable efforts to promptly satisfy all such requirements. In connection with an Exchange, the Stockholders shall have the sole right to determine which shares of Class A Common Stock of the Stockholders shall be so Exchanged.

Section 2.02. Voluntary Exchange of Subject Shares.

(a) Upon at least fifteen (15) Business Days’ prior written notice from a Stockholder, the Company shall effect an Exchange of all or part of the Class A Common Shares Held by the Stockholders (each, a “Voluntary Exchange Event”) for an equal number of shares of Nonvoting Stock. Notwithstanding the foregoing, the Company shall not be required to effect a Voluntary Exchange Event if effecting such Voluntary Exchange Event would reasonably be expected to have adverse consequences (other than that are de minimis) to the Company or its stockholders (including making it reasonably less likely that any of the Company’s equity securities would not be included on (or remain on) any stock or exchange index), as reasonably determined by the Company in good faith. Any such Exchange shall be subject to satisfaction of all requirements under applicable laws, rules and regulations, and each of the Stockholders and the Company shall use their respective commercially reasonable efforts to promptly satisfy all such requirements.

(b) Any notice requesting an Exchange delivered pursuant to this Section 2.02 shall contain the number of shares of Class A Common Stock Held by the Stockholders that it or they desire to be subject to an Exchange.

Section 2.03. Nonvoting Stock.

(a) All shares of Nonvoting Stock issued as part of an Exchange (whether pursuant to Section 2.01 or Section 2.02) shall be (i) validly issued, fully paid and non-assessable, (ii) free of preemptive or similar rights and (iii) free of any lien or adverse claim created by the Company (other than Transfer restrictions arising under this Agreement or applicable securities laws or the Certificate of Incorporation). The Company shall bear all costs and expenses incurred by the Company in connection with, and any issuance tax resulting from, an Exchange. The Company shall promptly deliver to the applicable Stockholders evidence of shares in book-entry registered in the name of the applicable Stockholder, representing the applicable number of shares of Nonvoting Stock issued in the Exchange for the shares of Class A Common Stock so exchanged by such Stockholder.
(b) The Company shall reserve for issuance out of its authorized but unissued shares of Class A Common Stock, that number of shares of Class A Common Stock into which the issued and outstanding shares of Nonvoting Stock are convertible (in all cases, subject to and in accordance with expectations and requirements of the Federal Reserve Board regarding the transfer and conversion of non-voting securities for purposes of the BHCA).

(c) The Company represents and warrants to the Stockholders that, on the date of this Agreement, other than the Amended and Restated Charter Requirements (as defined in the Purchase Agreement), the receipt of the Stockholder Written Consent (as defined in the Purchase Agreement) and the filing of the Amended and Restated Charter with (and acceptance thereof by) the Delaware Secretary, (A) no consent, approval, authorization, order, license, registration or qualification of or with any governmental agency or authority of competent jurisdiction is required for the Company to perform its obligations under this Article 2 and (B) such performance shall not result in any violation of the provisions of the Certificate of Incorporation, Bylaws, or similar constitutive or organizational documents of the Company.

Section 2.04. Application of Agreement to Additional Securities.

(a) Any additional Class A Common Stock or Nonvoting Stock of which any Stockholder acquires Beneficial Ownership following the date of this Agreement shall be “Subject Shares” and subject to the restrictions and commitments contained in this Agreement as fully as if such Class A Common Stock or Nonvoting Stock were Beneficially Owned by the Investor as of the date hereof.

(b) In the event that a majority of the Class A Common Stock or Nonvoting Stock on a given date are converted or exchanged into any other capital stock on such date (whether of the Company, an Affiliate of the Company or otherwise), all references herein to Class A Common Stock or Nonvoting Stock shall be deemed to mean the capital stock into which such shares of Class A Common Stock or Nonvoting Stock are converted of exchanged.

ARTICLE 3
TRANSFER RESTRICTIONS

Section 3.01. General Transfer Restrictions. The right of any Stockholder to Transfer any Subject Shares is subject to the restrictions set forth in this Article 3, and no Transfer by any Stockholder of any Subject Shares may be effected except in compliance with this Article 3. Any attempted Transfer in violation of this Agreement shall be of no effect and null and void, regardless of whether the purported transferee has any actual or constructive knowledge of the Transfer restrictions set forth in this Agreement, and shall not be recorded on the stock transfer books of the Company.
Section 3.02. Special Transfer Restrictions.

(a) No Stockholder shall Transfer any Initial Shares, other than Transfers (i) pursuant to an Exchange, (ii) to a Permitted Transferee, (iii) pursuant to a Regulatory Hardship Transfer in accordance with Section 3.03, (iv) pursuant to any sale, merger, consolidation, acquisition (including by way of tender offer or exchange offer or share exchange), recapitalization or other business combination involving the Company or any of its Subsidiaries, or (v) with the prior written consent of the Company (the foregoing exceptions in Section 3.02(a)(i)-(v), collectively, the “Transfer Exceptions”). The Investor has advised the Company that it may consider certain hedging transactions for a portion of its Initial Shares for risk management purposes, which hedging transactions may be a Transfer of such portion of the Initial Shares. The Company will reasonably consider in good faith whether to consent to any such Transfer.

(b) Notwithstanding Section 3.02(a):

(i) following the [two-year anniversary of the date hereof], the Stockholders may Transfer up to 33.33% of the Initial Shares;

(ii) following the [three-year anniversary of the date hereof], the Stockholders may Transfer up to 66.66% of the Initial Shares;

(iii) following the [four-year anniversary of the date hereof], the Stockholders may Transfer any or all of the Initial Shares; and

(iv) the Stockholders may Transfer any or all of the Initial Shares in the event (and at and following the time) that the Company or any of its Affiliates enters into a definitive agreement that contemplates a transaction or transactions the consummation or completion of which would reasonably be expected (at the time of announcement or any time thereafter) to result in the Ares Ownership Condition no longer being satisfied.

(c) In addition to the requirements of Sections 3.02(a), no Stockholder shall Transfer any shares of Nonvoting Stock unless such Transfer complies with the terms of this Agreement and the Certificate of Incorporation.

Section 3.03. Regulatory Hardship Transfer.

(a) If any Stockholder (i) determines in good faith and based on the reasonable advice of external counsel (such counsel to be a law firm possessing recognized expertise with respect to applicable laws and regulations in the applicable jurisdiction(s) at issue) that continuing to Hold all or any of the Subject Shares would be inconsistent with, violate or breach any applicable laws or regulations or (ii) receives a directive or request from any governmental agency or authority of competent jurisdiction to Transfer all or any of its Subject Shares (either of clauses (i) or (ii), a “Regulatory Hardship”), then the Stockholders shall promptly notify the Company of such Regulatory Hardship. Such notice shall describe the nature of the Regulatory Hardship in reasonable detail. Such description need not include information that is not permitted by applicable laws or regulations to be disclosed. To the extent permitted by law and practicable under the circumstances, the applicable party shall use commercially reasonable efforts to obtain permission from the appropriate governmental agency or authority of competent jurisdiction to disclose such information to the other party.
Following the occurrence of a Regulatory Hardship or a Control Event, the Stockholders shall have the right to Transfer (such Transfer, a “Regulatory Hardship Transfer”) only such portion of the Subject Shares that is required to be Transferred to remediate or eliminate such Regulatory Hardship or Control Event to any third-party purchaser without being subject to any restrictions on Transfer set forth in this Article 3.

Section 3.04. Binding Effect on Transferees. A Permitted Transferee (and no other Person) shall become a Stockholder under this Agreement, without any further action by the Company, following a transfer by the Investor (or any other Stockholder) of Subject Shares to such Permitted Transferee upon the execution by such Permitted Transferee of a Joinder Agreement.

Section 3.05. Charter Provisions. The Company shall use its commercially reasonable efforts to take or cause to be taken all lawful action necessary or appropriate (including any amendment to the Certificate of Incorporation and/or the Bylaws) to ensure that the Certificate of Incorporation and the Bylaws do not contain any provisions that would (x) add restrictions to the transferability of the Subject Shares, which restrictions are beyond those then provided for in the Amended and Restated Charter, the Bylaws, this Agreement or applicable securities laws, (y) nullify any of the rights of the Stockholders arising under this Agreement or (z) have a materially disproportionate and adverse effect on any Stockholder as compared to other stockholders of the Company, in each case, unless such provision is expressly approved in advance in writing by the Stockholders that own a majority of the Company Securities owned by all Stockholders.

ARTICLE 4
BOARD OF DIRECTORS

Section 4.01. Board Observer.

(a) For so long as the Stockholders (x) Beneficially Own, in the aggregate, at least two-thirds (2/3) of the Initial Shares and (y) do not have a Director Designation Right, (i) the Stockholders shall have the right to (A) appoint one (1) non-voting representative (the “Observer”) to attend (at the Observer’s option, in person or via remote access, including telephonically) all meetings of the Board (and all committees thereof on which independent directors of the Company serve (collectively, the “Independent Committees”)), (B) change the Observer so appointed at any time upon written notice to the Company and (C) upon the resignation, removal or replacement of the Observer for any reason, to appoint another Observer and (ii) the Company shall provide the Observer with copies of all notices, consents, resolutions, minutes or other written materials provided or made available to the Board (or to any Independent Committee) as set forth in the Board Agreement. The Stockholders shall cease to have any right or entitlement to appoint an Observer from and after the first instance in which the Stockholders cease to Beneficially Own, in the aggregate, at least two-thirds (2/3) of the Initial Shares.
(b) Prior to the right of the Observer to attend any meeting of the Board (or any Independent Committee) or receive the information contemplated in Section 4.01(a)(ii), the Observer shall execute and deliver to the Company a Board Agreement.

(c) Notwithstanding anything to the contrary in this Agreement or the Board Agreement, the Company may exclude such Observer from access to any portions of materials or attendance at any portion of any meetings of the Board (or any Independent Committee) to the extent that such (i) access or attendance would reasonably be expected to jeopardize the attorney-client privilege of the Company, any of its Affiliates or the Ares Funds, (ii) access or attendance would reasonably be expected to violate any confidentiality obligation owed to any unaffiliated third party by the Company, any of its Affiliates or the Ares Funds, (iii) materials or meetings relates to (A) the Company’s, the Ares Funds’ or any of their respective Affiliates’ relationship, contractual or otherwise, with any of the Stockholders or any of their respective Affiliates or (B) any actual or potential transactions between or involving the Company, the Ares Funds or any of their respective Affiliates, on the one hand, and any of the Stockholders or any of their respective Affiliates, on the other hand, or (iv) such exclusion is necessary to avoid an actual or reasonably likely conflict of interest. Notwithstanding the foregoing, the Company shall use commercially reasonable efforts to make other arrangements (including redacting information or making substitute disclosure arrangements) that would enable disclosure to the Observer to occur without (A) in the case of the foregoing clause (i), jeopardizing such privilege, (B) in the case of the foregoing clause (ii), violating such confidentiality obligations, or (C) in the case of the foregoing clause (iv), creating an actual or reasonably likely conflict of interest.

(d) Notwithstanding anything in this Agreement to the contrary, the Observer must be reasonably acceptable to the Company and may not be a Person who (i) has been removed for cause from the Board, (ii) has ever been convicted of a felony or equivalent crime (which conviction was not subsequently overturned) under the laws of any jurisdiction, (iii) is or has been subject to any permanent injunction on serving on the board of directors (or similar governing body) of publicly listed companies in the United States for violation of any United States federal or state securities law, (iv) has been determined by any governmental or quasi-governmental agency or authority of competent jurisdiction, or is reasonably likely pursuant to applicable law, regulation or listing authority rules, to be ineligible to serve on a board of directors (or similar governing body) of publicly listed companies or (v) is employed by, is engaged as a consultant for, or serves as a director (or similar position) for, any competitor of the Company. The Company acknowledges that the individual identified by the Investor in writing as the Observer as of the date of the Purchase Agreement is acceptable to the Company.
Section 4.02. Director Designation Right

(a) In the event that the aggregate Economic Ownership Percentage of the Stockholders is equal to or greater than ten percent (10%) (a “Director Designation Right Event”), the Stockholders that own a majority of the Company Securities owned by all Stockholders shall have the right to designate one (1) individual to be nominated for election as a Director (such individual, a “Stockholder Designee” and such right, the “Director Designation Right”). Notwithstanding the foregoing, such Stockholders shall not exercise the Director Designation Right in the event that doing so would require the Stockholders or their Affiliates to submit and file notification obligations of the HSR Act in respect of the investment in the Company by the Stockholders until such time as such submission and filing shall have occurred and any applicable waiting period under the HSR Act relating to such filing shall have expired or been terminated. In the event that, following a Director Designation Right Event, the aggregate Economic Ownership Percentage of the Stockholders decreases below ten percent (10%) as a result of (i) Transfers of Company Securities by the Stockholders (other than to a Permitted Transferee), the Stockholders shall cause the Director designated by it or them to promptly resign as a Director of the Board or (ii) any other action, change, circumstance, occurrence or event (including share issuances by the Company), the Investor shall retain the Director Designation Right for a period of six (6) months following such other action, change, circumstance, occurrence or event, and, thereafter, the Stockholders shall cause the Director designated by it or them to promptly resign as a Director of the Board. The loss of the Director Designation Right in one or more instances (regardless of the reason) shall not prevent or preclude the Stockholders from obtaining and exercising the Director Designation Right in the future in the event of a subsequent Director Designation Right Event. Notwithstanding the foregoing, the Stockholders shall cease to have any right to obtain or exercise the Director Designation Right from and after the first instance in which the Stockholders cease to Beneficially Own, in the aggregate, at least two-thirds (2/3) of the Initial Shares.

(b) At any time that the Stockholders are entitled to the Director Designation Right:

(i) the Company shall take all reasonable actions within its control (subject to any applicable laws or securities exchange or equivalent listing requirements) to effectuate the provisions of this Section 4.02 and to cause the election or appointment of the individual designated by the Stockholders pursuant to Section 4.02(a), which shall include the Company (i) including such designee in the slate of nominees recommended by the Board for election at any meeting of stockholders of the Company at which Directors are to be elected to the Board and (ii) nominating, recommending and using its commercially reasonable efforts to solicit from its stockholders proxies in favor of the election of such designee in the same manner and to the same extent it solicits proxies in favor of other candidates nominated for election by the Board; and

(ii) in the event that a vacancy is created at any time by the death, disability, retirement, resignation or removal of any Director who has been designated by the Stockholders pursuant to Section 4.02(a) (other than as a result of a failure of such Director who has been nominated for election as a Director to be re-elected at any meeting of stockholders of the Company at which Directors are to be elected to the Board), subject to Section 4.02(d), the Company shall take all reasonable actions within its control (subject to any applicable laws or securities exchange or equivalent listing requirements) to cause the vacancy created thereby to be filled as promptly as practicable by a new designee of the Stockholders, including by appointment to the Board by the Directors (to the extent permitted by the Certificate of Incorporation and Bylaws and applicable law).
(c) Prior to (or substantially concurrently with) the Company taking any actions to appoint or nominate a Stockholder Designee, such Stockholder Designee shall execute and deliver to the Company a Board Agreement.

(d) Notwithstanding anything in this Agreement to the contrary, the Stockholder Designee must be reasonably acceptable to the Company and may not be a Person who (i) has been removed for cause from the Board, (ii) has ever been convicted of a felony or equivalent crime (which conviction was not subsequently overturned) under the laws of any jurisdiction, (iii) is or has been subject to any permanent injunction on serving on the board of directors (or similar governing body) of publicly listed companies in the United States for violation of any United States federal or state securities law, (iv) has been determined by any governmental or quasi-governmental agency or authority of competent jurisdiction, or is reasonably likely pursuant to applicable law, regulation or listing authority rules, to be ineligible to serve on a board of directors (or similar governing body) of publicly listed companies or (v) is employed by, is engaged as a consultant for, or serves as a director (or similar position) for, any competitor of the Company.

Section 4.03. Corporate Opportunities. To the maximum extent permitted by applicable law, the Company hereby renounces any interest or expectancy in, or any right to be offered an opportunity to participate in, any business opportunities or classes or categories of business opportunities (each, a “Corporate Opportunity”) that are developed by or presented to an Observer or Stockholder Designee (other than any Corporate Opportunity presented to such Observer or Stockholder Designee in connection with his or her capacity as such), even if such Corporate Opportunity is one that the Company, any of the Company’s Subsidiaries, any Ares Fund or any of their respective Affiliates might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so. Except for a Corporate Opportunity presented to an Observer or Stockholder Designee in connection with his or her capacity as such, no Observer or Stockholder Designee shall have any duty to communicate or offer any Corporate Opportunity to the Company, any of the Company’s Subsidiaries, any Ares Fund or any of their respective Affiliates. Notwithstanding the foregoing, an Observer or Stockholder Designee who is offered or presented a Corporate Opportunity in his or her capacity as an Observer or Stockholder Designee, as applicable, shall be obligated to communicate such Corporate Opportunity to the Company, and none of such Observer or Stockholder Designee, the Stockholders nor any of their respective Affiliates shall pursue such opportunity unless the Board has adopted a resolution expressly waiving such opportunity on behalf of the Company.
ARTICLE 5
REGISTRATION RIGHTS

Section 5.01. Shelf Registration.

(a) Subject to Section 5.01(d), the Investor or any of its Permitted Transferees (in each case, if it is a Stockholder under this Agreement) may by written notice delivered (which notice can be delivered at any time after the eleven (11) month anniversary of the date hereof) to the Company (the “Shelf Notice”) require the Company to, with respect to all or, if the amount to be registered is equal to or greater than the Registrable Amount, any portion of the Registrable Securities, (a) as promptly as practicable (but no later than forty-five (45) days after the date the Shelf Notice is delivered) prepare and file a registration statement on Form S-3 (or a supplement to an existing effective registration statement to the extent the Company is legally able to do so) or a successor form as permitted by Rule 415 of the Securities Act (or such other similar rule as is then applicable) (the “Shelf Registration Statement”) for the public resale of such Registrable Securities then outstanding on a delayed or continuous basis (the “Shelf Registration”) and (b) if such Shelf Registration Statement has not theretofore been declared effective or is not automatically effective upon such filing, use commercially reasonable efforts to cause such Shelf Registration Statement to become and be declared effective by the Commission no later than sixty (60) days after such filing date and in any event as soon as practicable after such filing. The Company shall use commercially reasonable efforts to cause each Shelf Registration Statement filed pursuant to this Section 5.01(a) to be continuously effective, supplemented, amended or replaced to the extent necessary to ensure that it is available for the resale of all Registrable Securities Beneficially Owned by the Investor (or any of its Permitted Transferees) and any other Persons that at the time of the Shelf Notice meet the definition of a “Stockholder” (as such term is used herein) who elect to participate therein as provided in Section 5.01(c) until the earlier of (i) all Registrable Securities covered by the Shelf Registration Statement having been distributed in the manner set forth and as contemplated in such Shelf Registration Statement and (ii) such time as the Stockholders, together, Beneficially Own less than a Registrable Amount (the “Shelf Registration Effectiveness Period”). So long as the Company is a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) at the time of filing of the Shelf Registration Statement with the Commission, such Shelf Registration Statement shall be designated by the Company as an automatic Shelf Registration Statement.

(b) If, at any time, a Shelf Registration ceases to be effective, the Company shall use its commercially reasonable efforts to file and use its commercially reasonable efforts to cause to become effective a new “evergreen” Shelf Registration Statement providing for an offering to be made on a continuous basis of all of the Registrable Securities of the holders. Such Shelf Registration Statement shall be filed on Form S-3 or, if Form S-3 is unavailable to the Company, on Form S-1 following a Demand Registration in the manner contemplated by Section 5.02.

(c) As promptly as practicable but in no event later than ten (10) Business Days after receipt of a Shelf Notice pursuant to Section 5.01(a), the Company will deliver written notice thereof to each Stockholder. Each Stockholder may elect to participate in the Shelf Registration Statement by delivering to the Company (not later than five (5) Business Days after delivery of such notice by the Company) a written request to so participate.

(d) Notwithstanding anything to the contrary contained in this Agreement, the Company shall be entitled, from time to time, by providing notice to the Stockholders who elected to participate in the Shelf Registration Statement or to the Demanding Holders, as applicable, to (i) delay the filing or effectiveness of any registration statement or prospectus or (ii) require such Stockholders to suspend the use of the prospectus for sales of Registrable Securities under any registration statement for a reasonable period of time not to exceed ninety (90) days in succession or one hundred and fifty (150) days in the aggregate in any twelve-month period and not more than twice in such twelve-month period (a “Suspension Period”) if the Board determines in good faith and in its reasonable judgment that it is required to disclose in such registration statement or prospectus material, non-public information that the Company has a bona fide business purpose for preserving as confidential. Immediately upon receipt of such notice, the Stockholders covered by such registration statement shall suspend the use of the prospectus until the requisite changes to the prospectus have been made as required below. Any Suspension Period shall terminate at such time as the public disclosure of such information is made. After the expiration of any Suspension Period and without any further request from a Stockholder, the Company shall as promptly as practicable prepare a post-effective amendment or supplement to such registration statement or prospectus, or any document incorporated therein by reference, or file any other required document so that, as thereafter delivered to purchasers of the Registrable Securities included therein, the prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Company shall not allow the use of any other registration statement or file any new registration statement during any Suspension Period.
At any time, and from time-to-time, during the Shelf Registration Effectiveness Period (except during a Suspension Period), each of the Investor or any of its Permitted Transferees (in each case, if it is a Stockholder hereunder) may deliver a notice (a "Shelf Takedown Notice") to the Company to notify the Company of its intention to sell Registrable Securities covered by the Shelf Registration Statement (in whole or in part) in an Underwritten Offering (a "Shelf Underwritten Offering"). Notwithstanding the foregoing, the Company (i) shall not be obligated to participate in more than two (2) marketed underwritten offerings during any twelve (12) month period and (ii) may take such actions (including deferring a Shelf Underwritten Offering) as it deems necessary or appropriate to comply with its policies regarding trading windows or otherwise to coordinate the timing of such Shelf Underwritten Offering with the Company’s earnings releases and Commission reporting obligations (provided such actions are applied consistently to the Investor and any other Persons otherwise generally subject to policies regarding trading windows). Such Shelf Takedown Notice shall specify (x) the aggregate number of Registrable Securities requested to be registered in such Shelf Underwritten Offering and (y) the identity of the Stockholder(s) requesting such Shelf Underwritten Offering. Upon receipt by the Company of such notice, the Company shall promptly comply with the applicable provisions of this Agreement, including those provisions of Section 5.04 relating the Company’s obligation to make Filings with the Commission, assist in the preparation and filing with the Commission of prospectus supplements and amendments to the Shelf Registration Statement, participate in “road shows,” agree to customary “lock-up” agreements with respect to the Company’s securities and obtain “comfort” letters, and the Company shall take such other actions as necessary or appropriate to permit the consummation of such Shelf Underwritten Offering as promptly as practicable. Each Shelf Underwritten Offering shall be for the sale of a number of Registrable Securities equal to or greater than the Registrable Amount. In any Shelf Underwritten Offering, the Stockholders participating in such Shelf Underwritten Offering that hold a majority of the Registrable Securities included in such Shelf Underwritten Offering shall select the investment bank(s) and managers that will serve as lead or co-managing underwriters with respect to the offering of such Registrable Securities, which shall be reasonably acceptable to the Company.

Section 5.02. Demand Registration. Subject to the provisions of Section 5.01(d), if the Company is ineligible to use a Shelf Registration Statement or if the Shelf Registration Statement is otherwise unavailable to the Company, the Stockholders (the “Demanding Holders”) may make a written demand that the Company promptly prepare and file a registration statement (a “Demand Registration Statement”) under the Securities Act of all or part of their Registrable Securities having an anticipated aggregate offering price of the value of all the Registrable Securities owned by the Stockholders, which written demand shall describe the amount and type of security to be included in such Demand Registration Statement and the intended method(s) of distribution thereof, which may include delayed distribution pursuant to Rule 415 under the Securities Act (such written demand a “Demand Registration”). Each Demand Registration shall be for the sale of a number of Registrable Securities equal to or greater than the Registrable Amount. The Company shall, within ten (10) Business Days after receipt of the Demand Registration, notify, in writing, all other Stockholders, if any, of such demand, and each holder of Registrable Securities who thereafter wishes to include all or a portion of such holder’s Registrable Securities in a Demand Registration (each such holder that includes all or a portion of such holder’s Registrable Securities in such Demand Registration, a “Requesting Holder”) shall so notify the Company, in writing, within five (5) Business Days after the receipt by such other Stockholders of the notice from the Company. Upon receipt by the Company of any such written notification from a Requesting Holder(s), such Requesting Holder(s) shall be entitled to have their Registrable Securities included in such Demand Registration and the Company shall effect, as soon thereafter as practicable, the registration of all Registrable Securities requested by the Demanding Holder(s) and Requesting Holder(s) pursuant to such Demand Registration, including by filing a Demand Registration Statement relating thereto as soon as practicable, but not more than sixty (60) days immediately after the Company’s receipt of the Demand Registration. Under no circumstances shall the Company be obligated to obtain effectiveness of more than one (1) Demand Registration Statement under this Section 5.02 with respect to any or all Registrable Securities within any twelve (12) month period; provided that a Demand Registration shall not count against this limitation unless and until (i) the Demand Registration Statement has been declared effective by the Commission, (ii) the Company has complied with all of its obligations under this Agreement with respect thereto, and (iii) the Demand Registration Statement has remained effective for the Shelf Registration Effectiveness Period; provided, further, that if, after such Demand Registration Statement has been declared effective, an offering of Registrable Securities pursuant to a Demand Registration is subsequently interfered with by any stop order or injunction of the Commission, federal or state court or any other governmental agency, then the Demand Registration Statement shall be deemed not to have been declared effective, unless and until, such stop order or injunction is removed, rescinded or otherwise terminated; provided, further, that the Company shall not be obligated or required to file another Demand Registration Statement until the Demand Registration Statement that has been previously filed with respect to a Demand Registration becomes effective or is subsequently terminated.

Section 5.03. Withdrawal Rights. Any Stockholder having notified or directed the Company to include any or all of its Registrable Securities in a registration statement under the Securities Act shall have the right to withdraw any such notice or direction with respect to any or all of the Registrable Securities designated by it for registration by giving written notice to such effect to the Company prior to the effective date of such registration statement. In the event of any such withdrawal, the Company shall not include such Registrable Securities in the applicable registration and such Registrable Securities shall continue to be Registrable Securities for all purposes of this Agreement. No such withdrawal shall affect the obligations of the Company with respect to the Registrable Securities not so withdrawn.
Section 5.04. **Registration Procedures.** (a) If and whenever the Company is required to use commercially reasonable efforts to effect the registration of any Registrable Securities under the Securities Act as provided in Sections 5.01 and 5.02, the Company shall as promptly as practicable (in each case, to the extent applicable):

(i) prepare and file with the Commission a registration statement to effect such registration, use commercially reasonable efforts to cause such registration statement to become effective as promptly as practicable, and thereafter use commercially reasonable efforts to cause such registration statement to remain effective pursuant to the terms of this Agreement; provided, however, that the Company may discontinue any registration of its securities which are not Registrable Securities at any time prior to the effective date of the registration statement relating thereto; provided, further, that before filing such registration statement or any amendments thereto, the Company will furnish to the counsel selected by the holders of Registrable Securities which are to be included in such registration (“Selling Holders”) copies of all such documents proposed to be filed, which documents will be subject to the review of and comment by such counsel (it being understood that counsel to the Selling Holders will conduct its review and provide any comments promptly);

(ii) prepare and file with the Commission such amendments (including post-effective amendments) and supplements to such registration statement and the prospectus used in connection therewith and any Exchange Act reports incorporated by reference therein as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement until the earlier of such time as all of such securities have been disposed of in accordance with the intended methods of disposition by the Selling Holder(s) set forth in such registration statement or (A) in the case of a Demand Registration pursuant to Section 5.02, the expiration of sixty (60) days after such registration statement becomes effective or (B) in the case of a Shelf Registration pursuant to Section 5.01, the Shelf Registration Effectiveness Period;

(iii) furnish to each Selling Holder and each underwriter, if any, of the securities being sold by such Selling Holder such number of conformed copies of such registration statement and of each amendment and supplement thereto (in each case including all exhibits), such number of copies of the prospectus contained in such registration statement (including each preliminary prospectus and any summary prospectus) and any other prospectus filed under Rule 424 under the Securities Act, in conformity with the requirements of the Securities Act, and any Issuer Free Writing Prospectus and such other documents as such Selling Holder and underwriter, if any, may reasonably request in order to facilitate the public sale or other disposition of the Registrable Securities owned by such Selling Holder;
(iv) use commercially reasonable efforts to register or qualify such Registrable Securities covered by such registration statement under such other securities laws or blue sky laws of such jurisdictions as any Selling Holder and any underwriter of the securities being sold by such Selling Holder shall reasonably request, and take any other action which may be reasonably necessary or advisable to enable such Selling Holder and underwriter to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Selling Holder, except that the Company shall not for any such purpose be required to qualify generally to do business as a foreign corporation in any jurisdiction wherein it would not but for the requirements of this clause (iv) be obligated to be so qualified, to subject itself to taxation in any such jurisdiction or to file a general consent to service of process in any such jurisdiction;

(v) use commercially reasonable efforts to cause such Registrable Securities to be listed on each securities exchange on which similar securities issued by the Company are then listed and, if no such securities are so listed, use commercially reasonable efforts to cause such Registrable Securities to be listed on the New York Stock Exchange or the Nasdaq Stock Market;

(vi) use commercially reasonable efforts to cause such Registrable Securities covered by such registration statement to be registered with or approved by such other governmental agency or authority of competent jurisdiction as may be necessary to enable the Selling Holder(s) thereof to consummate the disposition of such Registrable Securities;

(vii) in connection with an Underwritten Offering, obtain for each Selling Holder and underwriter:

(A) an opinion of counsel for the Company, covering the matters customarily covered in opinions requested in underwritten offerings (including customary negative assurances) and such other matters as may be reasonably requested by such Selling Holder and underwriters, and

(B) a “comfort” letter (or, in the case of any such Person which does not satisfy the conditions for receipt of a “comfort” letter specified in AU Section 634 of the AICPA Professional Standards, an “agreed upon procedures” letter) signed by the independent registered public accountants who have certified the Company’s financial statements included in such registration statement (and, if necessary, any other independent registered public accountant of any business acquired by the Company from which financial statements and financial data are, or are required to be, included in the registration statement);
(viii) promptly make available for inspection by any Selling Holder, any underwriter participating in any disposition pursuant to any registration statement, and any attorney, accountant or other agent or representative retained by any such Selling Holder or underwriter (collectively, the “Inspectors”), all financial and other records, pertinent corporate documents and properties of the Company (collectively, the “Records”), as shall be reasonably necessary to enable such Selling Holder or underwriter to exercise their due diligence responsibility, and cause the Company’s officers, directors and employees to supply all information requested by any such Inspector in connection with such registration statement promptly; provided that, (1) unless the disclosure of such Records is necessary to avoid or correct a misstatement or omission in the registration statement or the release of such Records is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, the Company shall not be required to provide any information under this clause (viii) if (i) the Company believes, after consultation with counsel for the Company, that to do so would cause the Company to forfeit an attorney-client privilege that was applicable to such information or (ii) if either (A) the Company has requested and been granted from the Commission confidential treatment of such information contained in any filing with the Commission or documents provided supplementally or otherwise or (B) the Company reasonably determines in good faith that such Records are confidential and so notifies the Inspectors in writing unless prior to furnishing any such information with respect to (i) or (ii) such holder of Registrable Securities requesting such information agrees, and causes each of its Inspectors, to enter into a confidentiality agreement on terms reasonably acceptable to the Company; (2) each holder of Registrable Securities agrees that it will, upon learning that disclosure of such Records is sought in a court of competent jurisdiction, give notice to the Company and allow the Company, at its expense, to undertake appropriate action and to prevent disclosure of the Records deemed confidential; and (3) to the extent practicable, the foregoing inspection and information gathering shall be coordinated on behalf of the Selling Holders participating in such offering by one law firm designated by and on behalf of such Selling Holders, which counsel the Company reasonably determines to be acceptable;

(ix) promptly notify in writing each Selling Holder and the underwriters, if any, of the following events:

(A) the filing of the registration statement, the prospectus or any prospectus supplement related thereto, any Issuer Free Writing Prospectus or post-effective amendment to the registration statement, and, with respect to the registration statement or any post-effective amendment thereto, when the same has become effective;

(B) any request by the Commission for amendments or supplements to the registration statement or the prospectus or for additional information;

(C) the issuance by the Commission of any stop order suspending the effectiveness of the registration statement or the initiation of any proceedings by any Person for that purpose;

(D) when any Issuer Free Writing Prospectus includes information that may conflict with the information contained in the registration statement; and

(E) the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Securities for sale under the securities or blue sky laws of any jurisdiction or the initiation or threat of any proceeding for such purpose;
(x) notify each Selling Holder, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, upon discovery that, or upon the happening of any event as a result of which, the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and, at the request of any Selling Holder, promptly prepare and furnish to such Selling Holder a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading;

(xi) use commercially reasonable efforts to obtain the withdrawal of any order or to fulfill any request suspending the effectiveness of such registration statement;

(xii) cooperate with any Selling Holder and any underwriter and the managing underwriter to facilitate the timely preparation and delivery of certificates or security entitlements (which shall not bear any restrictive legends unless required under applicable law), if necessary or appropriate, representing securities sold under any registration statement, and enable such securities to be in such denominations and registered in such names as the managing underwriter or such Selling Holder may request and keep available and make available to the Company’s transfer agent prior to the effectiveness of such registration statement a supply of such certificates as necessary or appropriate;

(xiii) have appropriate officers of the Company prepare and make presentations at any “road shows” and before analysts and rating agencies, as the case may be, take other actions to obtain ratings for any Registrable Securities (if they are eligible to be rated) and otherwise use its commercially reasonable efforts to cooperate as reasonably requested by the Selling Holders and the underwriters in the offering, marketing or selling of the Registrable Securities;

(xiv) have appropriate officers of the Company, and cause representatives of the Company’s independent registered public accountants, to participate in any due diligence discussions reasonably requested by any Selling Holder or any underwriter;

(xv) if requested by any underwriter, agree, and cause the Company and any directors or officers of the Company to agree, to be bound by customary “lock-up” agreements restricting the ability to dispose of Company Securities; provided that (A) the Company and any directors or officers of the Company shall not be required to enter into any lock-up agreement unless requested by the underwriters, if any, in an underwritten offering; and (B) unless the Selling Holders, collectively, own less than three percent (3%) of the Company following such transaction, such agreement shall be on terms substantially similar to that entered into by the holders selling Registrable Securities, and (C) in any event, such agreement shall not include a lock-up period longer than ninety (90) days from the date of the final prospectus relating to such offering;
(xvi) if requested by any Selling Holders or any underwriter, promptly incorporate in the registration statement or any prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such Selling Holders may reasonably request to have included therein, including information relating to the “Plan of Distribution” of the Registrable Securities;

(xvii) cooperate and assist in any filings required to be made with the FINRA and in the performance of any due diligence investigation by any underwriter that is required to be undertaken in accordance with the rules and regulations of the FINRA;

(xviii) otherwise use commercially reasonable efforts to cooperate as reasonably requested by the Selling Holders and the underwriters in the offering, marketing or selling of the Registrable Securities;

(xix) otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the Commission and all reporting requirements under the rules and regulations of the Exchange Act; and

(xx) use commercially reasonable efforts to take any action requested by the Selling Holders, including any action described in clauses (i) through (xix) above to prepare for and facilitate any “over-night deal” or other proposed sale of Registrable Securities over a limited timeframe.

The Company may require each Selling Holder and each underwriter, if any, to furnish the Company in writing such information regarding each Selling Holder or underwriter and the distribution of such Registrable Securities as the Company may from time to time reasonably request to complete or amend the information required by such registration statement.

(b) Without limiting any of the foregoing, in the event that the offering of Registrable Securities is to be made by or through an underwriter, the Company shall enter into an Underwriting Agreement with a managing underwriter or underwriters containing representations, warranties, indemnities and agreements customarily included (but not inconsistent with the covenants and agreements of the Company contained herein) by an issuer of common stock in underwriting agreements with respect to offerings of common stock for the account of, or on behalf of, such issuers. In connection with any offering of Registrable Securities registered pursuant to this Agreement, the Company shall furnish to the underwriter, if any (or, if no underwriter, the Selling Holder), unlegended certificates representing ownership of the Registrable Securities being sold (unless, in the Company’s sole discretion, such Registrable Securities are to be issued in uncertificated form pursuant to the customary arrangements for issuing shares in such form), in such denominations as requested and instruct any transfer agent and registrar of the Registrable Securities to release any stop transfer order with respect thereto.
(c) Each Selling Holder agrees that upon receipt of any notice from the Company of the happening of any event of the kind described in Section 5.04(a)(x), such Selling Holder shall forthwith discontinue such Selling Holder’s disposition of Registrable Securities pursuant to the applicable registration statement and prospectus relating thereto until such Selling Holder is advised in writing by the Company that such Selling Holder may resume such disposition and such Selling Holder has received copies of the supplemented or amended prospectus contemplated by Section 5.04(a)(x) and, if so directed by the Company, such Selling Holder shall deliver to the Company, at the Company’s expense, all copies, other than permanent file copies, then in such Selling Holder’s possession of the prospectus current at the time of receipt of such notice relating to such Registrable Securities. In the event the Company shall give such notice, any applicable sixty (60) day period during which such registration statement must remain effective pursuant to this Agreement shall be extended by the number of days during the period from the date of giving of a notice regarding the happening of an event of the kind described in Section 5.04(a)(ix) to the date when all such Selling Holders shall receive such a supplemented or amended prospectus and such prospectus shall have been filed with the Commission.

(d) If the sole or managing underwriter of a public offering pursuant to a Demand Registration or Shelf Underwritten Offering advises the Company that the number of Registrable Securities to be included exceeds the number of Registrable Securities that can be sold in such offering without adversely affecting the distribution of the securities being offered, the price that shall be paid in such offering or the marketability thereof, the Company shall include in such registration the greatest number of Registrable Securities proposed to be registered by the Holders, which in the opinion of such underwriters can be sold in such offering without adversely affecting the distribution of the securities being offered, the price that shall be paid in such offering or the marketability thereof, ratably among the Holders requesting registration, based on the respective amounts of Registrable Securities held by each such Holder.

(e) Except in the case of a Demand Registration or Shelf Underwritten Offering, if the sole or managing underwriter of a registration advises the Company in writing that in its opinion the number of Registrable Securities and other securities requested to be included exceeds the number of Registrable Securities and other securities which can be sold in such offering without adversely affecting the distribution of the securities being offered, the price that shall be paid in such offering or the marketability thereof, the Company shall include in such registration the Registrable Securities and other securities of the Company in the following order of priority:

(i) first, to the Company for its own account; and

(ii) second, to the Holders requesting such registration, ratably among such Holders based on the respective amounts of Registrable Securities held by each such Holder.

(iii) Upon delivering a request under this Section 5.04, a Holder shall, if requested by the Company, execute and deliver execute such agreements as the Company may reasonably request to facilitate such registration.
Each Holder agrees that in connection with an underwritten offering made pursuant to this Section 5 (whether or not such Holder is participating in such registration), if (i) requested by the Company or the managing underwriter or underwriters of such underwritten offering and (ii) all directors and officers of the Company agree to be bound by the same restrictions with respect to any capital stock of the Company held by such directors and officers (other than those included in the registration), such Holder shall not sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any Registrable Securities or other capital stock of the Company (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time as the Company or such underwriters may specify; provided that such period of time shall not exceed the shorter of (x) ninety (90) days following the effective date of the applicable offering and (y) such other period as the underwriters may require of the Company; provided, further, that if any director or officer of the Company is provided with the prior written consent of the Company or such underwriters, as the case may be, to engage in any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any capital stock of the Company any capital stock of the Company held by such directors and officers (other than those included in the registration), then such consent will also be simultaneously provided to each Holder with respect to a corresponding number of Registrable Securities held by such Holder.

Section 5.05. Registration Expenses. (a) All expenses incident to the Company’s performance of, or compliance with, its obligations under this Agreement including (i)(A) all registration and filing fees, all fees and expenses of compliance with securities and “blue sky” laws, (B) all fees and expenses associated with filings required to be made with FINRA (including, if applicable, the fees and expenses of any “qualified independent underwriter” as such term is defined in NASD Rule 2720 or the equivalent rule incorporated into the FINRA rulebook), (C) all fees and expenses of compliance with securities and “blue sky” laws, (D) all printing (including expenses of printing certificates, if any, for the Registrable Securities in a form eligible for deposit with The Depository Trust Company and of printing prospectuses if the printing of prospectuses and Issuer Free Writing Prospectuses is requested by a holder of Registrable Securities) and copying expenses, (E) all messenger and delivery expenses, (F) all fees and expenses of the Company’s independent certified public accountants and counsel (including with respect to “comfort” letters, “agreed-upon procedures” letter and opinions) and (G) fees and expenses of one (1) counsel for the Stockholders selling in such registration (which firm shall be selected by the Stockholders selling in such registration that hold a majority of the Registrable Securities included in such registration) (collectively, the “Registration Expenses”) and (ii) any expenses described in clauses (i)(A) through (G) above incurred in connection with the marketing and sale of Registrable Securities (“Offering Expenses”) shall be borne by the Company, regardless of whether a registration is effected, marketing is commenced or sale is made. The Company will pay its internal expenses (including all salaries and expenses of its officers and employees performing legal or accounting duties, the expense of any annual audit and the expense of any liability insurance) and the expenses and fees for listing the securities to be registered on each securities exchange and included in each established over-the-counter market on which similar securities issued by the Company are then listed or traded.

(b) Each Selling Holder shall pay its portion of all (i) underwriting fees, discounts and commissions, (ii) legal fees for counsel to the Selling Holders and (iii) and transfer taxes, if any, relating to the sale of such Selling Holder’s Registrable Securities pursuant to any registration.
Section 5.06. Indemnification.

(a) Registration Statement Indemnification.

(i) The Company agrees to indemnify and hold harmless, to the fullest extent permitted by law, each Selling Holder, its officers, directors, employees, managers, members, partners and Affiliates, and each underwriter in an Underwritten Offering from and against any and all losses, claims, damages, liabilities and expenses (including reasonable and documented expenses of investigation and reasonable and documented attorneys’ fees and expenses) (collectively, the “Losses”) caused by, resulting from or relating to any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, any Issuer Free Writing Prospectus, any prospectus or preliminary prospectus or any amendment thereof or supplement thereto or any omission (or alleged omission) of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except insofar as the same are caused by any information furnished in writing to the Company by (i) a Selling Holder or (ii) an underwriter expressly for use therein.

(ii) In connection with any registration statement in which a holder of Registrable Securities is participating, each such Selling Holder will furnish to the Company in writing information regarding such Selling Holder’s ownership of Registrable Securities and its intended method of distribution thereof and, to the extent permitted by applicable law, shall, severally and not jointly, indemnify the Company, its directors, officers, employees and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) the Company or such other indemnified Person and each underwriter in an Underwritten Offering against all Losses caused by any untrue statement of material fact contained in the registration statement, any Issuer Free Writing Prospectus, any prospectus or preliminary prospectus or any amendment thereof or supplement thereto or any omission of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, but only to the extent that such untrue statement or omission is made in reliance upon the information furnished in writing to the Company by such Selling Holder expressly for use therein; provided, however, that each Selling Holder’s obligation to indemnify the Company hereunder shall, to the extent more than one Selling Holder is subject to the same indemnification obligation, be apportioned between each Selling Holder based upon the net amount received by each Selling Holder from the sale of Registrable Securities, as compared to the total net amount received by all of the Selling Holders of Registrable Securities sold pursuant to such registration statement. Notwithstanding the foregoing, no Selling Holder shall be liable to the Company for amounts in excess of the lesser of (i) such apportionment and (ii) the net amount received by such holder in the offering giving rise to such liability.
(b) **Contribution.** If recovery is held by a court of competent jurisdiction to be unavailable under the foregoing indemnification provisions for any reason or reasons other than as specified therein, any Person who would otherwise be entitled to indemnification by the terms thereof shall nevertheless be entitled to contribution with respect to any Losses with respect to which such Person would be entitled to such indemnification but for such reason or reasons. In determining the amount of contribution to which the respective Persons are entitled, there shall be considered the Persons’ relative knowledge and access to information concerning the matter with respect to which the claim was asserted, the opportunity to correct and prevent any statement or omission, and other equitable considerations appropriate under the circumstances. It is hereby agreed that it would not necessarily be equitable if the amount of such contribution were determined by pro rata or per capita allocation. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not found guilty of such fraudulent misrepresentation. Notwithstanding the foregoing, no Selling Holder or transferee thereof shall be required to make a contribution in excess of the net amount received by such holder from its sale of Registrable Securities in connection with the offering that gave rise to the contribution obligation.

(c) **Procedure.**

(i) Any Person entitled to indemnification hereunder shall give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification. Notwithstanding the foregoing, the failure to give such notice shall not release the indemnifying party from its obligation, except to the extent that the indemnifying party has suffered actual detriment by such failure to provide such notice on a timely basis.

(ii) In any case in which any such action is brought against any indemnified party, and it notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not (so long as it shall continue to have the right to defend, contest, litigate and settle the matter in question in accordance with this paragraph) be liable to such indemnified party hereunder for any legal or other expense subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, supervision and monitoring (unless (i) such indemnified party reasonably objects to such assumption on the grounds that there may be defenses available to it which are different from or in addition to the defenses available to such indemnifying party or (ii) the indemnifying party shall have failed within a reasonable period of time to assume such defense and the indemnified party is or is reasonably likely to be prejudiced by such delay, in either event the indemnified party shall be promptly reimbursed by the indemnifying party for the expenses incurred in connection with retaining separate legal counsel). The indemnifying party shall lose its right to defend, contest, litigate and settle a matter if it shall fail to diligently contest such matter.
(d) Other Matters.

(i) The indemnity and contribution agreements contained in this Section 5.06 shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any indemnitee, the Company, its directors or officers, or any Person controlling the Company, and (ii) any termination of this Agreement.

(ii) The parties hereto shall, and shall cause their respective Subsidiaries to, cooperate with each other in a reasonable manner with respect to access to unprivileged information and similar matters in connection with any indemnification claim made pursuant to this Section 5.06. The provisions of this Section 5.06 are for the benefit of, and are intended to create third-party beneficiary rights in favor of, each of the indemnified parties referred to herein.

(iii) Not less than three (3) days before the expected filing date of each registration statement pursuant to this Agreement, the Company shall notify each Stockholder who has timely provided the requisite notice hereunder entitling the Stockholder to register Registrable Securities in such registration statement of the information, documents and instruments from such Stockholder that the Company or any underwriter reasonably requests in connection with such registration statement, including, but not limited to, a questionnaire, custody agreement, power of attorney, lock-up letter and underwriting agreement (the “Requested Information”). If the Company has not received, on or before the day before the expected filing date, the Requested Information from such Stockholder, the Company may file the Registration Statement without including Registrable Securities of such Stockholder. The failure to so include in any registration statement the Registrable Securities of a Stockholder (with regard to that registration statement) shall not in and of itself result in any liability on the part of the Company to such Stockholder.

(iv) The indemnification and contribution provided pursuant to this Agreement shall be a continuing right to indemnification and shall survive the registration and sale of any securities by any Person entitled to indemnification and contribution hereunder and the expiration or termination of this Agreement.

(v) Notwithstanding anything to the contrary in this Agreement, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with any underwritten public offering are in conflict with this Article 5, the provisions in such underwriting agreement shall control.

ARTICLE 6
OTHER COVENANTS

Section 6.01. Avoidance of Regulation Under the BHCA.

(a) Notwithstanding anything in this Agreement to the contrary, no Stockholder shall acquire additional Company Securities if such acquisition could reasonably be expected to result in (i) the Company becoming subject to the BHCA because the Company is or would be controlled (for purposes of the BHCA) by any Stockholder or any of its affiliates (for purposes of the BHCA) for purposes of the BHCA (a “Control Event”), or (ii) the Stockholders and any of their affiliates (for purposes of the BHCA), in the aggregate, Holding Company Securities representing more than the Voting Percentage Limit.
If any Stockholder or the Company becomes aware of any existing, pending, proposed or contemplated action, change, circumstance, occurrence or event that could reasonably be expected to result in a Control Event, then such party shall promptly give notice to the other parties to this Agreement of such action, change, circumstance, occurrence or event. Such notice shall include a reasonably detailed description for the basis of its belief that such action, change, circumstance, occurrence or event would reasonably be expected to result in a Control Event. Such description need not include information that is not permitted by applicable laws or regulations to be disclosed. To the extent permitted by law and practicable under the circumstances, the applicable party shall use commercially reasonable efforts to obtain permission from the appropriate governmental agency or authority of competent jurisdiction to disclose such information to the other party. Promptly following delivery of such notice and, assuming an Exchange will not eliminate or avoid a Control Event, the Stockholders will take all actions reasonably required to eliminate or avoid such Control Event, including undertaking a Regulatory Hardship Transfer.

Section 6.02. Information Rights. For so long as the Stockholders Beneficially Own, in the aggregate, at least one-third (1/3) of the Initial Shares, the Company shall:

(a) provide the Stockholders information concerning the Company and its Subsidiaries that relates to the matters described in Section 6.03 as the Stockholders may reasonably request (in each case, in a manner so as to not (x) unreasonably interfere in any material respect with the normal business operations of the Company or its Subsidiaries or (y) require the Company or its Subsidiaries to incur any material cost not reimbursed by the Stockholders); and

(b) cause members of its senior management to meet with members of the senior management of the Stockholders (in person or via remote access, including telephonically, as agreed by the parties) to provide the Stockholders with a presentation regarding developments relating to the business and operations of the Company and its Subsidiaries and to respond to questions from the Stockholders; provided that the Company and its Subsidiaries shall not be required to provide senior management presentations pursuant to this Section 6.02(b) more than once during any fiscal year of the Company.

Section 6.03. Business Alliance. The Investor and the Company desire to collaborate across three areas which are expected to strengthen the existing businesses of the Company and the Investor and their respective Affiliates’ and enhance each such Person’s ability to support its clients’ needs on a global basis. In connection therewith, the Investor and the Company plan to: (i) enter into a strategic distribution agreement to market the Company’s investment products to the Investor’s clients in the Japanese market, (ii) utilize the Investor’s and its Affiliates’ capital to make investments that will support the launch of certain new businesses, and accelerate the advancement of certain existing platforms, of the Company, with a particular focus on private credit markets and (iii) coordinate on certain capital markets financing activities in the US and Asian leveraged finance markets. This Section 6.03 is intended solely as a basis for further discussion and is not intended to be and does not constitute a legally binding obligation on any Person. It is understood that this Section 6.03 does not constitute an offer or commitment on the part of the Company or any of its Affiliates or the Investor or any of its Affiliates to negotiate with the other party or its Affiliates or to enter into any subsequent agreement, in each case, on these or any other terms at any future time.

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Section 6.04. **Rule 144 Reporting.** With a view to making available the benefits of certain rules and regulations of the Commission that may permit the sale of the Subject Shares to the public without registration, the Company agrees to use its commercially reasonable efforts to:

(a) make and keep public information regarding the Company available, as those terms are understood and defined in Rule 144 under the Securities Act (“**Rule 144**”) (or any similar provision then in effect), at all times;

(b) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act at all times;

(c) furnish (i) if accurate, forthwith upon request, a written statement of the Company that it has complied with the reporting requirements of Rule 144 (or any similar provision then in effect) and (ii) unless otherwise available via the Commission’s EDGAR filing system, to the Stockholders (upon request) a copy of the most recent annual or quarterly report of the Company, and such other reports and documents so filed as the Stockholders may reasonably request in availing themselves of any rule or regulation of the Commission allowing the Stockholders to sell any such securities without registration; and

(d) if at any time there is in place an effective registration statement to cover the sale of all or any portion of the Subject Shares, or if the Subject Shares may be sold such that a restrictive legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission), then the Company agrees that at such time as any restrictive legend is no longer required, it will upon the request of the Stockholder, promptly provide AST with a legal opinion issued by the Company’s legal counsel (at the Company’s sole cost and expense) in form and substance that is acceptable to AST that the Subject Shares are not required to bear a restrictive legend and shall instruct AST to promptly remove any such legends from the Subject Shares.

Section 6.05. **Class C Common Stock.** The Company shall not effect any reverse stock split or share cancellation or take any other action that would decrease the amount of issued and outstanding shares of Class C Common Stock (whether existing on or following the date of this Agreement) to a number that is less than the number of Ares Operating Group Units directly or indirectly owned by the Company without the prior written consent of the Stockholders that own a majority of the Company Securities owned by all Stockholders (such consent not to be unreasonably withheld, conditioned or delayed if effecting such reverse stock split or share cancellation or taking any such other action would not reasonably be expected to result in an Exchange Event). The foregoing shall not prohibit or restrict the Company from retiring or cancelling any shares of Class C Common Stock in the event a corresponding number of Ares Operating Group Units Beneficially Owned by any Person (other than by the Company) are converted or exchanged into shares of Class A Common Stock.
Section 6.06. Confidentiality

(a) Without limiting any other confidentiality obligation any Stockholder may have to the Company, any of the Company’s Subsidiaries, any Ares Fund or any of their respective Affiliates, each Stockholder shall (and shall (x) cause each of its Affiliates and controlled Representatives to, and (y) request and direct that its non-controlled Representatives not disclose to any Person (other than its Representatives who have a need to know such information and the Company, any of the Company’s Subsidiaries, any Ares Fund or any of their respective Affiliates) any: (i) information provided by or on behalf of the Company, any Ares Fund or any of their respective Representatives to such Stockholder or any of its Representatives in connection with (A) such Stockholder’s investment in the Company, (B) such Stockholder’s rights under this Agreement or (C) such Stockholder’s, or any of its Affiliates’ evaluation of any of its existing or potential investments in the Company, any Ares Fund or any of their respective Affiliates or (ii) any Information (as defined in the applicable Board Agreement) provided by or on behalf of the Observer or Stockholder Designee to such Stockholder (the information described in clause (i) and (ii), collectively, “Confidential Information”). Confidential Information will not include any information that (I) was known by the Investor or its Affiliates on a non-confidential basis prior to the date of this Agreement, (II) is or becomes generally available to the public, other than as a result of a disclosure by (x) a Stockholder or any of its Representatives in violation of this Agreement or (y) an Observer or Stockholder Designee in violation of a Board Agreement, (III) was independently generated by such Stockholder without the use of Confidential Information or (IV) is or becomes available or known to such Stockholder from a source (other than the Company, any Ares Fund or any Representative of any of the foregoing) that, to the Stockholder’s knowledge, is not bound by a confidentiality agreement or other obligation of confidentiality with respect to such information.

(b) If any Stockholder is compelled, requested or required (orally or in writing) by a regulatory authority, applicable law, regulation, oral questions, requests for information or documents, interrogatories, subpoena, court order, deposition, administrative proceeding, inspection, audit, civil investigative demand, formal or informal investigation by any governmental agency or authority of competent jurisdiction or other similar legal process to disclose any Confidential Information, to the extent permitted by applicable law and practicable under the circumstances, such Stockholder shall provide to Company in writing (including via email) prompt notice of any such request or requirement so that Company may, at the Company’s cost and expense, intervene and seek an appropriate protective order or waive certain of such Stockholder’s obligations under this Agreement. If no protective order is obtained (or, if the protective order that is obtained does not relieve such Stockholder from his or her duty or obligation of disclosure), such Stockholder (i) may disclose that portion of Confidential Information that such Stockholder reasonably believes is compelled, requested or required to disclose and (ii) will use its commercially reasonable efforts to request assurances that confidential treatment will be accorded such Confidential Information. Nothing in this Agreement shall prevent any Stockholder from disclosing any Confidential Information to any bank or financial governmental agency or authority of competent jurisdiction (including the Federal Reserve Board or the Financial Services Agency of Japan) with jurisdiction over such Stockholder or any of its affiliates (for purposes of the BHCA), which such disclosure is reasonably necessary to respond to a request or requirement of (including in connection with any audit or examination of or filing with) such bank or financial governmental authority or agency and, accordingly, the obligations of confidentiality and non-disclosure set out herein shall not apply to any such disclosure; provided that, promptly following such disclosure, subject to applicable law and the directions of the applicable bank or financial governmental authority or agency, the applicable Stockholder shall provide notice to the Company of any such disclosure in response to such a request or requirement that specifically targets the Company, any of the Company’s Subsidiaries, any Ares Fund or any of their respective Representatives.
(c) Each Stockholder acknowledges and agrees that (i) the Confidential Information may not be complete, (ii) the Company is not providing any representations or warranties to the Stockholders with respect to the Confidential Information, (iii) the provision of Confidential Information shall not in and of itself be construed as or constitute an admission or agreement that such Confidential Information is material to the Company or its Subsidiaries and (iv) the Company shall not have any liability to any Stockholder or any of their respective Representatives relating to or resulting from the use or non-use of the Confidential Information, other than as expressly provided for in a separate written agreement between the Company and any Stockholder or any of its Representatives. Each Stockholder acknowledges that possession of Confidential Information may constitute the possession of material non-public information with respect to one or more Persons and may preclude such Stockholder and others who receive such Confidential Information from (or on behalf of) any Stockholder from buying or selling publicly traded securities with respect to the applicable Persons.

(d) All Confidential Information is and shall remain the property of the Company. No license, copyright or similar right is granted with respect to any of the Confidential Information or any other information provided to any Stockholder by, or on behalf of, the Company or any of its Representatives.

Section 6.07. Cooperation on Regulatory Matters. To the extent permitted by applicable law, each Stockholder shall (and shall (x) cause each of its Affiliates and controlled Representatives to, and (y) request and direct that its non-controlled Representatives) use commercially reasonable efforts to promptly provide all documentation and information that has been reasonably requested by the Company that is requested of the Company, any Subsidiary of the Company, any Ares Fund or any portfolio company or investment thereof by any governmental or quasi-governmental agency or authority of competent jurisdiction (or otherwise required by any applicable laws, rules and regulations). Each Stockholder shall use commercially reasonable efforts to reasonably cooperate with the Company in connection with the Company’s, the Ares Funds’, and their respective Affiliates’ and portfolio companies’ or investments’ compliance with laws, rules and regulations applicable to their respective businesses to the extent related to the Stockholders’ Beneficial Ownership of the Subject Shares and the Stockholders’ rights arising under this Agreement.
ARTICLE 7
MISCELLANEOUS

Section 7.01. **Headings.** The headings in this Agreement are for convenience of reference only and shall not control or affect the meaning or construction of any provisions hereof.

Section 7.02. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and there are no restrictions, promises, representations, warranties, covenants, conditions or undertakings with respect to the subject matter hereof, other than those expressly set forth or referred to herein. This Agreement supersedes and preempts all prior agreements and understandings between the parties hereto, written or oral, with respect to the subject matter hereof.

Section 7.03. **Further Actions; Cooperation.** Each of the parties hereto agrees to use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to give effect to the transactions contemplated by this Agreement.

Section 7.04. **Notices.** All notices, requests, consents and other communications to any party hereto under this agreement shall be deemed to be sufficient if contained in a written instrument delivered in person or sent by facsimile, electronic mail, nationally recognized overnight courier or first class registered or certified mail, return receipt requested, postage prepaid, addressed to such party at the address set forth below or such other address as may hereafter be designated on the signature pages of this Agreement or in writing by such party to the other parties:

if to the Investor, to:

Sumitomo Mitsui Banking Corporation  
277 Park Avenue  
New York, NY 10172, U.S.A.  
Attn: Daisuke Tanaka  
Tomohiro Homma  
Atsushi Kubo  
Email: Daisuke_Tanaka_ny@smbcgroup.com  
Tomohiro_Homma@smbcgroup.com  
Atsushi_Kubo@smbcgroup.com

with a copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP  
One Manhattan West, 401 9th Avenue  
New York, NY 10001  
Attn: Sven Mickisch  
Email: sven.mickisch@skadden.com
If to the Company, to:

Ares Management Corporation
2000 Avenue of the Stars
12th Floor
Los Angeles, CA 90067
Attention: Naseem Sagati Aghili, General Counsel
Email: nsagati@aresmgmt.com

with a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
2049 Century Park East
Suite 3700
Los Angeles, CA 90067
Fax: (310) 552-5900
Email: jonathan.benloulou@kirkland.com, pippa.bond@kirkland.com
Attn: Jonathan Benloulou, P.C.; Pippa Bond, P.C.

If to a Stockholder that is not the Investor, then to the address set forth in a Joinder Agreement of such Stockholder.

All such notices, requests, consents and other communications shall be deemed to have been given or made if and when received (including by overnight courier) by the parties at the above addresses or sent by facsimile or electronic mail (if no failure message is generated), to the email addresses or facsimile numbers specified above (or at such other electronic mail address or facsimile number for a party as shall be specified by like notice). Any party may change the address to which notices, requests, consents or other communications hereunder are to be delivered by giving the other parties notice in the manner set forth in this Section 7.04. Legal counsel for any party may send to any other party any notices, requests, demands or other communications required or permitted to be given under this Agreement by such party.

Section 7.05. Applicable Law. This Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (“Transaction Litigation”), shall be governed by and enforced and construed in accordance with the Laws of the State of Delaware (including its statute of limitations), regardless of the Laws that might otherwise govern under applicable principles of conflicts of law thereof.

Section 7.06. Severability. The provisions of this Agreement are independent of and separable from each other. The invalidity, illegality or unenforceability of one or more of the provisions of this Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Agreement, including any such provisions, in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by applicable law. The parties hereto shall endeavor in good faith negotiations to replace any invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision, as applicable.
Section 7.07. Successors and Assigns. Except as otherwise provided herein, all the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the respective successors and permitted assigns of the parties hereto. No Stockholder shall assign any of its rights under this Agreement to any Person other than a Permitted Transferee. Each Permitted Transferee who becomes a Stockholder under this Agreement shall be subject to all of the terms of this Agreement, and by taking and holding such Subject Shares, such Person shall be entitled to receive the benefits of and be conclusively deemed to have agreed to be bound by and to comply with all of the obligations, terms and provisions of this Agreement. Notwithstanding the foregoing, no transfer of rights permitted under this Agreement shall be binding upon or obligate the Company unless and until, if required under Section 3.04, the Company shall have received written notice of such transfer and an executed Joinder Agreement from the Permitted Transferee provided for in Section 3.04. The Company may not assign any of its rights or obligations under this Agreement without the prior written consent of the Stockholders that own a majority of the Company Securities owned by the Stockholders. Any assignment attempted or effected without obtaining such required consent shall be null and void. Notwithstanding the foregoing, no assignee of the Company shall have any rights granted under this Agreement until such Person shall acknowledge its rights and obligations under this Agreement by a signed written statement of such Person’s acceptance of such rights and obligations.

Section 7.08. Amendments. This Agreement may not be amended, restated, modified or supplemented unless such amendment, restatement, modification or supplement is in writing and signed by the Stockholders that own a majority of the Company Securities owned by the Stockholders and the Company.

Section 7.09. Waiver. The failure of a party to this Agreement at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term, covenant, representation or warranty contained in this Agreement shall be effective unless in a writing signed by the party against whom the waiver is to be effective. No waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instances or a waiver of any other condition or breach of any other term, covenant, representation or warranty.

Section 7.10. Counterparts. This Agreement may be executed by facsimile or by email with .pdf attachments in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same Agreement.

Section 7.11. Governing Law; Jurisdiction; WAIVER OF JURY TRIAL.

(a) Each of the parties hereto irrevocably and unconditionally (a) agrees that any Transaction Litigation shall be instituted in the Court of Chancery of the State of Delaware (provided that if jurisdiction is not then available in such court, then any such legal suit, action, proceeding or counterclaim shall be brought in any federal court located in the State of Delaware or in any other Delaware state court) (any of the foregoing Delaware courts, a “Delaware Court”); (b) waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such legal suit, action, proceeding or counterclaim; and (c) submits to the non-exclusive jurisdiction of a Delaware Court in any such legal suit, action, proceeding or counterclaim. Any final and nonappealable judgment against any party in any Transaction Litigation shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on judgment, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment.
(b) EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY TRANSACTION LITIGATION. EACH PARTY AGREES AND ACKNOWLEDGES THAT: (I) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IF THERE IS ANY TRANSACTIONAL LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (II) SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (III) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY; AND (IV) EACH OTHER PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATES IN THIS SECTION 7.11(b).

Section 7.12. **Injunctive Relief.** Each party hereto acknowledges and agrees that a violation of any of the terms of this Agreement will cause the other parties irreparable injury for which an adequate remedy at law is not available. Therefore, the parties hereto agree that, in addition to any other remedy to which they are entitled at law or in equity, each party shall be entitled to seek an injunction, restraining order, specific performance or other equitable relief from any court of competent jurisdiction, restraining any party from committing any violations of the provisions of this Agreement, without the need to post a bond or prove the inadequacy of monetary damages.

Section 7.13. **Termination.**

(a) The terms of this Agreement shall terminate, and be of no further force or effect (i) upon the mutual consent of all of the parties hereto, (ii) at such time as all Stockholders party to this Agreement cease to own any Subject Shares and (iii) with respect to any Stockholder, at such time as such Stockholder ceases to own any Subject Shares. The Stockholders party to this Agreement shall notify the Company when they cease to own any Subject Shares.

(b) In the event of a Change of Control as a result of which the Company shall not be the surviving Person, (i) Article 4 and Section 6.02 shall terminate and be of no further force or effect and (ii) the Company shall cause proper provision to be made so that the surviving Person (or, if such surviving Person is a Subsidiary of another Person, of such other Person constituting the ultimate parent thereof) assumes the obligations of the Company set forth in this Agreement (other than Article 4 and Section 6.02) in respect of any shares of capital stock into which all or a portion of the Subject Shares are or may be converted or exchanged in the Change of Control.
(c) Notwithstanding a termination of this Agreement (or certain provisions herein) in accordance with Section 7.13(a) or Section 7.13(b)(i), the following shall survive the termination of this Agreement: (i) the provisions of Section 5.05, Section 5.06, Section 7.05, Section 7.11 and this Section 7.13; (ii) the rights with respect to the breach of any provision hereof by any party to this Agreement; and (iii) any registration rights vested or obligations accrued as of the date of termination of this Agreement to the extent, in the case of registration rights so vested, if the Investor or its Permitted Transferee ceases to meet the definition of a “Stockholder” under this Agreement subsequent to the vesting of such registration rights as a result of action taken by the Company.

Section 7.14. Inconsistency. The parties to this Agreement agree and acknowledge that, to the extent any terms and provisions of this Agreement are in any way inconsistent with or in conflict with any term, condition or provision of the Purchase Agreement, the terms and provisions of this Agreement shall govern and control to the extent necessary to resolve such inconsistency or conflict as between the Investor and the Company.

[Remainder of this page intentionally left blank]
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their duly appointed officers as of the date first above written.

INVESTOR:
SUMITOMO MITSUI BANKING CORPORATION

By: ____________________________
   Name: _______________________
   Title: _______________________

COMPANY:
ARES MANAGEMENT CORPORATION

By: ____________________________
   Name: _______________________
   Title: _______________________

[Signature Page to Investor Rights Agreement]
Exhibit A

Form of Board Agreement

(See attached)
Ares Management Corporation and Sumitomo Mitsui Banking Corporation Announce Strategic Agreement and Equity Transaction

Ares and SMBC Announce Their Intention to Collaborate on Future Business Opportunities to Enhance Value to Their Clients and Accelerate Growth

SMBC Invests $384 Million in Ares Management Corporation Class A Common Stock

LOS ANGELES & TOKYO – March 30, 2020– Ares Management Corporation (“Ares”) (NYSE: ARES), Sumitomo Mitsui Financial Group, Inc. and Sumitomo Mitsui Banking Corporation (hereinafter referred as “SMBC,” together, the two are hereinafter referred to as “SMBC Group”) announced today that they have reached a strategic agreement to collaborate on future business opportunities. As part of this agreement, SMBC will make a $384 million equity investment in the publicly traded shares of Class A common stock of Ares.

Together, Ares and SMBC Group plan to collaborate across three highly-accretive growth areas. These initiatives are expected to strengthen the existing businesses of Ares and SMBC Group and enhance each firm’s ability to support its clients’ needs on a global basis.

- **Strategic Distribution:** Ares and SMBC Group plan to enter into a strategic distribution agreement to market Ares’ investment products to SMBC’s clients in the Japanese market.

- **Accretive Investment Opportunities:** SMBC Group will utilize its capital to make attractive investments that will support the launch of certain new businesses and accelerate the advancement of certain existing platforms across Ares with a particular focus on the private credit markets.

- **Capital Markets Collaboration:** Ares and SMBC Group will coordinate on certain capital markets financing activities in the US and Asian leveraged finance markets.

As part of this multi-faceted partnership, SMBC will purchase 12.1 million shares of Class A common stock from Ares at a price per share of $31.64 based on the volume weighted average price over the last 30 trading days prior to this announcement. Following the investment, SMBC will own a 4.9% equity stake in Ares Management Corporation and the Co-Founders, other employees of Ares and entities controlled by such persons will own approximately 61%, on a fully exchanged basis. Ares intends to use the proceeds from SMBC’s $384 million direct investment for strategic growth initiatives, including funding additional growth capital for its insurance initiative, Aspida Financial, rolling out the aforementioned new investment products in the Japanese market in partnership with SMBC Group and taking advantage of opportunities presented by the current market dislocation.

“We have enjoyed a long and mutually beneficial relationship with SMBC Group and we are excited to enhance our already strong strategic collaboration,” said Michael Arouheti, CEO and President of Ares. “We believe this partnership will empower both of our firms to further leverage our individual franchise strengths and will enable us to accelerate the growth of many new strategic business initiatives on a global scale.”
“Beyond the growth opportunity that this partnership presents for both of our firms, the strategic investment by SMBC coupled with Ares’ existing strong balance sheet and liquidity position and our proven ability to grow through periods of extreme market dislocation provides an opportunity for our firms to jointly capitalize on compelling risk-adjusted investments in this period of market volatility,” stated Michael McFerran, Chief Operating Officer and Chief Financial Officer of Ares.

President and Group CEO of SMBC Group, Jun Ohta and Deputy President and Executive Officer of SMBC Group, Masahiko Oshima, commented: “We are pleased to enter into this strategic partnership to help accelerate the growth of our two businesses, and to enhance our clients’ global product needs in the attractively growing global alternative asset management industry.”

Citi served as financial advisor and Skadden, Arps, Slate, Meagher & Flom LLP served as legal advisor to SMBC Group. Goldman Sachs & Co. LLC served as financial advisor and Kirkland & Ellis LLP served as legal advisor to Ares.

About Ares Management Corporation

Ares Management Corporation (NYSE: ARES) is a leading global alternative investment manager operating three integrated businesses across Credit, Private Equity and Real Estate. Ares Management’s investment groups collaborate to deliver innovative investment solutions and consistent and attractive investment returns for fund investors throughout market cycles. Ares Management’s global platform had $149 billion of assets under management as of December 31, 2019 and employs approximately 1,200 employees in over 20 offices in more than 10 countries. Please visit www.aresmgmt.com for additional information.

About Sumitomo Mitsui Financial Group, Inc.

SMBC Group is one of the largest financial institutions headquartered in Japan, with an established presence across all consumer and corporate banking businesses. Through the subsidiaries and affiliates, SMBC Group offers a diverse range of financial services, including commercial banking, leasing, securities, credit card, consumer finance and other services. SMBC Group’s consolidated total assets were ¥ 212.4 trillion as of December 31, 2019.

About Sumitomo Mitsui Banking Corporation

SMBC is a commercial banking entity within SMBC Group and is one of the largest commercial banks globally on the basis of total assets. It provides an extensive range of corporate and consumer banking services in Japan and globally.

Forward-Looking Statements

Statements included herein may constitute “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995, which relate to future events or Ares’ future performance or financial condition. These statements are not guarantees of future performance, condition or results and involve a number of risks and uncertainties. Actual results may differ materially from those in the forward-looking statements as a result of a number of factors, including those described from time to time in Ares’ filings with the Securities and Exchange Commission. Ares Management Corporation undertakes no duty to update any forward-looking statements made herein.

Ares Management Corporation:

Media:

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Bill Mendel, 212-397-1030
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or

Investors:

Ares Management Corporation
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