

# **CHARTER OF THE AUDIT COMMITTEE**

**OF**

**THE BOARD OF DIRECTORS**

**OF**

**ARES CAPITAL CORPORATION**

## **I. Statement of Policy**

The function of the Audit Committee (the “Committee”) is to assist the Board of Directors (the “Board”) of Ares Capital Corporation, a Maryland corporation (the “Corporation”), in fulfilling its responsibilities by:

- (i) overseeing the Corporation’s accounting and financial reporting processes and the audits of the Corporation’s financial statements; and
- (ii) reviewing the financial reports and other types of financial information provided by the Corporation to the public.

While the Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Committee to plan or conduct the audits or to determine that the Corporation’s financial statements are complete, accurate and in accordance with generally accepted accounting principles (“GAAP”). This is the responsibility of officers of the Corporation and the Corporation’s independent registered public accounting firm. Each member of the Committee shall be entitled to rely on: (i) the integrity of those persons within and outside the Corporation and officers of the Corporation and employees of the Corporation’s investment adviser and administrator from which it receives information; (ii) the accuracy of the financial and other information provided to the Committee absent actual knowledge to the contrary; and (iii) statements made by the officers of the Corporation and employees of the Corporation’s investment adviser and administrator or third parties as to any information technology, internal audit and other non-audit services provided by the independent registered public accounting firm to the Corporation.

The Corporation has no employees and its officers do not receive any direct compensation from the Corporation. Instead the Corporation is party to an Amended and Restated Investment Advisory and Management Agreement (the “Advisory Agreement”) with its investment adviser, Ares Capital Management LLC (“ACM”), pursuant to which it pays ACM fees. In addition, the Corporation is party to an Amended and Restated Administration Agreement (the “Administration Agreement”) with Ares Operations LLC (the “Administrator”), pursuant to which it reimburses the Administrator for certain costs and expenses. Each year, the Committee

and the Board must approve the renewal of the Advisory Agreement and the Administration Agreement. Because the Committee is already charged with approving the Corporation's related-party transactions, the Board has determined not to create a separate compensation committee and instead has charged the Committee with overseeing amounts payable to ACM and the Administrator pursuant to the Advisory Agreement and the Administration Agreement, respectively, and making a recommendation to the Board with respect to the Board's approval (including the approval of a majority of the directors who are not "interested persons" within the meaning of Section 2(a)(19) of the Investment Company Act of 1940, as amended) of the renewal of the Advisory Agreement and the Administration Agreement.

## **II. Composition**

The Committee shall be comprised of three or more directors, each of whom, in the determination of the Board, must:

- (i) satisfy the independence requirements established by the NASDAQ Stock Market ("NASDAQ") that are applicable to the Corporation or, with the approval of the Board, satisfy one or more of the exceptions permitted by NASDAQ;
- (ii) meet the independence requirements of Section 10A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Securities and Exchange Commission ("SEC") Rule 10A-3(b)(1) under the Exchange Act;
- (iii) not have participated in the preparation of the financial statements of the Corporation or any current subsidiary of the Corporation at any time during the past three years; and
- (iv) be able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement.

In addition, the Committee shall at all times include at least one member who is, in the judgment of the Board, an "audit committee financial expert" as defined in Item 407(d)(5)(ii) and (iii) of Regulation S-K of the SEC.<sup>1</sup>

The members of the Committee shall be appointed by the Board on the recommendation of the Nominating and Governance Committee of the Board to serve in accordance with the Corporation's bylaws and at the discretion of the Board and may be removed by the Board at any time. Unless a Chair is elected by the full Board, the members of the Committee may designate a Chair by majority vote of the full Committee membership.

## **III. Meetings**

The Committee shall meet quarterly and at such other times and with such frequency as the Committee shall determine as appropriate to meet its responsibilities. The Committee may hold separate meetings periodically with officers of the Corporation and employees of the

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<sup>1</sup> Such person shall also be presumed to qualify as a "financially sophisticated" audit committee member under NASDAQ rules.

Corporation's investment adviser and administrator, and shall hold separate meetings periodically with the Corporation's independent registered public accounting firm to discuss the quarterly review process and any other matters that the Committee or the other participants believe should be discussed, including any matters related to Section 10A(b) of the Exchange Act. The Committee may ask officers of the Corporation and employees of the Corporation's investment adviser and administrator, if any, or others to attend meetings and provide pertinent information as necessary or desirable. The Committee may adopt such procedures as it deems appropriate and necessary to carry out the duties and responsibilities of the Committee. The Committee shall report to the Board from time to time, as requested by the Board, or as the Committee deems appropriate, and shall review with the Board any issues that arise with respect to (i) the quality or integrity of the Corporation's financial statements, (ii) the Corporation's compliance with legal or regulatory requirements that may have an impact on the Corporation's financial statements, (iii) the performance and independence of the Corporation's independent registered public accounting firm, including the lead audit partner, or (iv) the performance of the internal audit function. Notwithstanding the foregoing, the Committee may, for so long as it deems reasonably necessary, maintain the confidentiality of its proceedings from some or all of the other members of the Board, if the Committee determines that such confidentiality is in the best interests of the Corporation. If a registered public accounting firm is to be appointed as the Corporation's independent registered public accounting firm at any meeting, such meeting shall be called for the specific purpose of appointing such firm and shall be conducted in person.

#### **IV. Responsibilities and Duties**

The Committee shall have the following responsibilities and duties:

- (i) The Committee shall be directly responsible for the appointment (including reconsideration of the appointment if it is not ratified by the stockholders), compensation, retention and oversight of the work of any independent registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Corporation. Each such independent registered public accounting firm shall report directly to the Committee.
- (ii) The Corporation shall provide for appropriate funding, as determined by the Committee, for payment of:
  - (A) compensation to any independent registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Corporation;
  - (B) compensation to any advisors (including independent counsel and compensation consultants) employed by the Committee; and
  - (C) ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.

- (iii) The Committee shall have the authority to engage independent counsel, compensation consultants, accounting and other advisors as the Committee determines necessary or appropriate to carry out its duties and responsibilities under this Charter. The Committee shall set the compensation, and oversee the work, of such advisors. To the extent the Committee engages any independent counsel, compensation consultant or other advisor to assist the Committee with carrying out its duties and responsibilities related to amounts to be paid by the Corporation to ACM and the Administrator pursuant to the Advisory Agreement and the Administration Agreement, respectively, the Committee will consider all factors relevant to such advisor's independence from the Corporation, including the factors required at such time by NASDAQ and applicable laws and regulations. The Committee shall not be required to implement or act consistently with the advice or recommendations of such advisors, and the authority granted in this Section IV(iii) shall not affect the ability or obligation of the Committee to exercise its own judgment in fulfillment of its duties and responsibilities under this Charter.
- (iv) The Committee shall, to the extent required by any applicable legal or regulatory requirement, pre-approve all auditing services and permitted non-audit services provided to the Corporation by its independent registered public accounting firm. To the extent permitted by applicable laws, regulations and NASDAQ rules, the Committee may delegate pre-approval of audit and non-audit services to one or more members of the Committee. Such member(s) must then report to the full Committee at its next scheduled meeting if such member(s) pre-approved any audit or permitted non-audit services.
- (v) At least annually, the Committee shall receive from its independent registered public accounting firm a formal written statement delineating all relationships between the independent registered public accounting firm and the Corporation, consistent with Public Company Accounting Oversight Board ("PCAOB") Rule 3526 (as may be amended or superseded from time to time), actively engage in a dialogue with the independent registered public accounting firm with respect to any disclosed relationships or services that may impact the objectivity and independence of the independent registered public accounting firm, and take, or recommend that the full Board take, appropriate action to oversee the independence of the independent registered public accounting firm.
- (vi) The Committee shall consider when, in order to comply with Section 10A(j) of the Exchange Act and to assure continuing independence of the Corporation's independent registered public accounting firm, to rotate the lead audit partner, the audit partner responsible for reviewing the audit or the independent registered public accounting firm itself.
- (vii) The Committee shall review any proposed hiring of employees or former employees of the Corporation's independent registered public accounting firm to assure continuing independence.
- (viii) The Committee shall review the Corporation's annual audited and quarterly unaudited financial statements, including any certification, report or opinion rendered by the Corporation's independent registered public accounting firm, and any disclosures made in

the Management's Discussion and Analysis and discuss the same with officers of the Corporation and employees of the Corporation's investment adviser and administrator, if any, and the independent registered public accounting firm. The Committee shall recommend to the Board whether the annual or quarterly financial statements, as applicable, should be included in the Corporation's Annual Report on Form 10-K and Quarterly Reports on Form 10-Q.

- (ix) The Committee shall discuss with officers of the Corporation, the Corporation's major financial risk exposures and the steps the Corporation has taken to monitor and control such exposures, including the Corporation's risk assessment and risk management policies. The Committee shall discuss with the Corporation's general counsel and chief compliance officer any significant legal, compliance or regulatory matters that may have a material impact on the Corporation's business, financial statements or compliance policies.
- (x) The Committee shall assist the Board in fulfilling its oversight responsibilities related to the Corporation's systems of internal controls and disclosure controls and procedures and shall review the Corporation's annual report on the internal control over financial reporting and the independent registered public accounting firm's attestation required by Item 308 of Regulation S-K of the SEC.
- (xi) The Committee shall discuss with the independent registered public accounting firm the matters described in Statement on Auditing Standards No. 61, as amended by the AICPA professional standards, Auditing Standard No. 1301, as adopted by the PCAOB in Rule 3200, including:
  - (A) the adoption of, or changes to, the Corporation's significant auditing and accounting principles and practices as suggested by the independent registered public accounting firm, internal auditors or officers of the Corporation; and
  - (B) any difficulties the independent registered public accounting firm encountered in the course of the audit work, any restrictions on the scope of the independent registered public accounting firm's activities or on access to requested information and any significant disagreements with officers of the Corporation.
- (xii) The Committee shall review and discuss with officers of the Corporation and the independent registered public accounting firm any report of the independent registered public accounting firm regarding:
  - (A) all critical accounting policies and practices to be used by the independent registered public accounting firm;
  - (B) alternative treatments of financial information within GAAP that have been discussed with officers of the Corporation, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent registered public accounting firm; and

- (C) any other material written communications between the independent registered public accounting firm and officers of the Corporation, including any management letter or schedule of unadjusted differences.
- (xiii) The Committee shall review any disclosures made by the Corporation's "principal executive officer" and "principal financial officer" (as such terms are defined by the SEC), as part of the process of preparing their certifications to be included in the Corporation's Annual Report on Form 10-K and Quarterly Reports on Form 10-Q.
- (xiv) The Committee shall review generally with officers of the Corporation the type and presentation of any financial information, reports or earnings guidance provided to a government body or the public.
- (xv) The Committee shall establish procedures for:
  - (A) the receipt, retention and treatment of complaints received by the Corporation regarding accounting, internal accounting controls or auditing matters; and
  - (B) the confidential, anonymous submission by employees of the Corporation's investment adviser or administrator of concerns regarding questionable accounting or auditing matters.
- (xvi) The Committee shall review and approve all transactions with related persons (as defined in Item 404 of Regulation S-K of the SEC) that are brought to the Committee's attention, including each annual renewal of the Advisory Agreement and the Administration Agreement, unless such transactions are separately approved by a majority of the Corporation's independent directors.
- (xvii) The Committee shall aid the Board in determining the fair value of securities that are not publicly traded or for which current market values are not readily available, and in connection therewith shall recommend valuation policies to the Board and, in accordance with the Corporation's Net Asset Valuation Policy, resolve valuation issues with respect to liquid securities and review valuations of illiquid securities proposed by employees of the Corporation's investment adviser. Where the Committee determines that it is appropriate, the Committee may appoint independent valuation firms to review and advise the Committee with respect to valuations.
- (xviii) The Committee shall have the power to conduct or authorize investigations into any matters within the Committee's scope of responsibilities.
- (xix) The Committee shall consider such other matters in relation to the financial affairs of the Corporation and its accounts, and in relation to the internal and external audits of the Corporation, as the Committee may, in its discretion, determine to be advisable.
- (xx) The Committee shall annually report to the Corporation's stockholders on certain auditing matters, as required by the rules and regulations of the SEC, as they may be

amended from time to time. Such report will be included in the Corporation's annual proxy statement.

- (xxi) If at any time the Corporation directly pays compensation to its officers, the Committee shall be responsible for making recommendations to the Board regarding the compensation of such officers. The Chief Executive Officer cannot be present during any voting or deliberations by the Committee on his or her compensation.
- (xxii) The Committee shall review and reassess the adequacy of this Charter at least annually, and recommend any proposed changes to the Board for its approval.

The Committee may diverge from the specific activities outlined throughout this Charter as appropriate if circumstances or regulatory requirements change. In addition to these activities, the Committee may perform such other functions as necessary or appropriate under applicable laws, regulations, NASDAQ rules, the Corporation's charter and bylaws, and the resolutions and other directives of the Board.

This Charter is in all respects subject and subordinate to the Corporation's charter and bylaws, the resolutions of the Board and the applicable provisions of the Maryland General Corporation Law.