As filed with the Securities and Exchange Commission on July 25, 2011

Registration No. 333-173890

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Amendment No. 4
to

Form S-11

FOR REGISTRATION UNDER THE SECURITIES ACT OF 1933
OF SECURITIES OF CERTAIN REAL ESTATE COMPANIES

ORCHID ISLAND CAPITAL, INC.

(Exact name of registrant as specified in its governing instruments)

3305 Flamingo Drive, Vero Beach, Florida 32963
(772) 231-1400
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Robert E. Cauley
Chairman and Chief Executive Officer
Orchid Island Capital, Inc.
3305 Flamingo Drive, Vero Beach, Florida 32963
(772) 231-1400
(Name, address, including zip code and telephone number, including area code, of agent for service)

copies to:

S. Gregory Cope
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
(804) 788-8388
(804) 343-4833 (facsimile)

Bonnie A. Barsamian
Valerie Ford Jacob
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, New York 10004
(212) 859-8226
(212) 859-4000 (facsimile)

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the Securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box. o

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. o

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

Large accelerated filer o	Accelerated filer o	Non-accelerated filer ☑ (Do not check if a smaller reporting company)	Smaller reporting company o

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

EXPLANATORY NOTE

The purpose of this Amendment No. 4 to the registration statement is solely to file exhibits to the registration statement as set forth below in Item 36 (B) of Part II.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 31. ***Other Expenses of Issuance and Distribution.***

The following table itemizes the expenses incurred by us in connection with the issuance and registration of the securities being registered hereunder. All amounts shown are estimates except the Securities and Exchange Commission registration fee.

Securities and Exchange Commission registration fee	$	13,352
FINRA filing fee	$	12,000
NYSE Amex fees	$	55,000
Printing and engraving fees	$	195,000
Legal fees and expenses	$	700,000
Accounting fees and expenses	$	113,790
Transfer Agent and Registrar fees	$	4,000
Miscellaneous expenses		—
Total	$	1,093,142

Item 32. ***Sales to Special Parties.***

See response to Item 33.

Item 33. ***Recent Sales of Unregistered Securities.***

On August 23, 2010, November 3, 2010, November 12, 2010, November 30, 2010, December 7, 2010, December 17, 2010, December 31, 2010, March 28, 2011, March 31, 2011, July 12, 2011 and July 13, 2011 Bimini Capital Management, Inc. made aggregate capital contributions of $15,000,000. These capital contributions were made as consideration to purchase 150,000 shares of our common stock at a price of $100 per share, which were issued on April 29, 2011 and July 8, 2011 in reliance on the exemption from registration under the Securities Act or 1933, as amended, or the Securities Act, afforded by Section 4(2) of the Securities Act.

Concurrently with this offering, we will sell to Bimini Capital Management, Inc. warrants to purchase an aggregate of 2,655,000 shares of our common stock for an aggregate purchase price of $1,248,000. Such issuance will be exempt from registration under the Securities Act pursuant to Section 4(2) of the Securities Act.

Item 34. ***Indemnification of Directors and Officers.***

The Maryland General Corporation Law (“MGCL”) permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages, except for liability resulting from (1) actual receipt of an improper benefit or profit in money, property or services or (2) active and deliberate dishonesty that is established by a final judgment and is material to the cause of action. Our charter contains a provision that eliminates such liability to the maximum extent permitted by Maryland law.

The MGCL requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made, or threatened to be made, a party by reason of his or her service in that capacity. The MGCL permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made, or threatened to be made, a party by reason of their service in those or other capacities unless it is established that:

- the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty;
- the director or officer actually received an improper personal benefit in money, property or services; or
- in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

However, under the MGCL, a Maryland corporation may not indemnify a director or officer for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received by such director or officer, unless in either case a court orders indemnification, and then only for expenses. In addition, the MGCL permits a Maryland corporation to advance reasonable expenses to a director or officer upon its receipt of:

- a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation; and
- a written undertaking by the director or officer or on the director's or officer's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director or officer did not meet the standard of conduct.

Our charter will authorize us and our bylaws will obligate us, to the maximum extent permitted by Maryland law in effect from time to time, to indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of such a proceeding to:

- any present or former director or officer of the Company who is made, or threatened to be made, a party to the proceeding by reason of his or her service in that capacity; and
- any individual who, while a director or officer of the Company and at our request, serves or has served as a director, officer, partner, trustee, member or manager of another corporation, real estate investment trust, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made, or threatened to be made, a party to the proceeding by reason of his or her service in that capacity.

Our charter and bylaws will also permit us, with the approval of our Board of Directors, to indemnify and advance expenses to any individual who served our predecessor in any of the capacities described above and to any employee or agent of the Company or our predecessor.

Upon completion of this offering, we intend to enter into indemnification agreements with each of our directors and executive officers that will provide for indemnification and advance of expenses to the maximum extent permitted by Maryland law.

Insofar as the foregoing provisions permit indemnification of directors, officers or persons controlling us for liability arising under the Securities Act, we have been informed that in the opinion of the SEC, this indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Item 35. *Treatment of Proceeds from Stock Being Registered.*

None of the proceeds of this offering will be credited to an account other than the appropriate capital share account.

Item 36. ***Financial Statements and Exhibits.***

(A) Financial Statements. See page F-1 for an index to the financial statements included in the registration statement.

(B) Exhibits. The following is a complete list of exhibits filed as part of the registration statement, which are incorporated herein:

Exhibit No.	Description
1.1	Form of Underwriting Agreement by and among Orchid Island Capital, Inc. and the underwriters named therein
3.1	Articles of Amendment and Restatement of Orchid Island Capital, Inc.**
3.2	Amended and Restated Bylaws of Orchid Island Capital, Inc.**
4.1	Specimen Certificate of common stock of Orchid Island Capital, Inc.**
5.1	Opinion of Venable LLP as to the legality of the securities being registered**
8.1	Opinion of Hunton & Williams LLP as to certain U.S. federal income tax matters**
10.1	Form of Management Agreement**
10.2	Form of Warrant Purchase Agreement**
10.3	Form of Registration Rights Agreement**
10.4	Form of Investment Allocation Agreement**
10.5	2011 Equity Incentive Plan (supercedes Exhibit 10.5 previously filed as an exhibit to Amendment No. 1 to the Registration Statement)†
10.6	Form of Indemnification Agreement**
10.7	Form of Master Repurchase Agreement**
10.8	Form of Warrant Agreement**
23.1	Consent of BDO USA, LLP**
23.2	Consent of Venable LLP (included in Exhibit 5.1)**
23.3	Consent of Hunton & Williams LLP (included in Exhibit 8.1)**
24.1	Power of Attorney**
99.1	Consent of W Coleman Bitting to being named as a director nominee**
99.2	Consent of John B. Van Heuvelen to being named as a director nominee**
99.3	Consent of Ava L. Parker to being named as a director nominee**
99.4	Consent of Frank P. Filipps to being named as a director nominee**

** Previously filed.

† Compensatory plan or arrangement.

Item 37. ***Undertakings.***

(a) The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

(b) Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended, may be permitted to directors, officers or controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933, as amended, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933, as amended, and will be governed by the final adjudication of such issue.

(c) The undersigned Registrant hereby further undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, as amended, the information omitted from the form of prospectus filed as part of this registration statement in reliance under Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act of 1933, as amended, shall be deemed to be part of this registration statement as of the time it was declared effective.

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

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that the registrant meets all of the requirements for filing on Form S-11 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Vero Beach, in the State of Florida, on this 25th day of July, 2011.

ORCHID ISLAND CAPITAL MANAGEMENT, INC.

By: /s/ ROBERT E. CAULEY
Name: Robert E. Cauley
Title: Chairman, Chief Executive Officer and Director

Pursuant to the requirements of the Securities Act of 1933, as amended, this Amendment No. 4 to the Registration Statement has been signed by the following persons in the capacities indicated on the 25th day of July, 2011.

Name	Title	Date
/s/ ROBERT E. CAULEY Robert E. Cauley	Chairman, Chief Executive Officer and Director (Principal Executive Officer)	July 25, 2011
/s/ G. HUNTER HAAS IV G. Hunter Haas IV	Chief Financial Officer and Director (Principal Financial Officer)	July 25, 2011
/s/ JERRY SINTES Jerry Sintes	Controller (Principal Accounting Officer)	July 25, 2011

EXHIBIT INDEX

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** Previously filed.

† Compensatory plan or arrangement.

Exhibit 1.1

[ ] Shares

Orchid Island Capital, Inc.

Common Stock

UNDERWRITING AGREEMENT

[ ], 2011

BARCLAYS CAPITAL INC.
JMP SECURITIES LLC,
As Representatives of the several
Underwriters named in Schedule 1 attached hereto,
c/o Barclays Capital Inc.
745 Seventh Avenue
New York, New York 10019

Ladies and Gentlemen:

Orchid Island Capital, Inc., a Maryland corporation (the "**Company**"), proposes to sell [•] shares (the "**Firm Stock**") of the Company's common stock, par value $0.01 per share (the "**Common Stock**"). In addition, the Company proposes to grant to the underwriters (the "**Underwriters**") named in Schedule 1 attached to this agreement (this "**Agreement**") an option to purchase up to [•] additional shares of the Common Stock on the terms set forth in Section 4 (the "**Option Stock**"). The Firm Stock and the Option Stock, if purchased, are hereinafter collectively called the "**Stock**." This is to confirm the agreement concerning the purchase of the Stock from the Company by the Underwriters.

The Company will be externally managed by Bimini Advisors, Inc., a Maryland corporation (the "**Manager**" and, together with the Company, the "**Transaction Entities**"), pursuant to a management agreement between the Company and the Manager (the "**Management Agreement**"), which will be entered into on or before the Initial Delivery Date (as defined below). In addition, on or before the Initial Delivery Date, (i) the Company will effect a stock dividend of 6.0922 shares of Common Stock for each share of Common Stock (the "**Stock Dividend**"), (ii) the Company will issue and sell warrants (the "**Warrants**") to purchase an aggregate of 2,655,000 shares of Common Stock (the "**Warrant Shares**") to Bimini Capital Management, Inc., a Maryland corporation, ("**Bimini**") for proceeds to the Company of $1.248 million in a transaction exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**") pursuant to a warrant purchase agreement (the "**Warrant Purchase Agreement**"), dated as of [ ], 2011, between the Company and Bimini, each Warrant being exercisable for one share of Common Stock and having such terms as set forth a warrant agreement to be entered into by and between the Company and Continental Stock Transfer & Trust Company, as warrant agent (the "**Warrant Agreement**"), (iii) the Company and Bimini will enter into a registration rights agreement (the "**Registration Rights Agreement**"), (iv) the Company, the Manager and Bimini will enter into an investment allocation agreement (the "**Investment Allocation Agreement**"), (v) the Manager and Bimini will enter into an overhead sharing agreement (the "**Overhead Sharing Agreement**"), (vi) the Manager and the directors and officers of the Company will enter into lock-up agreements substantially in the form of **Exhibit A-1** hereto, and (vii) Bimini will enter into a lock-up agreement substantially in the form of **Exhibit A-2** hereto. Prior to the date of this Agreement, the Company has issued and sold an aggregate of 150,000 shares (the "**Private Placement Shares**") of Common Stock to Bimini for proceeds to the Company of $15.0 million (the "**Private Placement**") in one or more transactions exempt from registration under the Securities Act.

1. *Representations, Warranties and Agreements of the Company*. The Company represents and warrants to each Underwriter as of the date hereof, the Applicable Time and each Delivery Date (as defined below), and agrees with each Underwriter that:

(a) A registration statement on Form S-11 relating to the Stock (as amended as of the Effective Date (as defined below), including any Preliminary Prospectus or the Prospectus and all exhibits to such registration statement (the "**Registration Statement**") has (i) been prepared by the Company in conformity with the requirements of the Securities Act and the rules and regulations (the "**Rules and Regulations**") of the Securities and Exchange Commission (the "**Commission**") thereunder; (ii) been filed with the Commission under the Securities Act; and (iii) become effective under the Securities Act. Copies of the Registration Statement and any amendment thereto have been delivered by the Company to you as the representatives (the "**Representatives**") of the Underwriters. As used in this Agreement:

(i) "**Applicable Time**" means [ ] [a.m.][p.m.] (New York City time) on [ ], 2011;

(ii) "**Effective Date**" means the date and time as of which the Registration Statement was declared effective by the Commission;

(iii) "**Issuer Free Writing Prospectus**" means each "free writing prospectus" (as defined in Rule 405 of the Rules and Regulations) prepared by or on behalf of the Company or used or referred to by the Company in connection with the offering of the Stock;

(iv) "**Preliminary Prospectus**" means any preliminary prospectus relating to the Stock included in the Registration Statement or filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations;

(v) "**Pricing Disclosure Package**" means, as of the Applicable Time, the most recent Preliminary Prospectus, together with the information included in Schedule 3 hereto and each Issuer Free Writing Prospectus listed on Schedule 3 hereto on or before the Applicable Time; and

(vi) "**Prospectus**" means the final prospectus relating to the Stock, as filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations.

Any reference to the "**most recent Preliminary Prospectus**" shall be deemed to refer to the latest Preliminary Prospectus included in the Registration Statement or filed pursuant to Rule 424(b) prior to or on the date hereof. Any reference herein to the term

"Registration Statement" shall be deemed to include the abbreviated registration statement to register additional shares of Common Stock under Rule 462(b) of the Rules and Regulations (the "**Rule 462(b) Registration Statement**"). The Commission has not issued any order preventing or suspending the use of any Preliminary Prospectus or the Prospectus or suspending the effectiveness of the Registration Statement, and no proceeding or examination for such purpose has been instituted or threatened by the Commission.

(b) The Company was not at the time of initial filing of the Registration Statement and at the earliest time thereafter that the Company or another offering participant made a *bona fide* offer (within the meaning of Rule 164(h)(2) of the Rules and Regulations) of the Stock, is not on the date hereof and will not be on the applicable Delivery Date an "ineligible issuer" (as defined in Rule 405 of the Rules and Regulations).

(c) The Registration Statement conformed and will conform in all material respects on the Effective Date and on the applicable Delivery Date, and any amendment to the Registration Statement filed after the date hereof will conform in all material respects when filed, to the requirements of the Securities Act and the Rules and Regulations. The most recent Preliminary Prospectus conformed, and the Prospectus will conform, in all material respects when filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations and on the applicable Delivery Date to the requirements of the Securities Act and the Rules and Regulations.

(d) The Registration Statement did not, as of the Effective Date, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; *provided* that no representation or warranty is made as to information contained in or omitted from the Registration Statement in reliance upon and in conformity with written information furnished to the Company through the Representatives by or on behalf of any Underwriter specifically for inclusion therein, which information is specified in Section 11(g).

(e) The Prospectus will not, as of its date and on the applicable Delivery Date, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided* that no representation or warranty is made as to information contained in or omitted from the Prospectus in reliance upon and in conformity with written information furnished to the Company through the Representatives by or on behalf of any Underwriter specifically for inclusion therein, which information is specified in Section 11(g).

(f) The Pricing Disclosure Package did not, as of the Applicable Time, contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided* that no representation or warranty is made as to information contained in or omitted from the Pricing Disclosure Package in reliance upon and in conformity with written information furnished to the Company through the Representatives by or on behalf of any Underwriter specifically for inclusion therein, which information is specified in Section 11(g).

(g) Each Issuer Free Writing Prospectus (including, without limitation, any road show that is a free writing prospectus under Rule 433), when considered together with the Pricing Disclosure Package as of the Applicable Time, did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) Each Issuer Free Writing Prospectus conformed or will conform in all material respects to the requirements of the Securities Act and the Rules and Regulations on the date of first use, and the Company has complied with all prospectus delivery and any filing requirements applicable to such Issuer Free Writing Prospectus pursuant to the Rules and Regulations. The Company has not made any offer relating to the Stock that would constitute an Issuer Free Writing Prospectus without the prior written consent of the Representatives. The Company has retained in accordance with the Rules and Regulations all Issuer Free Writing Prospectuses that were not required to be filed pursuant to the Rules and Regulations. The Company has taken all actions necessary so that any "road show" (as defined in Rule 433 of the Rules and Regulations) in connection with the offering of the Stock will not be required to be filed pursuant to the Rules and Regulations.

(i) The Company has been duly organized, is validly existing and in good standing as a corporation under the laws of the State of Maryland with full corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, Pricing Disclosure Package and Prospectus. The Company is duly qualified to do business and in good standing as a foreign corporation in each jurisdiction in which its ownership or lease of property or the conduct of its businesses requires such qualification, except where the failure to be so qualified or in good standing would not, in the aggregate, reasonably be expected to have a material adverse effect on the business, earnings, condition (financial or otherwise), results of operations, stockholders' equity, properties or prospects of the Company (a "**Material Adverse Effect**"). The Company has no subsidiaries and does not own or control, directly or indirectly, any corporation, association or other entity.

(j) The Company has an authorized and outstanding capitalization as set forth in each of the Registration Statement, Pricing Disclosure Package and Prospectus, and all of the issued shares of capital stock of the Company have been duly authorized and validly issued, are fully paid and non-assessable, conform to the description thereof contained in the Registration Statement, Pricing Disclosure Package and Prospectus and were issued in compliance with federal and state securities laws and not in violation of any preemptive right, resale right, right of first refusal or similar right. Except as disclosed in the Registration Statement, the Pricing Disclosure Package or the Prospectus, no options, warrants or other rights to purchase or exchange any securities for shares of the Company's capital stock are outstanding.

(k) The issuance, sale and delivery of the Private Placement Shares by the Company to Bimini did not require registration under the Securities Act.

(l) The Stock has been duly authorized and, upon payment and delivery in accordance with this Agreement, will be validly issued, fully paid and non-assessable, will conform to the description thereof contained in the Registration Statement, Pricing Disclosure Package and Prospectus, will be issued in compliance with federal and state securities laws and will be free of statutory and contractual preemptive rights, rights of first refusal and similar rights and, except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, free of any restriction upon the voting or transfer thereof pursuant to the Maryland General Corporation Law or the Company's charter or bylaws or any agreement or instrument to which the Company is a party.

(m) The Warrant Shares have been duly authorized and, when issued and paid for in accordance with the terms of the Warrant Agreement, will be validly issued, fully paid and non-assessable and free of any preemptive right, resale right, right of first refusal or similar right. The Warrants have been duly authorized by the Company for issuance and sale to Bimini pursuant to the Warrant Purchase Agreement. When delivered by the Company and paid for by Bimini pursuant to the Warrant Purchase Agreement, the Warrants will be validly issued and delivered and will constitute legal, valid and binding agreements of the Company pursuant to the Warrant Agreement enforceable against the Company in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or by equitable principles relating to enforceability. The Warrants will be issued in the form contemplated by the Warrant Agreement and conform in all material respects to the description thereof contained in the Disclosure Package and the Prospectus under the caption "Description of Securities—Warrants." The Warrants will be issued in compliance with federal and state securities laws will be free of any preemptive right, resale right, right of first refusal or similar right, and the issuance, sale and delivery of the Warrants by the Company to Bimini will not require registration under the Securities Act.

(n) The Company has full right, power and authority to execute and deliver this Agreement, the Management Agreement, the Warrant Purchase Agreement, the Warrant Agreement, the Registration Rights Agreement and the Investment Allocation Agreement (collectively, the "**Transaction Documents**") and to perform its obligations hereunder and thereunder, and all action required to be taken for the due and proper authorization, execution and delivery by it of each of the Transaction Documents and the consummation by it of the transactions contemplated hereby and thereby has been duly and validly taken.

(o) This Agreement has been duly authorized, executed and delivered by the Company.

(p) The Warrant Purchase Agreement has been duly authorized, executed and delivered by the Company and constitutes a legally binding agreement of the Company, enforceable against the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or by equitable principles relating to enforceability. Each of the Management Agreement, the Warrant Agreement, the Registration Rights Agreement and the Investment Allocation Agreement when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of the Company, enforceable against the Company in accordance with its respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or by equitable principles relating to enforceability.

(q) Each Transaction Document and the lock-up agreements conform in all material respects to the description thereof contained in the Registration Statement, Pricing Disclosure Package and Prospectus. The Company's operating policies, investment guidelines and other policies described in the Registration Statement, Pricing Disclosure Package and Prospectus accurately reflect in all material respects the current intentions of the Company with respect to the operation of its business, and no material deviation from such guidelines or policies is currently contemplated.

(r) The execution, delivery and performance of each of the Transaction Documents by the Company and the consummation of the transactions contemplated by the Transaction Documents and in the Registration Statement, Pricing Disclosure Package and Prospectus (including the issuance and sale of the Stock and the Warrants) and the application of the proceeds from the sale of the Stock as described under "Use of Proceeds" in the Registration Statement, Pricing Disclosure Package and Prospectus and the compliance by the Company with its obligations under each of the Transaction Documents will not, whether with or without the giving of notice or passage of time, (i) conflict with or result in a breach or violation of any of the terms or provisions of, impose any lien, charge or encumbrance upon any property or assets of the Company, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, license or other agreement or instrument to which the Company is a party or by which the Company is bound or to which any of the property or assets of the Company is subject; (ii) result in any violation of the provisions of the charter or by-laws of the Company; or (iii) result in any violation of any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its properties or assets, except in the case of clauses (i) and (iii) as would not reasonably be expected to have a Material Adverse Effect.

(s) No consent, approval, authorization or order of, or filing or registration of or with, any federal, state, local or foreign court or governmental, regulatory or administrative agency or body or any self-regulatory organization or other non-governmental regulatory authority, or approval of the stockholders of the Company, is required for the execution, delivery and performance by the Company of each of the Transaction Documents or the consummation of the transactions contemplated by each of the Transaction Documents and in the Registration Statement, Pricing Disclosure Package and Prospectus (including the issuance and sale of the Stock and the Warrants), the application of the proceeds from the sale of the Stock and the Warrants as described under "Use of Proceeds" in the Registration Statement, Pricing Disclosure Package and

Prospectus, except such as have been obtained or made and except for the registration of the Stock under the Securities Act and such consents, approvals, authorizations, registrations or qualifications as may be required under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), the NYSE Amex, applicable state or foreign securities laws or the by-laws and rules of the Financial Industry Regulatory Authority (the "**FINRA**").

(t) Except as described in the Registration Statement, Pricing Disclosure Package and Prospectus, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to the Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Securities Act.

(u) Except as described in the Registration Statement, Pricing Disclosure Package and Prospectus, (i) no person has the right, contractual or otherwise, to cause the Company to issue or sell to it any shares of Common Stock or shares of any other class or series of stock of or other equity interests of the Company, (ii) no person has any preemptive rights, resale rights, rights of first refusal or other rights to purchase any shares of Common Stock or shares of any other class or series of stock or other equity interest in the Company and (iii) no person has the right to act as an underwriter or as a financial advisor to the Company in connection with the offer and sale of the Stock.

(v) The Company has not sold or issued any securities that would be integrated with the offering of the Stock contemplated by this Agreement pursuant to the Securities Act, the Rules and Regulations or the interpretations thereof by the Commission.

(w) Since the respective dates as of which information is given in the Registration Statement, Pricing Disclosure Package and Prospectus, (i) the Company has not sustained any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, (ii) there has not been any material adverse change, or any development involving a prospective material adverse change, in or affecting the business, earnings, condition (financial or otherwise), results of operations, stockholders' equity, properties, management or prospects of the Company, and (iii) there has not been any change in the capital stock or long-term debt of the Company.

(x) Since the respective dates as of which information is given in the Registration Statement, Pricing Disclosure Package and Prospectus, the Company has not (i) incurred any liability or obligation, direct or contingent, other than liabilities and obligations that were incurred in the ordinary course of business, (ii) entered into any material transaction not in the ordinary course of business or (iii) declared or paid any dividend on its capital stock.

(y) The historical financial statements (including the related notes and supporting schedules) included in the Registration Statement, Pricing Disclosure Package and Prospectus comply as to form in all material respects with the requirements of Regulation S-X under the Securities Act and present fairly the financial condition, results of operations, stockholders' equity and cash flows of the Company at the dates and for the periods indicated and have been prepared in conformity with accounting principles generally accepted in the United States ("**GAAP**") applied on a consistent basis throughout the periods involved. The supporting schedules, if any, present fairly in accordance with GAAP the information required to be stated therein. The selected financial data and the summary selected financial data included in the Registration Statement, Pricing Disclosure Package and Prospectus present fairly the information shown therein and have been compiled on a basis consistent with the financial statements included therein and the books and records of the Company. Except as included therein, no historical or pro forma financial statements or supporting schedules are required to be included in the Registration Statement, Pricing Disclosure Package and Prospectus under the Securities Act and the Rules and Regulations.

(z) BDO USA, LLP, who have certified certain financial statements of the Company, whose report appears in the Registration Statement, Pricing Disclosure Package and Prospectus and who have delivered the initial letter referred to in Section 10(i) hereof, are independent public accountants with respect to the Company as required by the Securities Act and the Rules and Regulations and the Public Company Accounting Oversight Board.

(aa) The Company does not own any real property. The Company has good and marketable title to all of its assets and personal property owned by it, free and clear of all liens, encumbrances and defects, except such as are described in the Registration Statement, Pricing Disclosure Package and Prospectus or such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company; and all assets held under lease by the Company are held by it under valid, subsisting and enforceable leases, with such exceptions as do not materially interfere with the use made and proposed to be made of such assets by the Company and the Company does not have notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company under any such leases or affecting or questioning the rights of the Company to be in the continued possession of the leased premises under such leases.

(bb) The Company carries, or is covered by, insurance from insurers of recognized financial responsibility in such amounts and covering such risks as is adequate for the conduct of its business and the value of its respective properties and as is customary for companies engaged in similar businesses in similar industries. All policies of insurance of the Company are in full force and effect, except where the failure to maintain such insurance would not reasonably be expected to have a Material Adverse Effect; the Company is in compliance with the terms of such policies in all material respects; and the Company has not received notice from any insurer or agent of such insurer that any expenditures (other than regular premium payments) are required or necessary to be made in order to continue such insurance; there are no claims by the

Company under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; and the Company has no 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 from similar insurers as may be necessary to continue its business.

(cc) All statistical and market-related data included in the Registration Statement, Pricing Disclosure Package and Prospectus are based on or derived from sources that the Company reasonably and in good faith believes to be reliable and accurate in all material respects, and such data agree with the sources from which they are derived, and, to the extent required, the Company has obtained the written consent to the use of such data from such sources.

(dd) The Company is not, and as of the applicable Delivery Date and at no time during which a prospectus is required by the Securities Act to be delivered in connection with the sale of the Stock, the Company will not be, after giving effect to the offer and sale of the Stock and the application of the net proceeds therefrom as described under "Use of Proceeds" in the Registration Statement, the Pricing Disclosure Package and the Prospectus an "investment company" or an entity "controlled" by an "investment company" within the meaning of such terms under the Investment Company Act of 1940, as amended (the "**Investment Company Act**"), and the rules and regulations of the Commission thereunder.

(ee) The Company will make a timely election to be subject to taxation as a "real estate investment trust" (a "**REIT**") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (collectively, the "**Code**"). Commencing with its short taxable year ending December 31, 2011, the Company has been, and upon the sale of the Stock will be, organized in conformity with the requirements for qualification and taxation as a REIT. The Company's intended method of operation as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus will enable the Company to meet the requirements for qualification and taxation as a REIT under the Code. The Company intends to operate in a manner which would permit it to qualify and be taxed as a REIT under the Code and has no intention of changing its proposed and current method of operation or engaging in activities which would cause it to fail to qualify or make economically undesirable, its qualification as a REIT under the Code.

(ff) The description of the Company's organization and intended method of operation and its qualification and taxation as a REIT set forth in the Registration Statement, Pricing Disclosure Package and Prospectus is accurate and presents fairly the matters referred to therein.

(gg) There are no actions, suits, claims, investigations or proceedings pending or, to the Company's knowledge, threatened or contemplated to which the Company or, to the Company's knowledge, any of its directors or officers is or would be a party or of which any of its properties is or would be subject at law or in equity, before or by any federal, state, local or foreign governmental, regulatory or administrative agency or body or any self-regulatory organization or other non-governmental regulatory authority that would, in the aggregate, reasonably be expected to have a Material Adverse Effect or would, in the aggregate, reasonably be expected to have a material adverse effect on the performance of this Agreement or any of the other Transaction Documents or the consummation of the transactions contemplated by any of the Transaction Documents.

(hh) There are no legal or governmental proceedings or contracts or other documents of a character required to be described in the Registration Statement, Pricing Disclosure Package and Prospectus or, in the case of documents to be filed as exhibits to the Registration Statement, that are not described and filed as required. The Company does not have knowledge that any other party to any such contract, agreement or arrangement has any intention not to render full performance as contemplated by the terms thereof; and that statements made in the Registration Statement, Pricing Disclosure Package and Prospectus under the caption "Description of Securities," insofar as it purports to constitute a summary of the terms of the Company's common stock, and under the captions "Prospectus Summary—Our Management Agreement," "Prospectus Summary—Overhead Sharing Agreement," "Prospectus Summary—Tax Structure," "Prospectus Summary—Our Distribution Policy," "Prospectus Summary—Restrictions on Ownership and Transfer of our Capital Stock," "Prospectus Summary—Investment Company Act Exemption," "Risk Factors—Risks Related to Our Organization and Structure," "Risk Factors—U.S. Federal Income Tax Risks," "Distribution Policy," "Business—Tax Structure," "Business—Investment Company Act Exemption," "Our Manager and the Management Agreement—Our Management Agreement," "Our Management—Compensation of Executive Officers—Compensation Discussion and Analysis—2011 Equity Incentive Plan," "Certain Relationships and Related Transactions," "Stock Available for Future Sale," "Certain Provisions of Maryland Law and of Our Charter and Bylaws," "Material U.S. Federal Income Tax Considerations," and "ERISA Considerations" insofar as they purport to constitute summaries of the terms of statutes, rules or regulations, legal or governmental proceedings or contracts and other documents, constitute accurate summaries of the terms of such statutes, rules and regulations, legal and governmental proceedings and contracts and other documents in all material respects.

(ii) No relationship, direct or indirect, exists between or among the Company, on the one hand, and the directors, officers, stockholders, customers or suppliers of the Company, on the other hand, that is required to be described in the Registration Statement, Pricing Disclosure Package and Prospectus which is not so described.

(jj) The Company has no employees.

(kk) The Company has not been notified that any executive officer of the Company or any executive officer or key employee of the Manager or Bimini, or a significant number of members of the investment teams of the Company, the Manager or Bimini plan to terminate his, her or their employment with his, her or their current employer. Neither the Company, the Manager, Bimini, nor any executive officer of the Company or executive officer or key employee of the Manager or Bimini is subject to any noncompete, nondisclosure, confidentiality, employment, consulting or similar agreement that would be violated by the present or proposed business activities of the Company, the Manager or Bimini as described in the Management Agreement, the Registration Statement, Pricing Disclosure Package and Prospectus.

(ll) (i) Each "employee benefit plan" (within the meaning of Section 3(3) of the Employee Retirement Security Act of 1974, as amended ("**ERISA**")) for which the Company or any member of its "Controlled Group" (defined as any organization which is a member of a controlled group of corporations within the meaning of Section 414 of the Code would have any liability (each a "**Plan**") has been maintained, in all material respects, in compliance with its terms and with the requirements of all applicable statutes, rules and regulations including ERISA and the Code, except for instances which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; (ii) with respect to each Plan subject to Title IV of ERISA (a) no "reportable event" (within the meaning of Section 4043(c) of ERISA) has occurred or is reasonably expected to occur, (b) no "accumulated funding deficiency" (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, has occurred or is reasonably expected to occur, (c) the fair market value of the assets under each Plan exceeds the present value of all benefits accrued under such Plan (determined based on those assumptions used to fund such Plan) and (d) neither the Company or any member of its Controlled Group has incurred, or reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the PBGC in the ordinary course and without default) in respect of a Plan (including a "multiemployer plan", within the meaning of Section 4001(c)(3) of ERISA); and (iii) each Plan that is intended to be qualified under Section 401(a) of the Code is so qualified and nothing has occurred, whether by action or by failure to act, which would cause the loss of such qualification.

(mm) The Company has timely filed all U.S. federal income tax returns required to be filed by it, subject to permitted extensions, and has timely paid all taxes shown as due by such returns or otherwise assessed, which are due and payable, with respect to the periods covered by such tax returns, except assessments against which appeals have been or will be promptly taken and as to which adequate reserves have been provided, and all such returns are true and correct in all material respects. The Company has accurately prepared and timely filed all other tax returns required to be filed by it, subject to permitted extensions, except insofar as the failure to accurately prepare or timely file such returns would not have, individually or in the aggregate, a Material Adverse Effect, and has timely paid all taxes shown as due by such returns or otherwise assessed, which are due and payable, except for such taxes, if any, as are being contested in good faith and as to which adequate reserves have been established by the Company. No deficiency assessment with respect to a proposed adjustment of the Company's federal, state, local or foreign or other taxes is pending or, to the best of the Company's knowledge, threatened. There is no tax lien, whether imposed by any federal, state, local or foreign or other taxing authority, outstanding against the assets, properties or business of the Company, except for such a tax lien for any tax, assessment, governmental or other similar charge which is not yet due and payable. To the knowledge of the Company, there are no tax returns of the Company that are currently being audited by federal, state, local or foreign or other taxing authorities or agencies which would have, individually or in the aggregate, a Material Adverse Effect.

(nn) The Company (i) is not in violation of its charter or by-laws, (ii) is not 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, license or other agreement or instrument to which it is a party or by which it is bound or to which any of its properties or assets is subject or (iii) is not in violation of any federal, state, local or foreign statute or rule, or any order, rule or regulation of any arbitrator, court or governmental, regulatory or administrative agency or body or any self-regulatory organization or other non-governmental regulatory authority having jurisdiction over it or its property or assets or has failed to obtain any license, permit, certificate, franchise or other governmental authorization or permit necessary to the ownership of its property or to the conduct of its business, except in the case of clauses (ii) and (iii), to the extent any such conflict, breach, violation or default would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

(oo) The Company (i) makes and keeps accurate books and records and (ii) maintains and has maintained effective internal control over financial reporting as defined in Rule 13a-15 under the Exchange Act and a system of internal accounting controls sufficient to provide reasonable assurance that (A) transactions are executed in accordance with management’s general or specific authorization, (B) transactions are recorded as necessary to permit preparation of the Company’s financial statements in conformity with GAAP and to maintain accountability for its assets, (C) access to the Company’s assets is permitted only in accordance with management’s general or specific authorization and (D) the recorded accountability for the Company’s assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Since the Company’s incorporation, there has been no material weakness in the Company’s internal control over financial reporting (whether or not remediated). Since the date of the latest audited financial statements included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there has been no change in the Company’s internal control over financial reporting that has materially affected or is reasonably likely to materially affect the Company’s internal control over financial reporting.

(pp) (i) The Company has established and maintain disclosure controls and procedures (as such term is defined in Rule 13a-15 under the Exchange Act), (ii) such disclosure controls and procedures are designed to ensure that the information required to be disclosed by the Company in the reports it will file or submit under the Exchange Act is accumulated and communicated to management of the Company, including their respective principal executive officers and principal financial officers, as appropriate, to allow timely decisions regarding required disclosure to be made and (iii) such disclosure controls and procedures are effective in all material respects to perform the functions for which they were established.

(qq) Since the date of the most recent balance sheet of the Company reviewed or audited by BDO USA, LLP, (i) the Company has not been advised of (A) any significant deficiencies in the design or operation of internal controls that could adversely affect the ability of the Company to record, process, summarize and report financial data, or any material weaknesses in internal controls and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the internal controls of the Company, and (ii) there have been no significant changes in internal controls over financial reporting that has materially affected the Company's internal controls over financial reporting, including any corrective actions with regard to significant deficiencies and material weaknesses.

(rr) The Company has taken all necessary actions to ensure that, upon and at all times after the filing of the Registration Statement, the Company and its officers and directors, in their respective capacities as such, will be in compliance in all material respects with the applicable provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated thereunder (the "**Sarbanes-Oxley Act**").

(ss) The section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies" in the Registration Statement, Pricing Disclosure Package and Prospectus accurately and fully describes, in all material respects, (A) the accounting policies that the Company believes are the most important in the portrayal of the Company's financial condition and results of operations and that require management's most difficult, subjective or complex judgments ("**Critical Accounting Policies**"); (B) the judgments and uncertainties affecting the application of Critical Accounting Policies; and (C) the likelihood that materially different amounts would be reported under different conditions or using different assumptions and an explanation thereof.

(tt) The Company has such permits, consents, licenses, patents, franchises, certificates of need and other approvals or authorizations of governmental, regulatory or administrative authorities or any self-regulatory organization or non-governmental authorities ("**Permits**") as are necessary under applicable law to own its properties and conduct its businesses in the manner described in the Registration Statement, Pricing Disclosure Package and Prospectus, except for any of the foregoing that would not, in the aggregate, reasonably be expected to have a Material Adverse Effect. All such Permits are in full force and effect, the Company has fulfilled and performed all of its obligations with respect to the Permits, and no event has occurred that allows, or after notice or lapse of time would allow, revocation or termination thereof or result in any other impairment of the rights of the holder or any such Permits, except for any of the foregoing that would not reasonably be expected to have a Material Adverse Effect.

(uu) The Company owns or possesses adequate rights to use all material patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights, licenses, know-how, software, systems and technology (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures) necessary for the conduct of its businesses and has no reason to believe that the conduct of its business will conflict with, and has not received any notice of any claim of conflict with, any such rights of others.

(vv) Except as would not, singly or in the aggregate, result in a Material Adverse Effect, (A) the Company is not in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products, asbestos-containing materials or mold (collectively, "**Hazardous Materials**") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "**Environmental Laws**"), (B) the Company has all permits, authorizations and approvals required under any applicable Environmental Laws and is in compliance with their requirements, (C) there are no pending or known threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company and (D) there are no known events or circumstances that would reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or governmental authority, against or affecting the Company relating to Hazardous Materials or any Environmental Laws.

(ww) The Company has not, nor, to the knowledge of the Company, has any director, officer, agent, employee, affiliate or other person acting on behalf of the Company, (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; or (iii) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment. Neither the Company nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate or other person acting on behalf of the Company is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder; and the Company and, to the knowledge of the Company, its affiliates have instituted and maintain policies and procedures designed to ensure continued compliance therewith.

(xx) The operations of the Company is and has been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "**Money Laundering Laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened, except, in each case, as would not reasonably be expected to have a Material Adverse Effect.

(yy) Neither the Company nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("**OFAC**"); and the Company will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(zz) Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company (i) does not have any material lending or other relationship with any bank or lending affiliate of any Underwriter and (ii) does not intend to use any of the proceeds from the sale of the Stock to repay any outstanding debt owed to any affiliate of any Underwriter.

(aaa) The Company has not distributed and, prior to the later to occur of any Delivery Date and completion of the distribution of the Stock, will not distribute any offering material in connection with the offering and sale of the Stock other than any Preliminary Prospectus, the Prospectus, any Issuer Free Writing Prospectus to which the Representatives have consented in accordance with Section 1(h) or 7(a)(vi) and any Issuer Free Writing Prospectus as set forth on Schedule 3 hereto.

(bbb) The Company has not taken and will not take, directly or indirectly, any action designed to or that has constituted or that could reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the shares of the Stock.

(ccc) The Stock has been approved for listing, subject to official notice of issuance and evidence of satisfactory distribution on the NYSE Amex.

Any certificate signed by any officer of the Company and delivered to the Representatives or counsel for the Underwriters in connection with the offering of the Stock shall be deemed a representation and warranty by the Company, as to matters covered thereby, to each Underwriter.

2. *Representations and Warranties Regarding the Manager.* The Manager represents and warrants to each Underwriter as of the date hereof, the Applicable Time, and each Delivery Date, and agrees with the Underwriters that:

(a) The information regarding the Manager in the Registration Statement, Pricing Disclosure Package and Prospectus is true, correct and complete in all material respects. The Manager has no plan or intention to materially alter its investment policy with respect to the Company as described in the Registration Statement, Pricing Disclosure Package and Prospectus.

(b) The Manager has been duly organized and is validly existing and in good standing as a corporation under the laws of the State of Maryland with full corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, Pricing Disclosure Package and Prospectus. The Manager is duly qualified to do business and in good standing as a foreign corporation in each jurisdiction in which its ownership or lease of property or the conduct of its businesses requires such qualification, except where the failure to be so qualified or in good standing would not, in the aggregate, reasonably be expected to have a material adverse effect on the business, earnings, condition (financial or otherwise), results of operations, stockholders' equity, properties or prospects of the Manager (a "**Manager Material Adverse Effect**"). The Manager has no subsidiaries and, with the exception of its relationship with the Company as the Company's investment manager pursuant to the Management Agreement, does not own or control, directly or indirectly, any corporation, association or other entity.

(c) The Manager has full right, power and authority to execute and deliver each of the Transaction Documents to which it is a party and the Overhead Sharing Agreement and to perform its obligations hereunder and thereunder, and all action required to be taken for the due and proper authorization, execution and delivery by it of each of the Transaction Documents to which it is a party and the Overhead Sharing Agreement and the consummation by it of the transactions contemplated hereby and thereby has been duly and validly taken.

(d) This Agreement has been duly authorized, executed and delivered by the Manager.

(e) Each of the Management Agreement, the Investment Allocation Agreement and the Overhead Sharing Agreement has been duly authorized, and on the Initial Delivery Date will have been duly executed and delivered, by the Manager and, when duly executed and delivered in accordance with its terms by each of the other parties thereto, will constitute a valid and legally binding agreement of the Manager enforceable against the Manager in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or by equitable principles relating to enforceability.

(f) Except as otherwise stated therein, since the date as of which information is given in the Registration Statement, Pricing Disclosure Package and Prospectus, there has been no Manager Material Adverse Effect.

(g) The execution, delivery and performance of this Agreement, the Management Agreement, the Overhead Sharing Agreement and the Investment Advisory Agreement by the Manager and the consummation of the transactions contemplated hereby and thereby and the compliance by the Manager with its obligations under each of the foregoing will not, whether with or without the giving of notice or passage of time, (i) conflict with or result in a breach or violation of any of the terms or provisions of, impose any lien, charge or encumbrance upon any property or assets of the Manager, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, license or other agreement or instrument to which the Manager is a party or by which the Manager is bound or to which any of the property or assets of the Manager is subject; (ii) result in any violation of the provisions of the charter or by-laws of the Manager; or (iii) result in any violation of any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Manager or any of its properties or asset, except in the case of clauses (i) and (iii) as would not reasonably be expected to have a Manager Material Adverse Effect.

(h) No consent, approval, authorization or order of, or filing or registration of or with, any federal, state, local or foreign court or governmental, regulatory or administrative agency or body or any self-regulatory organization or other non-governmental regulatory authority, or approval of the stockholder of the Manager, is required for the execution, delivery and performance by the Manager of this Agreement, the Management Agreement, the Investment Allocation Agreement and the Overhead Sharing Agreement and the consummation of the transactions contemplated hereby and thereby and in the Registration Statement, Pricing Disclosure Package and Prospectus.

(i) There are no actions, suits, claims, investigations or proceedings pending or, to the Manager's knowledge, threatened or contemplated to which the Manager or, to the Manager's knowledge, any of its directors or officers is or would be a party or of which any of its properties is or would be subject at law or in equity, before or by any federal, state, local or foreign governmental, regulatory or administrative agency or body, or any self-regulatory organization or other non-governmental regulatory authority that would, in the aggregate, reasonably be expected to have a Manager Material Adverse Effect or would, in the aggregate, reasonably be expected to have a material adverse effect on the performance of this Agreement, the Management Agreement, the Investment Allocation Agreement or the Overhead Sharing Agreement or the consummation of the transactions contemplated hereby or thereby.

(j) The Manager has such Permits as are necessary under applicable law to own its properties and conduct its businesses, except for any Permit that would not, in the aggregate, reasonably be expected to have a Manager Material Adverse Effect. All such Permits are in full force and effect, the Manager has fulfilled and performed all of its obligations with respect to the Permits, and no event has occurred that allows, or after notice or lapse of time would allow, revocation or termination thereof or result in any other impairment of the rights of the holder or any such Permits, except for any of the foregoing that would not reasonably be expected to have a Manager Material Adverse Effect.

(k) The Manager has the financial and other resources available to it necessary for the performance of its services and obligations as contemplated in the Management Agreement, Registration Statement, Pricing Disclosure Package and Prospectus and under this Agreement.

(l) The Manager has not been notified that any executive officer of the Company or any executive officer or key employee of the Manager or Bimini, or a significant number of members of the investment teams of the Company, the Manager or

Bimini plan to terminate his, her or their employment with his, her or their current employer. Neither the Manager nor any executive officer or key employee of the Manager is subject to any noncompete, nondisclosure, confidentiality, employment, consulting or similar agreement that would be violated by the present or proposed business activities of the Company, the Manager or Bimini as described in the Management Agreement, the Registration Statement, the Pricing Disclosure Package or the Prospectus.

(m) The Manager (i) is not in violation of its charter or by-laws, (ii) is not 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, license or other agreement or instrument to which it is a party or by which it is bound or to which any of its properties or assets is subject or (iii) is not in violation of any federal, state, local or foreign statute or rule, or any order, rule or regulation of any arbitrator, court or governmental, regulatory or administrative agency or body or any self-regulatory organization or other non-governmental regulatory authority having jurisdiction over it or its property or assets or has failed to obtain any license, permit, certificate, franchise or other governmental authorization or permit necessary to the ownership of its property or to the conduct of its business, except in the case of clauses (ii) and (iii), to the extent any such conflict, breach, violation or default would not, in the aggregate, reasonably be expected to have a Manager Material Adverse Effect.

(n) The Manager is not prohibited by the Investment Advisers Act of 1940, as amended, or the rules and regulations thereunder, from performing under the Management Agreement as contemplated by the Management Agreement and the Registration Statement, the Preliminary Prospectus and the Prospectus.

(o) Neither the Manager nor any its affiliates (within the meaning of Rule 144 under the Securities Act) has taken or will take, directly or indirectly, any action designed to or that has constituted or that could reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the shares of the Stock.

Any certificate signed by any officer of the Manager and delivered to the Representatives or counsel for the Underwriters shall be deemed a representation and warranty by the Manager, as to matters covered thereby, to each Underwriter.

3. *Representations and Warranties Regarding Bimini.* Bimini represents and warrants to each Underwriter as of the date hereof, the Applicable Time, and each Delivery Date, and agrees with the Underwriters that:

(a) The information regarding Bimini in the Registration Statement, Pricing Disclosure Package and Prospectus is true, correct and complete in all material respects. Bimini has no plan or intention to materially alter its investment policy with respect to the Company as described in the Registration Statement, Pricing Disclosure Package and Prospectus.

(b) Bimini has been duly organized and is validly existing and in good standing as a corporation under the laws of the State of Maryland with full corporate power and authority to own, lease and operate its properties. Bimini is duly qualified to do business and in good standing as a foreign corporation in each jurisdiction in which its ownership or lease of property or the conduct of its businesses requires such qualification, except where the failure to be so qualified or in good standing would not, in the aggregate, reasonably be expected to have a material adverse effect on the business, earnings, condition (financial or otherwise), results of operations, stockholders' equity, properties or prospects of Bimini (a "**Bimini Material Adverse Effect**"). All of the issued shares of the Manager are owned directly or indirectly by Bimini, free and clear of all liens, encumbrances, equities or claims. As of the date hereof and immediately prior to the Initial Delivery Date, all of the issued shares of the Company are owned directly or indirectly by Bimini, free and clear of all liens, encumbrances, equities or claims.

(c) Bimini has full right, power and authority to execute and deliver each of the Transaction Documents to which it is a party and the Overhead Sharing Agreement and to perform its obligations hereunder and thereunder, and all action required to be taken for the due and proper authorization, execution and delivery by it of each of the Transaction Documents to which it is a party and the Overhead Sharing Agreement and the consummation by it of the transactions contemplated hereby and thereby has been duly and validly taken.

(d) This Agreement has been duly authorized, executed and delivered by Bimini.

(e) Each of the Investment Allocation Agreement, the Registration Rights Agreement, the Warrant Purchase Agreement and the Overhead Sharing Agreement has been duly authorized, and on the Initial Delivery Date will have duly executed and delivered, by Bimini and, when duly executed and delivered in accordance with its terms by each of the other parties thereto, will constitute a valid and legally binding agreement of Bimini enforceable against Bimini in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally or by equitable principles relating to enforceability.

(f) Except as otherwise stated therein, since the date as of which information is given in the Registration Statement, Pricing Disclosure Package and Prospectus, there has been no Bimini Material Adverse Effect.

(g) The execution, delivery and performance of this Agreement, the Registration Rights Agreement, the Warrant Purchase Agreement and the Overhead Sharing Agreement by Bimini and the consummation of the transactions contemplated hereby and thereby and the compliance by Bimini with its obligations under each of the foregoing will not, whether with or without the giving of notice or passage of time, (i) conflict with or result in a breach or violation of any of the terms or provisions of, impose any lien, charge or encumbrance upon any property or assets of Bimini, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, license or other agreement or instrument to which Bimini is a party or by which Bimini is bound or to which any of the property or assets of Bimini is subject; (ii) result in any violation of the provisions of the charter or by-laws of Bimini; or (iii) result in any violation of any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over Bimini or any of its properties or assets, except in the case of clauses (i) and (iii) as would not reasonably be expected to have a Bimini Material Adverse Effect.

(h) No consent, approval, authorization or order of, or filing or registration of or with, any federal, state, local or foreign court or governmental, regulatory or administrative agency or body or any self-regulatory organization or other non-governmental regulatory authority, or approval of the stockholders of Bimini, is required for the execution, delivery and performance by Bimini of this Agreement, the Warrant Purchase Agreement, the Registration Rights Agreement, the Investment Allocation Agreement and the Overhead Sharing Agreement and the consummation of the transactions contemplated hereby and thereby and in the Registration Statement, Pricing Disclosure Package and Prospectus.

(p) Bimini has such Permits as are necessary under applicable law to own its properties and conduct its businesses, except for any Permit that would not, in the aggregate, reasonably be expected to have a Bimini Material Adverse Effect. All such Permits are in full force and effect and Bimini has fulfilled and performed all of its obligations with respect to the Permits, and no event has occurred that allows, or after notice or lapse of time would allow, revocation or termination thereof or result in any other impairment of the rights of the holder or any such Permits, except for any of the foregoing that would not reasonably be expected to have a Bimini Material Adverse Effect.

(i) There are no actions, suits, claims, investigations or proceedings pending or, to Bimini's knowledge, threatened or contemplated to which Bimini or, to Bimini's knowledge, any of its directors or officers is or would be a party or of which any of its properties is or would be subject at law or in equity, before or by any federal, state, local or foreign governmental, regulatory or administrative agency or body, or any self-regulatory organization or other non-governmental regulatory authority that would, in the aggregate, reasonably be expected to have a Bimini Material Adverse Effect or would, in the aggregate, reasonably be expected to have a material adverse effect on the performance of this Agreement, the Management Agreement, the Investment Allocation Agreement or the Overhead Sharing Agreement or the consummation of the transactions contemplated hereby or thereby.

(j) Bimini has not been notified that any executive officer of the Company or any executive officer or key employee of the Manager or Bimini, or a significant number of members of the investment teams of the Company, the Manager or Bimini plan to terminate his, her or their employment with his, her or their current employer. Neither Bimini nor any executive officer or key employee of Bimini is subject to any noncompete, nondisclosure, confidentiality, employment, consulting or similar agreement that would be violated by the present or proposed business activities of the Company, the

Manager or Bimini as described in the Management Agreement, the Registration Statement, the Pricing Disclosure Package or the Prospectus.

(k) Bimini (i) is not in violation of its charter or by-laws, (ii) is not 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, license or other agreement or instrument to which it is a party or by which it is bound or to which any of its properties or assets is subject or (iii) is not in violation of any federal, state, local or foreign statute or rule, or any order, rule or regulation of any arbitrator, court or governmental, regulatory or administrative agency or body or any self-regulatory organization or other non-governmental regulatory authority having jurisdiction over it or its property or assets or has failed to obtain any license, permit, certificate, franchise or other governmental authorization or permit necessary to the ownership of its property or to the conduct of its business, except in the case of clauses (ii) and (iii), to the extent any such conflict, breach, violation or default would not, in the aggregate, reasonably be expected to have a Bimini Material Adverse Effect.

(l) Neither Bimini nor any of its affiliates (within the meaning of Rule 144 under the Securities Act) has taken or will take, directly or indirectly, any action designed to or that has constituted or that could reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the shares of the Stock.

(m) At all times from the date of the Company's formation until the Initial Delivery Date, Bimini owned 100% of the stock of the Company and at all times from the date of the Company's formation until the Initial Delivery Date, Bimini qualified as a REIT.

Any certificate signed by any officer of Bimini and delivered to the Representatives or counsel for the Underwriters shall be deemed a representation and warranty by Bimini, as applicable, as to matters covered thereby, to each Underwriter.

4. *Purchase of the Stock by the Underwriters.*

(n) On the basis of the representations and warranties contained in, and subject to the terms and conditions of, this Agreement, the Company agrees to sell [•] shares of the Firm Stock to the several Underwriters, and each of the Underwriters, severally and not jointly, agrees to purchase the number of shares of the Firm Stock set forth opposite that Underwriter's name in Schedule 1 hereto. The respective purchase obligations of the Underwriters with respect to the Firm Stock shall be rounded among the Underwriters to avoid fractional shares, as the Representatives may determine.

In addition, the Company grants to the Underwriters an option to purchase up to [•] additional shares of Option Stock. Such option is exercisable in the event that the Underwriters sell more shares of Common Stock than the number of Firm Stock in the offering and as set forth in Section 6 hereof. Each Underwriter agrees, severally and not jointly, to purchase the number of shares of Option Stock (subject to such adjustments to eliminate fractional shares as the Representatives may determine) that bears the same proportion to the total number of shares of Option Stock to be sold on such Delivery Date as the number of shares of Firm Stock set forth in Schedule 1 hereto opposite the name of such Underwriter bears to the total number of shares of Firm Stock.

The price of both the Firm Stock and any Option Stock purchased by the Underwriters shall be $[•] per share.

The Company shall not be obligated to deliver any of the Firm Stock or Option Stock to be delivered on the applicable Delivery Date, except upon payment for all such Stock to be purchased on such Delivery Date as provided herein.

(o) In addition to the foregoing, in consideration for serving as Underwriters in connection with the sale of the Stock, the Manager agrees to pay to Barclays Capital Inc., for the account of the Underwriters, $[•] per share for both the Firm Stock and any Option Stock purchased by the Underwriters (the "**Manager Offering Payment**"). The Manager shall pay 100% of the monthly Management Fees (as defined in the Management Agreement) paid to it by the Company pursuant to the Management Agreement to the Underwriters until such time as the aggregate amount of the Manager Offering Payment due to the Underwriters from the Manager for the Firm Stock and any Option Stock pursuant to the preceding sentence shall have been made in full. Payments shall be payable by the Manager to Barclays Capital Inc. for the account of the Underwriters by wire transfer of immediately available funds to a bank account designated by Barclays Capital Inc, no later than each date which is five (5) business days after the receipt by the Manager from the Company of the monthly management fee paid pursuant to the Management Agreement.

5. *Offering of Stock by the Underwriters*. Upon authorization by the Representatives of the release of the Firm Stock, the several Underwriters propose to offer the Firm Stock for sale upon the terms and conditions to be set forth in the Prospectus.

6. *Delivery of and Payment for the Stock.* Delivery of and payment for the Firm Stock shall be made at 10:00 A.M., New York City time, on the third full business day following the date of this Agreement or at such other date or place as shall be determined by agreement between the Representatives and the Company. This date and time are sometimes referred to as the "**Initial Delivery Date**." Delivery of the Firm Stock shall be made to the Representatives for the account of each Underwriter against payment by the several Underwriters through the Representatives and of the respective aggregate purchase prices of the Firm Stock being sold by the Company to or upon the order of the Company of the purchase price by wire transfer in immediately available funds to the accounts specified by the Company. Time shall be of the essence, and delivery at the time and place specified pursuant to this Agreement is a further condition of the obligation of each Underwriter hereunder. The Company shall deliver the Firm Stock through the facilities of DTC unless the Representatives shall otherwise instruct.

The option granted in Section 4 will expire 30 days after the date of this Agreement and may be exercised in whole or from time to time in part by written notice being given to the Company by the Representatives; *provided* that if such date falls on a day that is not a business day, the option granted in Section 4 will expire on the next succeeding business day. Such notice shall set forth the aggregate number of shares of Option Stock as to which the option is being exercised, the names in which the shares of Option Stock are to be registered, the denominations in which the shares of Option Stock are to be issued and the date and time, as determined by the Representatives, when the shares of Option Stock are to be delivered; *provided*, *however*, that this date and time shall not be earlier than the Initial Delivery Date nor earlier than the second business day after the date on which the option shall have been exercised nor later than the fifth business day after the date on which the option shall have been exercised. Each date and time the shares of Option Stock are delivered is sometimes referred to as an "**Option Stock Delivery Date**," and the Initial Delivery Date and any Option Stock Delivery Date are sometimes each referred to as a "**Delivery Date**."

Delivery of the Option Stock by the Company and payment for the Option Stock by the several Underwriters through the Representatives shall be made at 10:00 A.M., New York City time, on the date specified in the corresponding notice described in the preceding paragraph or at such other date or place as shall be determined by agreement between the Representatives and the Company. On the Option Stock Delivery Date, the Company shall deliver or cause to be delivered the Option Stock to the Representatives for the account of each Underwriter against payment by the several Underwriters through the Representatives and of the respective aggregate purchase prices of the Option Stock being sold by the Company to or upon the order of the Company of the purchase price by wire transfer in immediately available funds to the accounts specified by the Company. Time shall be of the essence, and delivery at the time and place specified pursuant to this Agreement is a further condition of the obligation of each Underwriter hereunder. The Company shall deliver the Option Stock through the facilities of DTC unless the Representatives shall otherwise instruct.

7. *Further Agreements of the Company and the Underwriters*. (a) The Company agrees:

(i) To prepare the Prospectus in a form approved by the Representatives and to file such Prospectus pursuant to Rule 424(b) under the Securities Act not later than the Commission's close of business on the second business day following the execution and delivery of this Agreement; to make no further amendment or any supplement to the Registration Statement or the Prospectus prior to the last Delivery Date except as provided herein; to advise the Representatives, promptly after it receives notice thereof, of the time when any amendment or supplement to the Registration Statement or the Prospectus has been filed and to furnish the Representatives with copies thereof; to advise the Representatives, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of the Prospectus or any Issuer Free Writing Prospectus, of the suspension of the qualification of the Stock for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding or examination for any such purpose or of any request by the Commission for the amending or supplementing of the Registration Statement, the Prospectus or any Issuer Free Writing Prospectus or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of the

Prospectus or any Issuer Free Writing Prospectus or suspending any such qualification, to use promptly its reasonable best efforts to obtain its withdrawal;

(ii) To furnish promptly to each of the Representatives and to counsel for the Underwriters a signed copy of the Registration Statement as originally filed with the Commission, and each amendment thereto filed with the Commission, including all consents and exhibits filed therewith;

(iii) To deliver promptly to the Representatives such number of the following documents as the Representatives shall reasonably request: (A) conformed copies of the Registration Statement as originally filed with the Commission and each amendment thereto (in each case excluding exhibits other than this Agreement), (B) each Preliminary Prospectus, the Prospectus and any amended or supplemented Prospectus and (C) each Issuer Free Writing Prospectus; and, if the delivery of a prospectus is required at any time after the date hereof in connection with the offering or sale of the Stock or any other securities relating thereto and if at such time any events shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus is delivered, not misleading, or, if for any other reason it shall be necessary to amend or supplement the Prospectus in order to comply with the Securities Act, to notify the Representatives and, upon their request, to file such document and to prepare and furnish without charge to each Underwriter and to any dealer in securities as many copies as the Representatives may from time to time reasonably request of an amended or supplemented Prospectus that will correct such statement or omission or effect such compliance;

(iv) To file promptly with the Commission any amendment or supplement to the Registration Statement or the Prospectus that may, in the judgment of the Company or the Representatives, be required by the Securities Act or requested by the Commission;

(v) Prior to filing with the Commission any amendment or supplement to the Registration Statement or the Prospectus, to furnish a copy thereof to the Representatives and counsel for the Underwriters and obtain the consent of the Representatives to the filing;

(vi) Not to make any offer relating to the Stock that would constitute an Issuer Free Writing Prospectus without the prior written consent of the Representatives.

(vii) To comply with all applicable requirements of Rule 433 with respect to any Issuer Free Writing Prospectus; and if at any time after the date hereof any events shall have occurred as a result of which any Issuer Free Writing Prospectus, as then amended or supplemented, would conflict with the information in the Registration Statement, the Registration Statement, Pricing Disclosure Package and Prospectus or would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or, if for any other reason it shall be necessary to amend or supplement any Issuer Free Writing Prospectus, to notify the Representatives and, upon their request, to file such document and to prepare and furnish without charge to each Underwriter as many copies as the Representatives may from time to time reasonably request of an amended or supplemented Issuer Free Writing Prospectus that will correct such conflict, statement or omission or effect such compliance;

(viii) The Company will timely file such reports pursuant to the Exchange Act as are necessary in order to make generally available to its security holders as soon as reasonably practicable after the Effective Date an earnings statement of the Company (which need not be audited) complying with Section 11(a) of the Securities Act and the Rules and Regulations (including, at the option of the Company, Rule 158);

(ix) To use its best efforts to meet the requirements for qualification and taxation as a REIT under the Code for its short taxable year ending December 31, 2011 and, unless the Board of Directors determines that it is no longer in the best interests of the Company or its stockholders to maintain the Company's qualification as a REIT, thereafter;

(x) To not be or become, at any time prior to the expiration of three years after the date of this Agreement, an "investment company," as such term is defined in the Investment Company Act;

(xi) Promptly from time to time to take such action as the Representatives may reasonably request to qualify the Stock for offering and sale under the securities laws of Canada and such other jurisdictions as the Representatives may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Stock; *provided* that in connection therewith the Company shall not be required to (i) qualify as a foreign corporation in any jurisdiction in which it would not otherwise be required to so qualify, (ii) file a general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any jurisdiction in which it would not otherwise be subject;

(xii) For a period commencing on the date hereof and ending on the 180th day after the date of the Prospectus (the "**Lock-Up Period**"), not to, directly or indirectly, (1) offer for sale, sell, pledge or otherwise dispose of (or enter into any transaction or device that is designed to, or could be expected to, result in the disposition by any person at any time in the future of) any shares of Common Stock or securities convertible into or exchangeable for Common Stock (other than the Stock and shares issued pursuant to equity benefit plans, qualified stock option plans or other equity compensation plans existing on the date hereof including but not limited to the Orchid Island Capital, Inc. 2011 Equity Incentive Plan), or sell or grant options, rights or warrants with respect to any shares of Common Stock or securities convertible into or exchangeable for Common Stock, (2) enter into any swap or other derivatives transaction that transfers to another, in whole or in part, any of the economic benefits or risks of ownership of such shares of Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or other securities, in cash or otherwise, (3) file or cause to be filed a registration statement, including any amendments, with respect to the registration of any shares of Common Stock or securities convertible, exercisable or exchangeable into Common Stock or any other securities of the Company (other than any registration statement on Form S-8) or (4) publicly disclose the intention to do any of the foregoing, in each case without the prior written consent of Barclays Capital Inc., on behalf of the Underwriters, and to cause the Manager and each officer and director of the Company set forth on Schedule 2 hereto to furnish to the Representatives, prior to the Initial Delivery Date, a letter or letters, substantially in the form of Exhibit A-1 hereto, and to cause Bimini to furnish to the Representatives, prior to the Initial Delivery Date, a letter or letters, substantially in the form of Exhibit A-2 hereto (the "**Lock-Up Agreements**"); notwithstanding the foregoing, if (1) during the last 17 days of the Lock-Up Period, the Company issues an earnings release or material news or a material event relating to the Company occurs or (2) prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the Lock-Up Period, then the restrictions imposed in this paragraph shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the announcement of the material news or the occurrence of the material event, unless Barclays Capital Inc., on behalf of the Underwriters, waives such extension in writing;

(xiii) To apply the net proceeds from the sale of the Stock being sold by the Company as set forth in the Registration Statement, Pricing Disclosure Package and Prospectus under the caption, "Use of Proceeds";

(xiv) The Company will use its best efforts to effect and maintain the listing of the Common Stock (including the Stock) on the NYSE Amex;

(xv) To file all documents required to be filed with the Commission pursuant to the Exchange Act within the time periods required by the Exchange Act and the rules and regulations promulgated thereunder during the period when a Prospectus relating to the Stock is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the Securities Act. Additionally, the Company shall report the use of proceeds from the issuance of the Stock as may be required under Rule 463 under the Securities Act.

(xvi) Prior to the Initial Delivery Date or any subsequent Delivery Date, as the case may be, except as may be required by law, to issue no press release (other than a quarterly earnings release issued in compliance with Regulation FD under the Exchange Act) or other communication directly or indirectly and hold no press conferences with respect to the Company, the financial condition, results of operations, business, properties, assets or liabilities of the Company, or the offering of the Stock, without your prior consent.

(xvii) Not, at any time at or after the date of this Agreement, to, directly or indirectly, offer or sell any Stock by means of any "prospectus" (within the meaning of the Securities Act), or use any "prospectus" (within the meaning of the Securities Act) in connection with the offer or sale of the Shares, in each case other than the Prospectus.

(xviii) In violation of the Securities Act and the Exchange Act, not to take, directly or indirectly, any action designed, or which will constitute, or has constituted, or might reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Stock.

(xix) To maintain a transfer agent and, if necessary under the jurisdiction of formation of the Company, a Registrar for its Common Stock.

(xx) To comply with all effective applicable provisions of the Sarbanes-Oxley Act.

(b) Each Underwriter severally and not jointly, covenants and agrees with the Company that such Underwriter shall not include any "issuer information" (as defined in Rule 433) in any "free writing prospectus" (as defined in Rule 405) used or referred to by such Underwriter without the prior consent of the Company (any such issuer information with respect to whose use the Company has given its consent, "**Permitted Issuer Information**"); *provided* that (i) no such consent shall be required with respect to any such issuer information contained in any document filed by the Company with the Commission prior to the use of such free writing prospectus and (ii) "issuer information," as used in this Section 7(b), shall not be deemed to include information prepared by or on behalf of such Underwriter on the basis of or derived from issuer information.

8. *Certain Agreements of the Manager and Bimini.* Each of the Manager and Bimini agree that, during the period when the Prospectus is required to be delivered under the Securities Act or the Exchange Act, it shall notify the Representatives and the Company of the occurrence of any material events respecting its activities or condition, financial or otherwise, and each of the Manager and Bimini will forthwith supply such information to the Company as shall be necessary in the opinion of counsel to the Company and the Underwriters for the Company to prepare any necessary amendment or supplement to the Prospectus so that, as so amended or supplemented, the Prospectus will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time it is delivered to a purchaser, not misleading. The Manager and Bimini each agree not to take, directly or indirectly, any action designed, or which will constitute, or has constituted, or might reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Stock. The Manager agrees to furnish to the Representatives, prior to the Initial Delivery Date, a lock-up agreement substantially in the form of Exhibit A-1 hereto. Bimini agrees to furnish to the Representatives, prior to the Initial Delivery Date, a lock-up agreement substantially in the form of Exhibit A-2 hereto.

9. *Expenses.* The Company agrees, whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, to pay all costs, expenses, fees, stamp duties, and taxes incident to and in connection with (a) the authorization, issuance, sale and delivery of the Stock, and the preparation and printing of certificates for the Stock; (b) the preparation, printing and filing under the Securities Act of the Registration Statement (including any exhibits thereto), any Preliminary Prospectus, the Prospectus, any Issuer Free Writing Prospectus and any amendment or supplement thereto; (c) the distribution of the

Registration Statement (including any exhibits thereto), any Preliminary Prospectus, the Prospectus, any Issuer Free Writing Prospectus and any amendment or supplement thereto, all as provided in this Agreement; (d) the production and distribution of this Agreement, any supplemental agreement among Underwriters, and any other related documents in connection with the offering, purchase, sale and delivery of the Stock; (e) any required review by FINRA of the terms of sale of the Stock (including related fees and expenses of counsel to the Underwriters in an amount not to exceed $20,000); (f) the listing of the Stock on the NYSE Amex and/or any other exchange; (g) the qualification of the Stock under the securities laws of the several jurisdictions as provided in Section 7(a)(xi) and the preparation, printing and distribution of a Blue Sky Memorandum (including related fees and expenses of counsel to the Underwriters in amount not to exceed $5,000); (h) the preparation, printing and distribution of one or more versions of the Preliminary Prospectus and the Prospectus for distribution in Canada, often in the form of a Canadian "wrapper" (including related fees and expenses of Canadian counsel to the Underwriters); (i) the investor presentations on any "road show" undertaken in connection with the marketing of the Stock, including, without limitation, expenses associated with any electronic roadshow, travel and lodging expenses of the representatives and officers of the Company and the cost of any aircraft chartered in connection with the road show; and (j) all other costs and expenses incident to the performance of the obligations of the Company under this Agreement; *provided* that, except as provided in this Section 9 and in Section 14, the Underwriters shall pay their own costs and expenses, including the costs and expenses of their counsel, any transfer taxes on the Stock which they may sell and the expenses of advertising any offering of the Stock made by the Underwriters; *provided* that, the Company's payment for expenses pursuant to this Section 9 shall not exceed $[ ] million and any amount in excess of such amount shall be paid by the Manager.

10. *Conditions of Underwriters' Obligations*. The respective obligations of the Underwriters hereunder are subject to the accuracy, when made and on each Delivery Date, of the representations and warranties of the Company contained herein, to the performance by the Company of its obligations hereunder, and to each of the following additional terms and conditions:

(a) The Prospectus shall have been timely filed with the Commission in accordance with Section 7(a)(i); the Company shall have complied with all filing requirements applicable to any Issuer Free Writing Prospectus used or referred to after the date hereof; the Registration Statement shall have become effective under the Securities Act; no stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto, and no stop order suspending or preventing the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus shall have been issued by the Commission and no proceedings therefor shall have been initiated or threatened by the Commission; all requests for additional information on the part of the Commission shall have been complied with to the Representatives' reasonable satisfaction; and all necessary regulatory or stock exchange approvals shall have been received.

(b) No Underwriter shall have discovered and disclosed to the Company on or prior to such Delivery Date that the Registration Statement, the Pricing Disclosure Package or the Prospectus, or any amendment or supplement thereto, contains an untrue statement of a fact which, in the opinion of Fried, Frank, Harris, Shriver & Jacobson LLP, counsel for the Underwriters, is material or omits to state a fact which, in the opinion of such counsel, is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(c) No prospectus or amendment or supplement to the Registration Statement or Prospectus shall have been filed to which the Representatives shall have objected in writing.

(d) All corporate proceedings and other legal matters incident to the authorization, form and validity of this Agreement, the Stock, the Registration Statement, the Prospectus and any Issuer Free Writing Prospectus, and all other legal matters relating to this Agreement and the transactions contemplated hereby shall be reasonably satisfactory in all material respects to counsel for the Underwriters, and the Company shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.

(e) Hunton & Williams LLP shall have furnished to the Representatives its written opinion, as counsel to the Company, addressed to the Underwriters and dated such Delivery Date, in form and substance reasonably satisfactory to the Representatives, substantially in the form attached hereto as Exhibit B-1.

(f) Hunton & Williams LLP shall have furnished to the Representatives its written opinion, as tax counsel to the Company, addressed to the Underwriters and dated such Delivery Date, in form and substance reasonably satisfactory to the Representatives, substantially in the form attached hereto as Exhibit B-2.

(g) Venable LLP shall have furnished to the Representatives its written opinion, as special Maryland law counsel to the Company, addressed to the Underwriters and dated such Delivery Date, in form and substance reasonably satisfactory to the Representatives, substantially in the form attached hereto as Exhibit B-3.

(h) The Representatives shall have received from Fried, Frank, Harris, Shriver & Jacobson LLP, counsel for the Underwriters, such opinion or opinions, dated such Delivery Date, with respect to the issuance and sale of the Stock, the Registration Statement, the Prospectus and the Pricing Disclosure Package and other related matters as the Representatives may reasonably require, and the Company shall have furnished to such counsel such documents as they reasonably request for the purpose of enabling them to pass upon such matters.

(i) At the time of execution of this Agreement, the Representatives shall have received from BDO USA, LLP a letter, in form and substance satisfactory to the Representatives, addressed to the Underwriters and dated the date hereof (i) confirming that they are independent public accountants within the meaning of the Securities Act and are in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X of the Commission, and (ii) stating, as of the date hereof (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Registration Statement, Pricing Disclosure Package and Prospectus, as of a date not more than three days prior to the date hereof), the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants' "comfort letters" to underwriters in connection with registered public offerings.

(j) With respect to the letter of BDO USA, LLP referred to in the preceding paragraph and delivered to the Representatives concurrently with the execution of this Agreement (the "**initial letter**"), the Company shall have furnished to the Representatives a letter (the "**bring-down letter**") of such accountants, addressed to the Underwriters and dated such Delivery Date (i) confirming that they are independent public accountants within the meaning of the Securities Act and are in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X of the Commission, (ii) stating, as of the date of the bring-down letter (or, with respect to matters involving changes or developments since the respective dates as of which specified financial information is given in the Prospectus, as of a date not more than three days prior to the date of the bring-down letter), the conclusions and findings of such firm with respect to the financial information and other matters covered by the initial letter and (iii) confirming in all material respects the conclusions and findings set forth in the initial letter.

(k) The Company shall have furnished to the Representatives a certificate, dated such Delivery Date, of its Chief Executive Officer and its Chief Financial Officer in the form set forth in Exhibit C-1 hereto.

(l) The Manager shall have furnished to the Representatives a certificate, dated such Delivery Date, of its Chief Executive Officer and its Chief Financial Officer in the form set forth in Exhibit C-2 hereto.

(m) Bimini shall have furnished to the Representatives a certificate, dated such Delivery Date, of its Chief Executive Officer and its Chief Financial Officer in the form set forth in Exhibit C-3 hereto.

(n) The Company shall have furnished to the Representatives a certificate, dated such Delivery Date, of its Chief Financial Officer substantially in the form of Exhibit C-4 hereto.

(o) (i) The Company shall not have sustained, since the date of the Pricing Disclosure Package, any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree or (ii) since such date there shall not have been any change in the capital stock or long-term debt of the Company, or any development involving a prospective change, in or affecting the condition (financial or otherwise), results of operations, stockholders' equity, properties, management, business or prospects of the Company and its subsidiaries taken as a whole, the effect of which, in any such case described in clause (i) or (ii), is, in the judgment of the Representatives, so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Stock being delivered on such Delivery Date on the terms and in the manner contemplated in the Prospectus.

(p) Subsequent to the execution and delivery of this Agreement (i) no downgrading shall have occurred in the rating accorded to the debt securities or preferred stock of the Company, if any, by any “nationally recognized statistical rating organization” (as that term is defined by the Commission for purposes of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act), and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company’s debt securities or preferred stock.

(q) Subsequent to the execution and delivery of this Agreement there shall not have occurred any of the following: (i) trading in securities generally on the New York Stock Exchange (the “**NYSE**”), NYSE Amex or the NASDAQ Stock Market, or trading in any securities of the Company on the NYSE Amex, shall have been suspended or materially limited or the settlement of such trading generally shall have been materially disrupted or minimum prices shall have been established on the NYSE Amex by the Commission, by such exchange or by any other regulatory body or governmental authority having jurisdiction, (ii) a banking moratorium shall have been declared by federal or state authorities, (iii) the United States shall have become engaged in hostilities, there shall have been an escalation in hostilities involving the United States or there shall have been a declaration of a national emergency or war by the United States or (iv) there shall have occurred such a material adverse change in general economic, political or financial conditions, including, without limitation, as a result of terrorist activities after the date hereof (or the effect of international conditions on the financial markets in the United States shall be such), as to make it, in the judgment of the Representatives, impracticable or inadvisable to proceed with the public offering or delivery of the Stock being delivered on such Delivery Date on the terms and in the manner contemplated in the Prospectus.

(r) The NYSE Amex shall have approved the Stock for listing, subject only to official notice of issuance and evidence of satisfactory distribution.

(s) FINRA shall have confirmed that it has not raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements relating to the offering of the Stock.

(t) The Lock-Up Agreements between the Representatives and (i) the officers and directors of the Company set forth on Schedule 2, (ii) the Manager and (iii) Bimini, delivered to the Representatives on or before the date of this Agreement, shall be in full force and effect on such Delivery Date.

(u) On or before the Initial Delivery Date, each of the Registration Rights Agreement, the Investment Allocation Agreement, the Warrant Purchase Agreement, the Warrant Agreement and the Overhead Sharing Agreement shall have been executed and delivered by each of the parties thereto, and each such agreement shall be in full force and effect.

(v) On or before the Initial Delivery Date, the Company and the Manager shall have executed and delivered the Management Agreement and the Management Agreement shall be in full force and effect.

(w) On or before the Initial Delivery Date, the Warrants shall have been issued and sold to Bimini.

(x) On or before the Initial Delivery Date, the Company shall have declared and effected the Stock Dividend.

All opinions, letters, evidence and certificates mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriters.

11. *Indemnification and Contribution.*

(a) The Company shall indemnify and hold harmless each Underwriter, its directors, officers and employees and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof (including, but not limited to, any loss, claim, damage, liability or action relating to purchases and sales of Stock), to which that Underwriter, director, officer, employee or controlling person may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, liability or action arises out of, or is based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in (A) any Preliminary Prospectus, the Registration Statement, the Prospectus or in any amendment or supplement thereto, (B) the Pricing Disclosure Package or any Issuer Free Writing Prospectus or in any amendment or supplement thereto or (C) any Permitted Issuer Information used or referred to in any “free writing prospectus” (as defined in Rule 405) used or referred to by any Underwriter, (D) any “road show” (as defined in Rule 433) not constituting an Issuer Free Writing Prospectus (a “**Non-Prospectus Road Show**”) or (E) any Blue Sky application or other document prepared or executed by the Company (or based upon any written information furnished by the Company for use therein) specifically for the purpose of qualifying any or all of the Stock under the securities laws of any state or other jurisdiction (any such application, document or information being hereinafter called a “**Blue Sky Application**”) or (ii) (A) the omission or alleged omission to state in the Registration Statement any material fact required to be stated therein or necessary to make the statements therein not misleading or (B) the Pricing Disclosure Package, the omission or alleged omission to state in any Preliminary Prospectus, the Prospectus, any Issuer Free Writing Prospectus or in any amendment or supplement thereto or in any Permitted Issuer Information, any Non-Prospectus Road Show or any Blue Sky Application, any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and shall reimburse each Underwriter and each such director, officer, employee or controlling person promptly upon demand for any legal or other expenses reasonably incurred by that Underwriter, director, officer, employee or controlling person in connection with investigating or defending or preparing to defend against any such loss, claim, damage, liability or action as such expenses are incurred; *provided*, *however*, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, liability or action arises out of, or is based upon, any untrue statement or alleged untrue statement or omission or alleged omission made in any Preliminary Prospectus, the Registration Statement, the Prospectus, any Issuer Free Writing Prospectus or in any such amendment or supplement thereto or in any Permitted Issuer Information, any Non-Prospectus Road Show or any Blue Sky Application, in reliance upon and in conformity with written information concerning such Underwriter furnished to the Company through the Representatives by or on behalf of any Underwriter specifically for inclusion therein, which information consists solely of the information specified in Section 11(g). The foregoing indemnity agreement is in addition to any liability which the Company may otherwise have to any Underwriter or to any director, officer, employee or controlling person of that Underwriter.

(b) The Manager shall indemnify and hold harmless each Underwriter, its directors, officers and employees and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act to the extent and in the manner set forth in Section 11(a) above, but only to the extent that any loss, claim, damage, liability or action arises out of any untrue statement or omission or alleged untrue statement or omission that was made in reliance upon and in conformity with the information concerning the Manager in the Registration Statement, Pricing Disclosure Package and Prospectus.

(c) Bimini shall indemnify and hold harmless each Underwriter, its directors, officers and employees and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Securities Act to the extent and in the manner set forth in Section 11(a) above, but only to the extent that any loss, claim, damage, liability or action arises out of any untrue statement or omission or alleged untrue statement or omission that was made in reliance upon and in conformity with the information concerning Bimini in the Registration Statement, Pricing Disclosure Package and Prospectus.

(d) Each Underwriter, severally and not jointly, shall indemnify and hold harmless the Company, the Manager and Bimini, their respective directors (including any person who, with his or her consent, is named in the Registration Statement as about to become a director of the Company), officers and employees, and each person, if any, who controls the Company, the Manager or Bimini within the meaning of Section 15 of the Securities Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof, to which the Company, the Manager or Bimini or any such director, officer, employee or controlling person may become subject, under the Securities Act or otherwise, insofar as such loss, claim, damage, liability or action arises out of, or is based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus, the Pricing Disclosure Package, the Registration Statement, the Prospectus, any Issuer Free Writing Prospectus or in any amendment or supplement thereto or in any Non-Prospectus Road Show or Blue Sky Application, or (ii) (A) the omission or alleged omission to state in the Registration Statement any material fact required to be stated therein or necessary to make the statements therein not misleading or (B) the omission or alleged omission to state in any Preliminary Prospectus, the Prospectus, the Pricing Disclosure Package, any Issuer Free

Writing Prospectus or in any amendment or supplement thereto or in any Non-Prospectus Road Show or Blue Sky Application, any 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 in each case only to the extent that the untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information concerning such Underwriter furnished to the Company through the Representatives by or on behalf of that Underwriter specifically for inclusion therein, which information is limited to the information set forth in Section 11(g). The foregoing indemnity agreement is in addition to any liability that any Underwriter may otherwise have to the Company, the Manager or Bimini or any such director, officer, employee or controlling person.

(e) Promptly after receipt by an indemnified party under this Section 11 of notice of any claim or the commencement of any action, the indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under this Section 11, notify the indemnifying party in writing of the claim or the commencement of that action; *provided*, *however*, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have under this Section 11 except to the extent it has been materially prejudiced by such failure and, *provided*, *further*, that the failure to notify the indemnifying party shall not relieve it from any liability which it may have to an indemnified party otherwise than under this Section 11. If any such claim or action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense thereof with counsel reasonably satisfactory to the indemnified party. After notice from the indemnifying party to the indemnified party of its election to assume the defense of such claim or action, the indemnifying party shall not be liable to the indemnified party under this Section 11 for any legal or other expenses subsequently incurred by the indemnified party in connection with the defense thereof other than reasonable costs of investigation; *provided*, *however*, that the indemnified party shall have the right to employ counsel to represent jointly the indemnified party and those other indemnified parties and their respective directors, officers, employees and controlling persons who may be subject to liability arising out of any claim in respect of which indemnity may be sought under this Section 11 if (i) the indemnified party and the indemnifying party shall have so mutually agreed; (ii) the indemnifying party has failed within a reasonable time to retain counsel reasonably satisfactory to the indemnified party; (iii) the indemnified party and its directors, officers, employees and controlling persons shall have reasonably concluded that there may be legal defenses available to them that are different from or in addition to those available to the indemnifying party; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the indemnified parties or their respective directors, officers, employees or controlling persons, on the one hand, and the indemnifying party, on the other hand, and representation of both sets of parties by the same counsel would be inappropriate due to actual or potential differing interests between them, and in any such event the reasonable fees and expenses of one separate counsel (and any additional local counsels) shall be paid by the indemnifying party. No indemnifying party shall (i) without the prior written consent of the indemnified parties (which consent shall not be unreasonably withheld), settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding and does not include any findings of fact or admissions of fault or culpability as to the indemnified party, or (ii) be liable for any settlement of any such action effected without its written consent (which consent shall not be unreasonably withheld), but if settled with the consent of the indemnifying party or if there be a final judgment for the plaintiff in any such action, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment.

(f) If the indemnification provided for in this Section 11 shall for any reason be unavailable to or insufficient to hold harmless an indemnified party under Section 11(a), 11(b), 11(c), 11(d) or 11(e) in respect of any loss, claim, damage or liability, or any action in respect thereof, referred to therein, then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability, or action in respect thereof, (i) in such proportion as shall be appropriate to reflect the relative benefits received by the Company, the Manager or Bimini, on the one hand, and the Underwriters, on the other, from the offering of the Stock or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, the Manager or Bimini, on the one hand, and the Underwriters, on the other, with respect to the statements or omissions that resulted in such loss, claim, damage or liability, or action in respect thereof, as well as any other relevant equitable considerations. The relative benefits received by the Company, the Manager or Bimini, on the one hand, and the Underwriters, on the other, with respect to such offering shall be deemed to be in the same proportion as the total net proceeds from the offering of the Stock purchased under this Agreement (before deducting expenses) received by the Company, as set forth in the table on the cover page of the Prospectus, on the one hand, and the total underwriting discounts, commissions and payments received by the Underwriters with respect to the shares of the Stock purchased under this Agreement, as set forth in the table, and the footnotes thereto, on the cover page of the Prospectus, on the other hand. The relative fault shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by or on behalf of the Company, the Manager, Bimini or by the Underwriters, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company, the Manager and Bimini and the Underwriters agree that it would not be just and equitable if contributions pursuant to this Section 11(f) were to be determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, damage or liability, or action in respect thereof, referred to above in this Section 11(f) shall be deemed to include, for purposes of this Section 11(f), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 11(f), no Underwriter shall be required to contribute any amount in excess of the amount by which the net proceeds from the sale of the Stock underwritten by it exceeds the amount of any damages that such Underwriter has otherwise paid or become liable to pay by reason of any untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute as provided in this Section 11(f) are several in proportion to their respective underwriting obligations and not joint.

(g) The Underwriters severally confirm and the Company acknowledges and agrees that the statements regarding delivery of shares by the Underwriters set forth on the cover page of, and the concession and reallowance figures and the paragraph and the subsections entitled "Stabilization, Short Positions and Penalty Bids," and "Discretionary Sales" appearing under the caption "Underwriting" in, the most recent Preliminary Prospectus and the Prospectus are correct and constitute the only information concerning such Underwriters furnished in writing to the Company by or on behalf of the Underwriters specifically for inclusion in any Preliminary Prospectus, the Registration Statement, the Prospectus, any Issuer Free Writing Prospectus or in any amendment or supplement thereto or in any Non-Prospectus Road Show.

12. *Defaulting Underwriters*. If, on any Delivery Date, any Underwriter defaults in the performance of its obligations under this Agreement, the remaining non-defaulting Underwriters shall be obligated to purchase the Stock that the defaulting Underwriter agreed but failed to purchase on such Delivery Date in the respective proportions which the number of shares of the Firm Stock set forth opposite the name of each remaining non-defaulting Underwriter in Schedule 1 hereto bears to the total number of shares of the Firm Stock set forth opposite the names of all the remaining non-defaulting Underwriters in Schedule 1 hereto; *provided*, *however*, that the remaining non-defaulting Underwriters shall not be obligated to purchase any of the Stock on such Delivery Date if the total number of shares of the Stock that the defaulting Underwriter or Underwriters agreed but failed to purchase on such date exceeds 10% of the total number of shares of the Stock to be purchased on such Delivery Date, and any remaining non-defaulting Underwriter shall not be obligated to purchase more than 110% of the number of shares of the Stock that it agreed to purchase on such Delivery Date pursuant to the terms of Section 4. If the foregoing maximums are exceeded, the remaining non-defaulting Underwriters, or those other underwriters satisfactory to the Representatives who so agree, shall have the right, but shall not be obligated, to purchase, in such proportion as may be agreed upon among them, all the Stock to be purchased on such Delivery Date. If the remaining Underwriters or other underwriters satisfactory to the Representatives do not elect to purchase the shares that the defaulting Underwriter or Underwriters agreed but failed to purchase on such Delivery Date, this Agreement (or, with respect to any Option Stock Delivery Date, the obligation of the Underwriters to purchase, and of the Company to sell, the Option Stock) shall terminate without liability on the part of any non-defaulting Underwriter or the Company, except that the Company will continue to be liable for the payment of expenses to the extent set forth in Sections 9 and 14. As used in this Agreement, the term "Underwriter" includes, for all purposes of this Agreement

unless the context requires otherwise, any party not listed in Schedule 1 hereto that, pursuant to this Section 12, purchases Stock that a defaulting Underwriter agreed but failed to purchase.

Nothing contained herein shall relieve a defaulting Underwriter of any liability it may have to the Company for damages caused by its default. If other Underwriters are obligated or agree to purchase the Stock of a defaulting or withdrawing Underwriter, either the Representatives or the Company may postpone the Delivery Date for up to seven full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Underwriters may be necessary in the Registration Statement, the Prospectus or in any other document or arrangement.

13. *Termination.* The obligations of the Underwriters hereunder may be terminated by the Representatives by notice given to and received by the Company prior to delivery of and payment for the Firm Stock if, prior to that time, any of the events described in Sections 10(o), 10(p) and 10(q) shall have occurred or if the Underwriters shall decline to purchase the Stock for any reason permitted under this Agreement. The agreements contained in Sections 1, 2, 3, 9, 11 and 15 through 23 shall survive any such termination and remain in full force and effect.

14. *Reimbursement of Underwriters' Expenses.* If the Company shall fail to tender the Stock for delivery to the Underwriters for any reason or (b) the Underwriters shall decline to purchase the Stock for any reason permitted under this Agreement, the Company will reimburse the Underwriters for all reasonable out-of-pocket expenses (including reasonable fees and disbursements of counsel) incurred by the Underwriters in connection with this Agreement and the proposed purchase of the Stock, and upon demand the Company shall pay the full amount thereof to the Representatives. If this Agreement is terminated pursuant to Section 12 by reason of the default of one or more Underwriters, the Company shall not be obligated to reimburse any defaulting Underwriter on account of those expenses.

15. *Research Analyst Independence.* The Company acknowledges that the Underwriters' research analysts and research departments are required to be independent from their respective investment banking divisions and are subject to certain regulations and internal policies, and that such Underwriters' research analysts may hold views and make statements or investment recommendations and/or publish research reports with respect to the Company and/or the offering that differ from the views of their respective investment banking divisions. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that the Company may have against the Underwriters with respect to any conflict of interest that may arise from the fact that the views expressed by their independent research analysts and research departments may be different from or inconsistent with the views or advice communicated to the Company by such Underwriters' investment banking divisions. The Company acknowledges that each of the Underwriters is a full service securities firm and as such from time to time, subject to applicable securities laws, may effect transactions for its own account or the account of its customers and hold long or short positions in debt or equity securities of the companies that may be the subject of the transactions contemplated by this Agreement.

16. *No Fiduciary Duty*. Each of the Transaction Entities acknowledges and agrees that in connection with this offering, sale of the Stock or any other services the

Underwriters may be deemed to be providing hereunder, notwithstanding any preexisting relationship, advisory or otherwise, between the parties or any oral representations or assurances previously or subsequently made by the Underwriters: (i) no fiduciary or agency relationship between any Transaction Entity and any other person, on the one hand, and the Underwriters, on the other, exists in connection with any activity that the Underwriters may undertake or have undertaken in furtherance of the purchase and sale of the Company's securities, either before or after the date hereof; (ii) the Underwriters are not acting as advisors, expert or otherwise, to any of the Transaction Entities, including, without limitation, with respect to the determination of the public offering price of the Stock, and the purchase and sale of the Stock pursuant to this Agreement, including the determination of the initial public offering price of the Stock and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand; (iii) any duties and obligations that the Underwriters may have to the Transaction Entities shall be limited to those duties and obligations specifically stated herein; and (iv) the Underwriters and their respective affiliates may have interests that differ from those of the Transaction Entities. Each of the Transaction Entities hereby waives any claims that the Transaction Entities may have against the Underwriters with respect to any breach of fiduciary duty in connection with this offering.

17. *Notices, Etc.* All statements, requests, notices and agreements hereunder shall be in writing, and:

(a) if to the Underwriters, shall be delivered or sent by mail or facsimile transmission to Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019, Attention: Syndicate Registration (Fax: 646-834-8133), with a copy, in the case of any notice pursuant to Section 11(f), to the Director of Litigation, Office of the General Counsel, Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019; and with a copy to Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, New York 10004, Attention: Bonnie A. Barsamian (Fax: 212-859-4000); and

(b) if to the Company or the Transaction Entities, shall be delivered or sent by mail or facsimile transmission to the address of the Company set forth in the Registration Statement, Attention: Robert E. Cauley (Fax: (772-231-8896); and with a copy to Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219, Attention: S. Gregory Cope, Esq. (Fax: 804-343-4833).

Any such statements, requests, notices or agreements shall take effect at the time of receipt thereof. The Company shall be entitled to act and rely upon any request, consent, notice or agreement given or made on behalf of the Underwriters by Barclays Capital Inc. and JMP Securities LLP on behalf of the Representatives.

18. *Persons Entitled to Benefit of Agreement*. This Agreement shall inure to the benefit of and be binding upon the Underwriters and the Transaction Entities and their respective successors. This Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that (A) the representations, warranties, indemnities and agreements of the Company contained in this Agreement shall also be deemed to be for the benefit of the directors,

officers and employees of the Underwriters and each person or persons, if any, who control any Underwriter within the meaning of Section 15 of the Securities Act and (B) the indemnity agreement of the Underwriters contained in Section 11(d) of this Agreement shall be deemed to be for the benefit of the directors of the Transaction Entities, the officers of the Company who have signed the Registration Statement and any person controlling the Company or the Manager within the meaning of Section 15 of the Securities Act. Nothing in this Agreement is intended or shall be construed to give any person, other than the persons referred to in this Section 18, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein.

19. *Survival.* The respective indemnities, representations, warranties and agreements of the Company, the Manager, Bimini and the Underwriters contained in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall survive the delivery of and payment for the Stock and shall remain in full force and effect, regardless of any investigation made by or on behalf of any of them or any person controlling any of them.

20. *Definition of the Terms "Business Day" and "Subsidiary".* For purposes of this Agreement, (a) "**business day**" means each Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which banking institutions in New York are generally authorized or obligated by law or executive order to close and (b) "**subsidiary**" has the meaning set forth in Rule 405.

21. *Trial by Jury*. Each of the Company, the Manager and Bimini (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates) and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

22. *Governing Law*. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

23. *Submission to Jurisdiction, Etc.* The Transaction Entities hereby submit to the non-exclusive jurisdiction of the U.S. federal and New York state courts in the Borough of Manhattan, The City of New York in any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. The parties hereby irrevocably and unconditionally waive any objection to the laying of venue of any lawsuit, action or other proceeding in such courts, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such lawsuit, action or other proceeding brought in any such court has been brought in an inconvenient forum.

24. *Counterparts.* This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original but all such counterparts shall together constitute one and the same instrument.

25. *Headings.* The headings herein are inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

If the foregoing correctly sets forth the agreement between the Company, Bimini, the Manager and the Underwriters, please indicate your acceptance in the space provided for that purpose below.

Very truly yours,

ORCHID ISLAND CAPITAL, INC.

By: ____________________
Name:
Title:

BIMINI CAPITAL MANAGEMENT, INC.

By: ____________________
Name:
Title:

BIMINI ADVISORS, INC.

By: ____________________
Name:
Title:

Accepted:

Barclays Capital Inc.
JMP Securities LLC

For themselves and as Representatives
of the several Underwriters named
in Schedule 1 hereto

By Barclays Capital Inc.

By: ______________________________
Authorized Representative

By JMP Securities LLC

By: ______________________________
Authorized Representative

SCHEDULE 1

Underwriters	Number of Shares of Firm Stock
Barclays Capital Inc.	
JMP Securities LLC	
Cantor Fitzgerald & Co.	
Oppenheimer & Co. Inc.	
Lazard Capital Markets LLC	
Sterne, Agee & Leach, Inc.	
Total	

SCHEDULE 2

PERSONS DELIVERING LOCK-UP AGREEMENTS

Bimini Advisors, Inc.

Robert E. Cauley

G. Hunter Haas IV

W. Coleman Bitting

John B. Van Heuvelen

Jerry Sintes

Ava Parker

Frank Filipps

<u>SCHEDULE 3</u>

ORALLY CONVEYED PRICING INFORMATION

1. [*Public offering price*]

2. [*Number of shares offered*]

FREE WRITING PROSPECTUS

Issuer Free Writing Prospectus, dated July 21, 2011

LOCK-UP LETTER AGREEMENT

Barclays Capital Inc.
JMP Securities LLC
As Representatives of the several
Underwriters named in Schedule 1,
c/o Barclays Capital Inc.
745 Seventh Avenue
New York, New York 10019

Ladies and Gentlemen:

The undersigned understands that you and certain other firms (the "**Underwriters**") propose to enter into an Underwriting Agreement (the "**Underwriting Agreement**") providing for the purchase by the Underwriters of shares (the "**Stock**") of Common Stock, par value $[•] per share (the "**Common Stock**"), of Orchid Island Capital, Inc., a Maryland corporation (the "**Company**"), and that the Underwriters propose to reoffer the Stock to the public (the "**Offering**").

In consideration of the execution of the Underwriting Agreement by the Underwriters, and for other good and valuable consideration, the undersigned hereby irrevocably agrees that, without the prior written consent of Barclays Capital Inc., on behalf of the Underwriters, the undersigned will not, directly or indirectly, (1) offer for sale, sell, pledge, or otherwise dispose of (or enter into any transaction or device that is designed to, or could be expected to, result in the disposition by any person at any time in the future of) any shares of Common Stock (including, without limitation, shares of Common Stock that may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission and shares of Common Stock that may be issued upon exercise of any options or warrants) or securities convertible into or exercisable or exchangeable for Common Stock, (2) enter into any swap or other derivatives transaction that transfers to another, in whole or in part, any of the economic benefits or risks of ownership of shares of Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or other securities, in cash or otherwise, (3) make any demand for or exercise any right or cause to be filed a registration statement, including any amendments thereto, with respect to the registration of any shares of Common Stock or securities convertible into or exercisable or exchangeable for Common Stock or any other securities of the Company or (4) publicly disclose the intention to do any of the foregoing, for a period commencing on the date hereof and ending on the 180th day after the date of the Prospectus relating to the Offering (such 180-day period, the "**Lock-Up Period**").

Notwithstanding the foregoing, the undersigned may transfer shares of Common Stock by bona fide gift, will or intestate succession or to a trust for the benefit of the undersigned or members of the undersigned's "immediate family", which shall mean any relationship by blood, marriage or adoption, not more remote than first cousin; provided, however, (a) that each resulting transferee of Common Stock executes and delivers to you an agreement satisfactory to you in which such transferee agrees to be bound by the terms of this Agreement for the remainder of the Lock-Up Period and confirms that it has been in compliance with the terms hereof since the date hereof as if it had been an original party hereto, and (b) any such transfer fully complies with, and is not required to be or voluntarily disclosed or reported under, applicable law, including, but not limited to Section 16 of the Exchange Act and the rules and regulations promulgated thereunder (other than on a Form 5 made after the expiration of the 180-day period referred to above).

Notwithstanding the foregoing, if (1) during the last 17 days of the Lock-Up Period, the Company issues an earnings release or material news or a material event relating to the Company occurs or (2) prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the Lock-Up Period, then the restrictions imposed by this Lock-Up Letter Agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the announcement of the material news or the occurrence of the material event, unless such extension is waived in writing. The undersigned hereby further agrees that, prior to engaging in any transaction or taking any other action that is subject to the terms of this Lock-Up Letter Agreement during the period from the date of this Lock-Up Letter Agreement to and including the 34th day following the expiration of the Lock-Up Period, it will give notice thereof to the Company and will not consummate such transaction or take any such action unless it has received written confirmation from the Company that the Lock-Up Period (as such may have been extended pursuant to this paragraph) has expired.

In furtherance of the foregoing, the Company and its transfer agent are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Lock-Up Letter Agreement.

It is understood that, if the Company notifies the Underwriters that it does not intend to proceed with the Offering, if the Underwriting Agreement does not become effective, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Stock, the undersigned will be released from its obligations under this Lock-Up Letter Agreement.

The undersigned understands that the Company and the Underwriters will proceed with the Offering in reliance on this Lock-Up Letter Agreement.

Whether or not the Offering actually occurs depends on a number of factors, including market conditions. Any Offering will only be made pursuant to an Underwriting Agreement, the terms of which are subject to negotiation between the Company and the Underwriters.

[Signature page follows]

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Lock-Up Letter Agreement and that, upon request, the undersigned will execute any additional documents necessary in connection with the enforcement hereof. Any obligations of the undersigned shall be binding upon the heirs, personal representatives, successors and assigns of the undersigned.

Very truly yours,

By: ______________________________

Name:

Title:

Dated: __________, 2011

Exhibit A-2

LOCK-UP LETTER AGREEMENT

BARCLAYS CAPITAL INC.
JMP SECURITIES LLC
As Representatives of the several
Underwriters named in Schedule 1,
c/o Barclays Capital Inc.
745 Seventh Avenue
New York, New York 10019

Ladies and Gentlemen:

The undersigned understands that you and certain other firms (the "**Underwriters**") propose to enter into an Underwriting Agreement (the "**Underwriting Agreement**") providing for the purchase by the Underwriters of shares (the "**Stock**") of Common Stock, par value $[•] per share (the "**Common Stock**"), of Orchid Island Capital, Inc., a Maryland corporation (the "**Company**"), and that the Underwriters propose to reoffer the Stock to the public (the "**Offering**").

In consideration of the execution of the Underwriting Agreement by the Underwriters, and for other good and valuable consideration, the undersigned hereby irrevocably agrees that, without the prior written consent of Barclays Capital Inc., on behalf of the Underwriters, the undersigned will not, directly or indirectly, (1) offer for sale, sell, pledge, or otherwise dispose of (or enter into any transaction or device that is designed to, or could be expected to, result in the disposition by any person at any time in the future of) any (i) shares of Common Stock (including, without limitation, shares of Common Stock that may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission and shares of Common Stock that may be issued upon exercise of any options or warrants) or securities convertible into or exercisable or exchangeable for Common Stock and (ii) any warrants exercisable for Common Stock ("**Warrants**"), (2) enter into any swap or other derivatives transaction that transfers to another, in whole or in part, any of the economic benefits or risks of ownership of shares of Common Stock or Warrants, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock, Warrants or other securities, in cash or otherwise, (3) make any demand for or exercise any right or cause to be filed a registration statement, including any amendments thereto, with respect to the registration of any shares of Common Stock, Warrants or securities convertible into or exercisable or exchangeable for Common Stock, Warrants or any other securities of the Company or (4) publicly disclose the intention to do any of the foregoing, for a period commencing on the date hereof and ending on the 365th day after the date of the Prospectus relating to the Offering (such 365-day period, the "**Lock-Up Period**").

Notwithstanding the foregoing, if (1) during the last 17 days of the Lock-Up Period, the Company issues an earnings release or material news or a material event relating to the Company occurs or (2) prior to the expiration of the Lock-Up Period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the Lock-Up Period, then the restrictions imposed by this Lock-Up Letter Agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the announcement of the material news or the occurrence of the material event, unless such extension is waived in writing. The undersigned hereby further agrees that, prior to engaging in any transaction or taking any other action that is subject to the terms of this Lock-Up Letter Agreement during the period from the date of this Lock-Up Letter Agreement to and including the 34th day following the expiration of the Lock-Up Period, it will give notice thereof to the Company and will not consummate such transaction or take any such action unless it has received written confirmation from the Company that the Lock-Up Period (as such may have been extended pursuant to this paragraph) has expired.

In furtherance of the foregoing, the Company and its transfer agent are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Lock-Up Letter Agreement.

It is understood that, if the Company notifies the Underwriters that it does not intend to proceed with the Offering, if the Underwriting Agreement does not become effective, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Stock, the undersigned will be released from its obligations under this Lock-Up Letter Agreement.

The undersigned understands that the Company and the Underwriters will proceed with the Offering in reliance on this Lock-Up Letter Agreement.

Whether or not the Offering actually occurs depends on a number of factors, including market conditions. Any Offering will only be made pursuant to an Underwriting Agreement, the terms of which are subject to negotiation between the Company and the Underwriters.

[Signature page follows]

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Lock-Up Letter Agreement and that, upon request, the undersigned will execute any additional documents necessary in connection with the enforcement hereof. Any obligations of the undersigned shall be binding upon the heirs, personal representatives, successors and assigns of the undersigned.

Very truly yours,

BIMINI CAPITAL MANAGEMENT, INC

By: ____________________________
Name:
Title:

Dated: __________, 2011

EXHIBIT B-1

FORM OF OPINION OF ISSUER'S COUNSEL

EXHIBIT B-2

FORM OF TAX OPINION OF ISSUER'S COUNSEL

EXHIBIT B-3

FORM OF OPINION OF ISSUER'S MARYLAND COUNSEL

EXHIBIT C-1

CERTIFICATE OF THE ISSUER

EXHIBIT C-2

CERTIFICATE OF THE MANAGER

EXHIBIT C-3

CERTIFICATE OF BIMINI

EXHIBIT C-4

CERTIFICATE OF THE ISSUER'S CHIEF FINANCIAL OFFICER

Exhibit 10.5

ORCHID ISLAND CAPITAL, INC.

2011 EQUITY INCENTIVE PLAN

TABLE OF CONTENTS

ARTICLE I
DEFINITIONS

1.01. **Affiliate**

Affiliate means any entity, whether now or hereafter existing, which controls, is controlled by, or is under common control with, the Company (including, but not limited to, joint ventures, limited liability companies and partnerships). For this purpose, the term "control" shall mean ownership of 50% or more of the total combined voting power or value of all classes of shares or interests in the entity, or the power to direct the management and policies of the entity, by contract or otherwise.

1.02. **Agreement**

Agreement means a written agreement (including any amendment or supplement thereto) between the Company and a Participant specifying the terms and conditions of an Award granted to such Participant.

1.03. **Award**

Award means any Option, SAR, Stock Award, Performance Unit, Other Equity-Based Award or Incentive Award.

1.04. **Board**

Board means the Board of Directors of the Company.

1.05. **Change in Control**

"Change in Control" shall mean a change in control of the Company which will be deemed to have occurred after the date hereof if:

(1) any "person" as such term is used in Section 3(a)(9) of the Exchange Act, as modified and used in Sections 13(d) and 14(d) thereof except that such term shall not include (A) the Company or any of its subsidiaries, (B) any trustee or other fiduciary holding securities under an employee benefit plan of the Company or any of its affiliates, (C) an underwriter temporarily holding securities pursuant to an offering of such securities, (D) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of the Company's common stock, or (E) any person or group as used in Rule 13d-1(b) under the Exchange Act, is or becomes the Beneficial Owner, as such term is defined in Rule 13d-3 under the Exchange Act, directly or indirectly, of securities of the Company representing more than 50% of the combined voting power of outstanding Company securities;

(2) during any period of two consecutive years, individuals who at the beginning of such period constitute the Board, and any new director (other than (A) a director designated by a person who has entered into an agreement with the Company to effect a transaction described in clause (1), (3) or (4) of this Section 1.05 or (B) a director whose initial assumption of office is in connection with an actual or threatened election contest, including but not limited to a consent solicitation, relating to the election of directors of the Company) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority thereof;

(3) there is consummated a merger or consolidation of the Company or any direct or indirect subsidiary of the Company with any other corporation, other than a merger or consolidation in which the holders of Company voting securities immediately before the merger or consolidation continue to own more than 50% or more of the combined voting power of the Company or the surviving entity in the merger or consolidation or any parent thereof outstanding immediately after such merger or consolidation; or

(4) there is consummated an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets (or any transaction having a similar effect, including a liquidation) other than a sale or disposition by the Company of all or substantially all of the Company's assets to an entity, more than 50% of the combined voting power and common stock of which is owned by stockholders of the Company in substantially the same proportions as their ownership of the common stock of the Company immediately prior to such sale.

If a change in control constitutes a payment event with respect to any Option, SAR, Stock Award, Performance Unit or Other Equity-Based Award that provides for the deferral of compensation and is subject to Section 409A of the Code, no payment will be made under that award on account of a Change in Control unless the event described in (1), (2), (3) or (4) above, as applicable, constitutes a "change in control event" under Treasury Regulation Section 1.409A-3(i)(5).

1.06. **Code**

Code means the Internal Revenue Code of 1986, and any amendments thereto.

1.07. **Committee**

Committee means the Compensation Committee of the Board. Unless otherwise determined by the Board, the Committee shall consist solely of two or more non-employee members of the Board, each of whom is intended to qualify as a "non-employee director" as defined by Rule 16b-3 of the Exchange Act or any successor rule, an "outside director" for purposes of Section 162(m) of the Code (if awards under the Plan are subject to the deduction limitation of Section 162(m) of the Code) and an "independent director" under the rules of any exchange or automated quotation system on which the Common Stock is listed, traded or quoted; provided, that any action taken by the Committee shall be valid and effective, whether or not the members of the Committee at the time of such action are later determined not to have satisfied the foregoing requirements or otherwise provided in any charter of the Committee. If there is no Compensation Committee, then "Committee" means the Board; and provided, further, that with respect to awards made to a member of the Board who is not an employee of the Company or an Affiliate, "Committee" means the Board.

1.08. **Common Stock**

Common Stock means the common stock, par value $0.01 per share, of the Company.

1.09. **Company**

Company means Orchid Island Capital, Inc., a Maryland corporation.

1.10. **Control Change Date**

Control Change Date means the date on which a Change in Control occurs. If a Change in Control occurs on account of a series of transactions, the "Control Change Date" is the date of the last of such transactions.

1.11. **Corresponding SAR**

Corresponding SAR means an SAR that is granted in relation to a particular Option and that can be exercised only upon the surrender to the Company, unexercised, of that portion of the Option to which the SAR relates.

1.12. **Dividend Equivalent Right**

Dividend Equivalent Right means the right, subject to the terms and conditions prescribed by the Committee, of a Participant to receive (or have credited) cash, shares or other property in amounts equivalent to the cash, shares or other property dividends declared on shares of Common Stock with respect to specified Performance Units or units denominated in shares of Common Stock or other Company securities subject to an Other Equity-Based Award, as determined by the Committee, in its sole discretion. The Committee may provide that such Dividend Equivalents (if any) shall be distributed only when, and to the extent that, the underlying award is vested or earned and also may provide that Dividend Equivalents (if any) shall be deemed to have been reinvested in additional shares of Common Stock or otherwise reinvested.

1.13. **Exchange Act**

Exchange Act means the Securities Exchange Act of 1934, as amended.

1.14. **Fair Market Value**

Fair Market Value means, on any given date, the reported “closing” price of a share of Common Stock on the New York Stock Exchange for such date or, if there is no closing price for a share of Common Stock on the date in question, the closing price for a share of Common Stock on the last preceding date for which a quotation exists. If, on any given date, the Common Stock is not listed for trading on the New York Stock Exchange, then Fair Market Value shall be the “closing” price of a share of Common Stock on such other exchange on which the Common Stock is listed for trading for such date (or, if there is no closing price for a share of Common Stock on the date in question, the closing price for a share of Common Stock on the last preceding date for which such quotation exists) or, if the Common Stock is not listed on any exchange, the amount determined by the Committee using any reasonable method in good faith and in accordance with the regulations under Section 409A of the Code.

1.15. **Incentive Award**

Incentive Award means an award awarded under Article XI which, subject to the terms and conditions prescribed by the Committee, entitles the Participant to receive a payment from the Company or an Affiliate.

1.16. **Initial Value**

Initial Value means, with respect to a Corresponding SAR, the option price per share of the related Option and, with respect to an SAR granted independently of an Option, the price per share of Common Stock as determined by the Committee on the date of grant; provided, however, that the price shall not be less than the Fair Market Value on the date of grant. Except as provided in Article XII, the Initial Value of an outstanding SAR may not be reduced (by amendment, cancellation and new grant or otherwise) without the approval of stockholders.

1.17. **Manager**

Manager means Bimini Advisors, Inc.

1.18. **Option**

Option means a share option that entitles the holder to purchase from the Company a stated number of shares of Common Stock at the price set forth in an Agreement.

1.19. **Other Equity-Based Award**

Other Equity-Based Award means any award other than an Option, SAR, a Performance Unit or a Stock Award which, subject to such terms and conditions as may be prescribed by the Committee, entitles a Participant to receive Common Stock or rights or units valued in whole or in part by reference to, or otherwise based on, Common Stock (including securities convertible into Common Stock) or other equity interests.

1.20. **Participant**

Participant means an employee or officer of the Company or an Affiliate, an employee or officer of the Manager or an affiliate of the Manager, including but not limited to Bimini Capital Management, Inc., who provides services to the Company or an Affiliate by virtue of employment with the Manager or an affiliate of the Manager, and a member of the Board, and in each case who satisfies the requirements of Article IV and is selected by the Committee to receive an Award.

1.21. **Performance Measure**

Performance Measure means with respect to the Company or an Affiliate: (i) return on equity, (ii) total earnings, (iii) earnings growth, (iv) return on capital, (v) return on capital employed, (vi) Fair Market Value, (vii) appreciation in Fair Market Value, (viii) capital raised in the sale of common equity, (ix) net interest margin, (x) comparison of Common Stock performance with market indices or peer groups, (xi) earnings per share, (xii) dividends per share, (xiii) income from continuing operations or core earnings, *i.e.*, net interest income less direct operating expenses and general and administrative expenses but disregarding items specified by the Committee (*e.g.*, items related to discontinued operations, extraordinary items, non-recurring items, the effects of changes in tax laws or regulations or changes in applicable accounting standards), (xiv) assets under management (with or without leverage limitations prescribed by the Committee), (xv) book value per share of Common Stock or growth in book value per share of Common Stock or (xvi) maintenance of book value per share of Common Stock.

1.22. **Performance Units**

Performance Units means an award, in the amount determined by the Committee, stated with reference to a specified number of shares of Common Stock, that in accordance with the terms of an Agreement entitles the holder to receive a payment for each specified unit equal to the value of the Performance Unit on the date of payment.

1.23. **Plan**

Plan means this Orchid Island Capital, Inc. 2011 Equity Incentive Plan.

1.24. **REIT**

REIT means a real estate investment trust within the meaning of Sections 856 through 860 of the Code.

1.25. **SAR**

SAR means a share appreciation right that in accordance with the terms of an Agreement entitles the holder to receive, with respect to each share of Common Stock encompassed by the exercise of the SAR, the excess, if any, of the Fair Market Value at the time of exercise over the Initial Value. References to "SARs" include both Corresponding SARs and SARs granted independently of Options, unless the context requires otherwise.

1.26. **Stock Award**

Stock Award means Common Stock awarded to a Participant under Article VIII.

1.27. **Ten Percent Stockholder**

Ten Percent Stockholder means any individual owning more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of a "parent corporation" or "subsidiary corporation" (as such terms are defined in Section 424 of the Code) of the Company. An individual shall be considered to own any voting shares owned (directly or indirectly) by or for his or her brothers, sisters, spouse, ancestors or lineal descendants and shall be considered to own proportionately any voting shares owned (directly or indirectly) by or for a corporation, partnership, estate or trust of which such individual is a stockholder, partner or beneficiary.

ARTICLE II
PURPOSES

The Plan is intended to assist the Company and its Affiliates in recruiting and retaining employees, directors and other service providers with ability and initiative by enabling such persons or entities to participate in the future success of the Company and its Affiliates and to associate their interests with those of the Company and its stockholders. The Plan is intended to permit the grant of both Options qualifying under Section 422 of the Code ("incentive stock options") and Options not so qualifying, and the grant of SARs, Stock Awards, Performance Units, Other Equity-Based Awards and Incentive Awards in accordance with the Plan and any procedures that may be established by the Committee. No Option that is intended to be an incentive stock option shall be invalid for failure to qualify as an incentive stock option (and shall be considered a nonstatutory option in the event, and to the extent, of such failure). The proceeds received by the Company from the sale of Common Stock pursuant to this Plan shall be used for general corporate purposes.

ARTICLE III
<u>ADMINISTRATION</u>

The Plan shall be administered by the Committee. The Committee shall have authority to grant Awards upon such terms (not inconsistent with the provisions of this Plan), as the Committee may consider appropriate. Such terms may include, but are not limited to, conditions (in addition to those contained in this Plan) on the exercisability of all or any part of an Option or SAR or on the transferability or forfeitability of an Award. Notwithstanding any such conditions, the Committee may, in its discretion, accelerate the time at which any Option or SAR may be exercised, or the time at which a Stock Award or Other Equity-Based Award may become transferable or nonforfeitable or the time at which an Other Equity-Based Award, Performance Units or an Incentive Award may be settled. In addition, the Committee shall have complete authority to interpret all provisions of this Plan; to prescribe the form of Agreements; to adopt, amend and rescind rules and regulations pertaining to the administration of the Plan (including rules and regulations that require or allow Participants to defer the payment of benefits under the Plan); and to make all other determinations necessary or advisable for the administration of this Plan. The Committee's determinations under the Plan (including without limitation, determinations of the individuals to receive awards under the Plan, the form, amount and timing of such awards, the terms and provisions of such awards and the Agreements) need not be uniform and may be made by the Committee selectively among individuals who receive, or are eligible to receive, awards under the Plan, whether or not such persons are similarly situated. The express grant in the Plan of any specific power to the Committee shall not be construed as limiting any power or authority of the Committee. Any decision made, or action taken, by the Committee in connection with the administration of this Plan shall be final and conclusive. The members of the Committee shall not be liable for any act done in good faith with respect to this Plan, any Agreement or any Award. All expenses of administering this Plan shall be borne by the Company.

ARTICLE IV
<u>ELIGIBILITY</u>

Any employee of the Company or an Affiliate (including a trade or business that becomes an Affiliate after the adoption of this Plan) and any member of the Board is eligible to participate in this Plan. In addition, any other individual who provides services to the Company or an Affiliate by virtue of employment with the Manager or an affiliate of the Manager, including but not limited to Bimini Capital Management, Inc., is eligible to participate in this Plan if the Committee, in its sole discretion, determines that the participation of such individual is in the best interest of the Company.

ARTICLE V
COMMON STOCK SUBJECT TO PLAN

5.01. **Common Stock Issued**

Upon the award of Common Stock pursuant to a Stock Award, an Other Equity-Based Award or in settlement of an Incentive Award or Performance Units, the Company may deliver to the Participant shares of Common Stock from its treasury shares or authorized but unissued Common Stock. Upon the exercise of any Option, SAR or Other Equity-Based Award denominated in Common Stock, the Company may deliver to the Participant (or the Participant's broker if the Participant so directs), shares of Common Stock from its treasury shares or authorized but unissued Common Stock.

5.02. **Aggregate Limit**

(a) The maximum aggregate number of shares of Common Stock that may be issued under this Plan pursuant to the exercise of Options and SARs, the grant of Stock Awards or Other Equity-Based Awards and the settlement of Incentive Awards and Performance Units is equal to 4,000,000 shares. Notwithstanding the preceding sentence, no Awards may be granted if the sum of (i) the number of shares of Common Stock subject to such Awards, (ii) the number of shares of Common Stock subject to previously granted Awards that are outstanding on the date of the grant, (iii) the number of shares of Common Stock previously issued in settlement or upon exercise of previously granted Awards and (iv) the number of shares of Common Stock that previously vested under previously granted Stock Awards and Other Equity-Based Awards exceeds ten percent of the number of issued and outstanding shares of Common Stock, on a fully diluted basis (assuming the exercise of all outstanding options and the conversion of all warrants and convertible securities into shares of Common Stock), on the date of the grant.

(b) The maximum number of shares of Common Stock that may be issued under this Plan in accordance with Section 5.02(a) shall be subject to adjustment as provided in Article XII.

(c) All of the shares of Common Stock that may be issued under this Plan may be issued in the form of incentive stock options or Corresponding SARs that are related to incentive stock options.

5.03. **Reallocation of Shares**

If any Award expires, is forfeited or is terminated without having been exercised or is paid in cash without delivery of Common Stock, then any shares of Common Stock covered by such lapsed, cancelled, expired, unexercised or cash-settled portion of such Award or grant shall be available for the grant or settlement of other Awards under this Plan. Any shares of Common Stock tendered or withheld to satisfy the grant or exercise price or tax withholding obligation pursuant to any Award shall not increase the number of shares available for future grants of Awards. If shares of Common Stock are issued in settlement of an SAR, the number of shares of Common Stock available under the Plan shall be reduced by the number of shares of Common Stock for which the SAR was exercised rather than the number of shares of Common Stock issued in settlement of the SAR. To the extent permitted by applicable law or the rules of any exchange on which the shares of Common Stock are listed for trading, shares of Common Stock issued in assumption of, or in substitution for, any outstanding awards of any entity acquired in any form of combination by the Company or any Affiliate shall not reduce the number of shares of Common Stock available for issuance under the Plan.

5.04. **Individual Award Limit**

No individual may be granted Awards in any calendar year covering, or with respect to, more than 250,000 shares of Common Stock. The preceding sentence shall not apply to an Incentive Award that is not granted with reference to a number of shares of Common Stock and that will be settled in cash.

ARTICLE VI
OPTIONS

6.01. **Award**

In accordance with the provisions of Article IV, the Committee will designate each individual to whom an Option is to be granted and will specify the number of shares of Common Stock covered by such Awards; provided, however, that an Option may be granted only to an individual who provides direct services to the Company or an Affiliate.

6.02. **Option Price**

The price per share of Common Stock purchased on the exercise of an Option shall be determined by the Committee on the date of grant, but shall not be less than the Fair Market Value on the date the Option is granted. Notwithstanding the preceding sentence, the price per share of Common Stock purchased on the exercise of any Option that is an incentive stock option granted to an individual who is a Ten Percent Stockholder on the date such option is granted, shall not be less than one hundred ten percent (110%) of the Fair Market Value on the date the Option is granted. Except as provided in Article XII, the price per share of an outstanding Option may not be reduced (by amendment, cancellation and new grant or otherwise) without the approval of stockholders.

6.03. **Maximum Option Period**

The maximum period in which an Option may be exercised shall be determined by the Committee on the date of grant except that no Option shall be exercisable after the expiration of ten years from the date such Option was granted. In the case of an incentive stock option granted to a Participant who is a Ten Percent Stockholder on the date of grant, such Option shall not be exercisable after the expiration of five years from the date of grant. The terms of any Option may provide that it is exercisable for a period less than such maximum period.

6.04. **Nontransferability**

Except as provided in Section 6.05, each Option granted under this Plan shall be nontransferable except by will or by the laws of descent and distribution. In the event of any transfer of an Option (by the Participant or his transferee), the Option and any Corresponding SAR that relates to such Option must be transferred to the same person or persons or entity or entities. Except as provided in Section 6.05, during the lifetime of the Participant to whom the Option is granted, the Option may be exercised only by the Participant. No right or interest of a Participant in any Option shall be liable for, or subject to, any lien, obligation, or liability of such Participant.

6.05. **Transferable Options**

Notwithstanding anything to the contrary in Section 6.04, if the Agreement provides, an Option that is not an incentive stock option may be transferred by a Participant to the Participant's children, grandchildren, spouse, one or more trusts for the benefit of such family members or a partnership in which such family members are the only partners, on such terms and conditions as may be permitted under Rule 16b-3 under the Exchange Act as in effect from time to time. The holder of an Option transferred pursuant to this Section shall be bound by the same terms and conditions that governed the Option during the period that it was held by the Participant; provided, however, that such transferee may not transfer the Option except by will or the laws of descent and distribution. In the event of any transfer of an Option (by the Participant or his transferee), the Option and any Corresponding SAR that relates to such Option must be transferred to the same person or persons or entity or entities. Notwithstanding the foregoing, an Option may not be transferred for consideration absent stockholder approval.

6.06. **Employee Status**

For purposes of determining the applicability of Section 422 of the Code (relating to incentive stock options), or in the event that the terms of any Option provide that it may be exercised only during employment or continued service or within a specified period of time after termination of employment or continued service, the Committee may decide to what extent leaves of absence for governmental or military service, illness, temporary disability, or other reasons shall not be deemed interruptions of continuous employment or service.

6.07. **Exercise**

Subject to the provisions of this Plan and the applicable Agreement, an Option may be exercised in whole at any time or in part from time to time at such times and in compliance with such requirements as the Committee shall determine; provided, however, that incentive stock options (granted under the Plan and all plans of the Company and its Affiliates) may not be first exercisable in a calendar year for shares of Common Stock having a Fair Market Value (determined as of the date an Option is granted) exceeding $100,000. An Option granted under this Plan may be exercised with respect to any number of whole shares less than the full number for which the Option could be exercised. A partial exercise of an Option shall not affect the right to exercise the Option from time to time in accordance with this Plan and the applicable Agreement with respect to the remaining shares subject to the Option. The exercise of an Option shall result in the termination of any Corresponding SAR to the extent of the number of shares with respect to which the Option is exercised.

6.08. **Payment**

Subject to rules established by the Committee and unless otherwise provided in an Agreement, payment of all or part of the Option price may be made in cash, certified check, by tendering shares of Common Stock (or by attestation of ownership of Common Stock), by a broker-assisted cashless exercise or in such other form or manner acceptable to the Committee. If shares of Common Stock are used to pay all or part of the Option price, the sum of the cash and cash equivalent and the date of exercise Fair Market Value of the shares surrendered must not be less than the Option price of the shares for which the Option is being exercised.

6.09. **Stockholder Rights**

No Participant shall have any rights as a stockholder with respect to the shares of Common Stock subject to an Option until the date of exercise of such Option.

6.10. **Disposition of Shares**

A Participant shall notify the Company of any sale or other disposition of shares of Common Stock acquired pursuant to an Option that was an incentive stock option if such sale or disposition occurs (i) within two years of the grant of an Option or (ii) within one year of the issuance of the shares of Common Stock to the Participant. Such notice shall be in writing and directed to the Secretary of the Company.

ARTICLE VII
SARS

7.01. **Award**

In accordance with the provisions of Article IV, the Committee will designate each individual to whom SARs are to be granted and will specify the number of shares of Common Stock covered by such Awards; provided, however, that an SAR may be granted only to an individual who provides direct services to the Company or an Affiliate. No Participant may be granted Corresponding SARs (under the Plan and all plans of the Company and its Affiliates) that are related to incentive stock options which are first exercisable in any calendar year for shares of Common Stock having an aggregate Fair Market Value (determined as of the date the related Option is granted) that exceeds $100,000.

7.02. **Maximum SAR Period**

The term of each SAR shall be determined by the Committee on the date of grant, except that no SAR shall have a term of more than ten years from the date of grant. In the case of a Corresponding SAR that is related to an incentive stock option granted to a Participant who is a Ten Percent Stockholder on the date of grant, such Corresponding SAR shall not be exercisable after the expiration of five years from the date of grant. The terms of any SAR may provide that it has a term that is less than such maximum period.

7.03. **Nontransferability**

Except as provided in Section 7.04, each SAR granted under this Plan shall be nontransferable except by will or by the laws of descent and distribution. In the event of any such transfer, a Corresponding SAR and the related Option must be transferred to the same person or persons or entity or entities. Except as provided in Section 7.04, during the lifetime of the Participant to whom the SAR is granted, the SAR may be exercised only by the Participant. No right or interest of a Participant in any SAR shall be liable for, or subject to, any lien, obligation, or liability of such Participant.

7.04. **Transferable SARs**

Notwithstanding anything to the contrary in Section 7.03, if the Agreement provides, an SAR, other than a Corresponding SAR that is related to an incentive stock option, may be transferred by a Participant to the Participant's children, grandchildren, spouse, one or more trusts for the benefit of such family members or a partnership in which such family members are the only partners, on such terms and conditions as may be permitted under Rule 16b-3 under the Exchange Act as in effect from time to time. The holder of an SAR transferred pursuant to this Section shall be bound by the same terms and conditions that governed the SAR during the period that it was held by the Participant; provided, however, that such transferee may not transfer the SAR except by will or the laws of descent and distribution. In the event of any transfer of a Corresponding SAR (by the Participant or his transferee), the Corresponding SAR and the related Option must be transferred to the same person or person or entity or entities. Notwithstanding the foregoing, in no event may an SAR be transferred for consideration absent stockholder approval.

7.05. **Exercise**

Subject to the provisions of this Plan and the applicable Agreement, an SAR may be exercised in whole at any time or in part from time to time at such times and in compliance with such requirements as the Committee shall determine; provided, however, that a Corresponding SAR that is related to an incentive stock option may be exercised only to the extent that the related Option is exercisable and only when the Fair Market Value exceeds the option price of the related Option. An SAR granted under this Plan may be exercised with respect to any number of whole shares less than the full number for which the SAR could be exercised. A partial exercise of an SAR shall not affect the right to exercise the SAR from time to time in accordance with this Plan and the applicable Agreement with respect to the remaining shares subject to the SAR. The exercise of a Corresponding SAR shall result in the termination of the related Option to the extent of the number of shares with respect to which the SAR is exercised.

7.06. **Employee Status**

If the terms of any SAR provide that it may be exercised only during employment or continued service or within a specified period of time after termination of employment or continued service, the Committee may decide to what extent leaves of absence for governmental or military service, illness, temporary disability or other reasons shall not be deemed interruptions of continuous employment or service.

7.07. **Settlement**

At the Committee's discretion, the amount payable as a result of the exercise of an SAR may be settled in cash, shares of Common Stock, or a combination of cash and Common Stock. No fractional share will be deliverable upon the exercise of an SAR but a cash payment will be made in lieu thereof.

7.08. **Stockholder Rights**

No Participant shall, as a result of receiving an SAR, have any rights as a stockholder of the Company or any Affiliate until the date that the SAR is exercised and then only to the extent that the SAR is settled by the issuance of shares of Common Stock.

ARTICLE VIII
STOCK AWARDS

8.01. **Award**

In accordance with the provisions of Article IV, the Committee will designate each individual to whom a Stock Award is to be made and will specify the number of shares of Common Stock covered by such Awards.

8.02. **Vesting**

The Committee, on the date of the award, may prescribe that a Participant's rights in a Stock Award shall be forfeitable or otherwise restricted for a period of time or subject to such conditions as may be set forth in the Agreement. By way of example and not of limitation, the Committee may prescribe that a Participant's rights in a Stock Award shall be forfeitable or otherwise restricted subject to the attainment of objectives stated with reference to the Company's, an Affiliate's or a business unit's attainment of objectives stated with respect to performance criteria established by the Committee, including criteria or objectives stated with reference to one or more Performance Measures.

8.03. **Employee Status**

In the event that the terms of any Stock Award provide that shares may become transferable and nonforfeitable thereunder only after completion of a specified period of employment or continuous service, the Committee may decide in each case to what extent leaves of absence for governmental or military service, illness, temporary disability, or other reasons shall not be deemed interruptions of continuous employment or service.

8.04. **Stockholder Rights**

Unless otherwise specified in accordance with the applicable Agreement, while the shares of Common Stock granted pursuant to the Stock Award may be forfeited or are nontransferable, a Participant will have all rights of a stockholder with respect to a Stock Award, including the right to receive dividends and vote the shares; provided, however, that the Committee may prescribe that dividends paid on a Stock Award shall be accumulated and paid when, and to the extent that, the Stock Award becomes nonforfeitable and transferable. In addition, during the period that the shares of Common Stock granted pursuant to a Stock Award are forfeitable or nontransferable (i) a Participant may not sell, transfer, pledge, exchange, hypothecate, or otherwise dispose of shares granted pursuant to a Stock Award, (ii) the Company shall retain custody of the certificates evidencing shares granted pursuant to a Stock Award, and (iii) the Participant will deliver to the Company a stock power, endorsed in blank, with respect to each Stock Award. The limitations set forth in the preceding sentence shall not apply after the shares granted under the Stock Award are transferable and are no longer forfeitable.

ARTICLE IX
PERFORMANCE UNIT AWARDS

9.01. **Award**

In accordance with the provisions of Article IV, the Committee will designate each individual to whom Performance Units are granted and will specify the number of shares of Common Stock covered by such Awards. The Committee also will specify whether Dividend Equivalent Rights are granted in conjunction with the Performance Units.

9.02. **Earning the Award**

The Committee, on the date of the grant of an award, shall prescribe any terms and conditions that must be satisfied in order for the Performance Units to be earned. By way of example and not of limitation, the Committee may prescribe that the Performance Units will be earned, and the Participant will be entitled to receive payment pursuant to the Performance Units, only upon the satisfaction of performance objectives and such other criteria as may be prescribed by the Committee including criteria or objectives stated with reference to one or more Performance Measures.

9.03. **Payment**

In the discretion of the Committee, the amount payable when Performance Units are earned may be settled in cash, by the issuance of shares of Common Stock or a combination thereof. A fractional share of Common Stock shall not be deliverable when Performance Units are earned, but a cash payment will be made in lieu thereof. The amount payable when Performance Units are earned shall be paid in a lump sum.

9.04. **Stockholder Rights**

A Participant, as a result of receiving Performance Units, shall not have any rights as a stockholder until, and then only to the extent that, the Performance Units are earned and settled in Common Stock. After Performance Units are earned and settled in shares of Common Stock, a Participant will have all the rights of a stockholder as described in Section 8.05.

9.05. **Nontransferability**

Except as provided in Section 9.06, Performance Units granted under this Plan shall be nontransferable except by will or by the laws of descent and distribution. No right or interest of a Participant in any Performance Units shall be liable for, or subject to, any lien, obligation, or liability of such Participant.

9.06. **Transferable Performance Units**

Notwithstanding anything to the contrary in Section 9.05, if the Agreement provides, Performance Units may be transferred by a Participant to the Participant's children, grandchildren, spouse, one or more trusts for the benefit of such family members or a partnership in which such family members are the only partners, on such terms and conditions as may be permitted under Rule 16b-3 under the Exchange Act as in effect from time to time. The holder of Performance Units transferred pursuant to this Section shall be bound by the same terms and conditions that governed the Performance Units during the period that they were held by the Participant; provided, however that such transferee may not transfer Performance Units except by will or the laws of descent and distribution. Notwithstanding the foregoing, in no event may a Performance Unit be transferred for consideration absent stockholder approval.

9.07. **Employee Status**

In the event that the terms of any Performance Unit provides that no payment will be made unless the Participant completes a stated period of employment or continued service, the Committee may decide to what extent leaves of absence for government or military service, illness, temporary disability, or other reasons shall not be deemed interruptions of continuous employment or service.

ARTICLE X
OTHER EQUITY—BASED AWARDS

10.01. **Award**

In accordance with the provisions of Article IV, the Committee will designate each individual to whom an Other Equity-Based Award is to be made and will specify the number of shares of Common Stock or other equity interests covered by such Awards. The Committee also will specify whether Dividend Equivalent Rights are granted in conjunction with the Other Equity-Based Award.

10.02. **Terms and Conditions**

The Committee, at the time an Other Equity-Based Award is made, shall specify the terms and conditions which govern the award. The terms and conditions of an Other Equity-Based Award may prescribe that a Participant's rights in the Other Equity-Based Award shall be forfeitable, nontransferable or otherwise restricted for a period of time or subject to such other conditions as may be determined by the Committee, in its discretion and set forth in the Agreement including the attainment of objectives stated with reference to one or more Performance Measures. Other Equity-Based Awards may be granted to Participants, either alone or in addition to other awards granted under the Plan, and Other Equity-Based Awards may be granted in the settlement of other Awards granted under the Plan.

10.03. **Payment or Settlement**

Other Equity-Based Awards valued in whole or in part by reference to, or otherwise based on, shares of Common Stock, shall be payable or settled in Common Stock, cash or a combination of Common Stock and cash, as determined by the Committee in its discretion. Other Equity-Based Awards denominated as equity interests other than shares of Common Stock may be paid or settled in shares or units of such equity interests or cash or a combination of both as determined by the Committee in its discretion.

10.04. **Employee Status**

If the terms of any Other Equity-Based Award provides that it may be earned or exercised only during employment or continued service or within a specified period of time after termination of employment or continued service, the Committee may decide to what extent leaves of absence for governmental or military service, illness, temporary disability or other reasons shall not be deemed interruptions of continuous employment or service.

10.05. **Stockholder Rights**

A Participant, as a result of receiving an Other Equity-Based Award, shall not have any rights as a stockholder until, and then only to the extent that, the Other Equity-Based Award is earned and settled in shares of Common Stock.

ARTICLE XI
INCENTIVE AWARDS

11.01. **Award**

In accordance with the provisions of Article IV, the Committee will designate each individual to whom an Incentive Award is to be made. The maximum amount payable to a Participant in any calendar year under Incentive Awards that are not granted with reference to a number of shares of Common Stock and that will be settled in cash is $500,000.

11.02. **Terms and Conditions**

The Committee, at the time an Incentive Award is made, shall specify the terms and conditions that govern the award. Such terms and conditions may prescribe that the Incentive Award shall be earned only to the extent that the Participant, the Company or an Affiliate, during a performance period of at least one year, achieves objectives stated with reference to one or more performance measures or criteria prescribed by the Committee including objectives stated with respect to one or more Performance Measures.

11.03. **Nontransferability**

Incentive Awards granted under this Plan shall be nontransferable except by will or by the laws of descent and distribution. No right or interest of a Participant in an Incentive Award shall be liable for, or subject to, any lien, obligation, or liability of such Participant.

11.04. **Employee Status**

If the terms of an Incentive Award provide that a payment will be made thereunder only if the Participant completes a stated period of employment or continued service, the Committee may decide to what extent leaves of absence for governmental or military service, illness, temporary disability or other reasons shall not be deemed interruptions of continuous employment or service.

11.05. **Settlement**

An Incentive Award that is earned shall be settled with a single lump sum payment which may be in cash, Common Stock or a combination of cash and Common Stock, as determined by the Committee.

11.06. **Stockholder Rights**

No Participant shall, as a result of receiving an Incentive Award, have any rights as a stockholder of the Company or an Affiliate until the date that the Incentive Award is settled and then only to the extent that the Incentive Award is settled by the issuance of shares of Common Stock.

ARTICLE XII
ADJUSTMENT UPON CHANGE IN COMMON STOCK

The maximum number of shares of Common Stock that may be issued under the Plan, the limitation of Section 5.04 on the Awards that may be granted to any Participant and the terms of outstanding Awards shall be adjusted as the Board determines is equitably required in the event that (i) the Company (a) effects one or more nonreciprocal transactions between the Company and its stockholders such as a stock dividend, extra-ordinary cash dividend, stock split-up, subdivision or consolidation of shares that affects the number or kind of shares of Common Stock (or other securities of the Company) or the Fair Market Value (or the value of other Company securities) and causes a change in the Fair Market Value of the Common Stock subject to outstanding awards or (b) engages in a transaction to which Section 424 of the Code applies or (ii) there occurs any other event which, in the judgment of the Board necessitates such action. Any determination made under this Article XII by the Board shall be nondiscretionary, final and conclusive.

The issuance by the Company of shares of any class, or securities convertible into shares of any class, for cash or property, or for labor or services, either upon direct sale or upon the exercise of rights or warrants to subscribe therefor, or upon conversion of shares or obligations of the Company convertible into such shares or other securities, shall not affect, and no adjustment by reason thereof shall be made with respect to, the maximum number of shares that may be issued under the Plan, the limitation of Section 5.04 on the Awards that may be granted to any Participant or the terms of Awards.

The Committee may make Awards in substitution for performance shares, phantom shares, stock awards, stock options, stock appreciation rights, or similar awards held by an individual who becomes an employee of the Company or an Affiliate in connection with a transaction described in the first paragraph of this Article XII. Notwithstanding any provision of the Plan, the terms of such substituted Awards shall be as the Committee, in its discretion, determines is appropriate.

ARTICLE XIII
COMPLIANCE WITH LAW AND APPROVAL OF REGULATORY BODIES

No Option or SAR shall be exercisable, no shares of Common Stock shall be issued, no certificates for shares of Common Stock shall be delivered, and no payment shall be made under this Plan except in compliance with all applicable federal and state laws and regulations (including, without limitation, withholding tax requirements), any listing agreement to which the Company is a party, and the rules of all domestic stock exchanges on which the Company's shares may be listed. The Company shall have the right to rely on an opinion of its counsel as to such compliance. Any certificate issued to evidence shares of Common Stock when a Stock Award is granted, a Performance Unit, Incentive Award or Other Equity-Based Award is settled or for which an Option or SAR is exercised may bear such legends and statements as the Committee may deem advisable to assure compliance with federal and state laws and regulations. No Option or SAR shall be exercisable, no Stock Award or Performance Unit shall be granted, no shares of Common Stock shall be issued, no certificate for shares of Common Stock shall be delivered, and no payment shall be made under this Plan until the Company has obtained such consent or approval as the Committee may deem advisable from regulatory bodies having jurisdiction over such matters.

ARTICLE XIV
GENERAL PROVISIONS

14.01. **Effect on Employment and Service**

Neither the adoption of this Plan, its operation, nor any documents describing or referring to this Plan (or any part thereof), shall confer upon any individual or entity any right to continue in the employ or service of the Company or an Affiliate or in any way affect any right and power of the Company or an Affiliate to terminate the employment or service of any individual or entity at any time with or without assigning a reason therefor.

14.02. **Unfunded Plan**

This Plan, insofar as it provides for grants, shall be unfunded, and the Company shall not be required to segregate any assets that may at any time be represented by grants under this Plan. Any liability of the Company to any person with respect to any grant under this Plan shall be based solely upon any contractual obligations that may be created pursuant to this Plan. No such obligation of the Company shall be deemed to be secured by any pledge of, or other encumbrance on, any property of the Company.

14.03. **Rules of Construction**

Headings are given to the articles and sections of this Plan solely as a convenience to facilitate reference. The reference to any statute, regulation or other provision of law shall be construed to refer to any amendment to or successor of such provision of law.

14.04. **Withholding Taxes**

Each Participant shall be responsible for satisfying any income and employment tax withholding obligations attributable to participation in the Plan. Unless otherwise provided by the Agreement, any such withholding tax obligations may be satisfied in cash (including from any cash payable in settlement of Performance Units, SARs, Incentive Awards or Other Equity-Based Award) or a cash equivalent acceptable to the Committee. Except to the extent prohibited by Treasury Regulation Section 1.409A-3(j), any minimum statutory federal, state, district or city withholding tax obligations also may be satisfied (a) by surrendering to the Company shares of Common Stock previously acquired by the Participant; (b) by authorizing the Company to withhold or reduce the number of shares of Common Stock otherwise issuable to the Participant upon the exercise of an Option or SAR, the settlement of a Performance Unit, Incentive Award or an Other Equity-Based Award (if applicable) or the grant or vesting of a Stock Award; or (c) by any other method as may be approved by the Committee. If shares of Common Stock are used to pay all or part of such withholding tax obligation, the Fair Market Value of the shares surrendered, withheld or reduced shall be determined as of the day the tax liability arises and the number of shares of Common Stock which may be withheld or surrendered shall be limited to the number of shares which have a Fair Market Value on the day preceding the date of withholding equal to the aggregate amount of such liabilities based on the minimum statutory withholding rates for federal, state, local and foreign income tax and payroll tax purposes that are applicable to such supplemental taxable income.

14.05. **REIT Status**

The Plan shall be interpreted and construed in a manner consistent with the Company's status as a REIT. No award shall be granted or awarded, and with respect to any award granted under the Plan, such award shall not vest, be exercisable or be settled (i) to the extent that the grant, vesting, exercise or settlement could cause the Participant or any other person to be in violation of the capital stock ownership limit or aggregate capital stock ownership limit prescribed by the Company's Articles of Incorporation or Charter, as amended from time to time) or (ii) if, in the discretion of the Committee, the grant, vesting, exercise or settlement of the award could impair the Company's status as a REIT.

14.06. **Code Section 409A**

All Awards made under this Plan are intended to comply with, or otherwise be exempt from, Section 409A of the Code ("Section 409A"), after giving effect to the exemptions in Treasury Regulation sections 1.409A-1(b)(3) through (b)(12). This Plan and all Agreements shall be administered, interpreted and construed in a manner consistent with Section 409A. If any provision of this Plan or any Agreement is found not to comply with, or otherwise not be exempt from, the provisions of Section 409A, it shall be modified and given effect, in the sole discretion of the Committee and without requiring the Participant's consent, in such manner as the Committee determines to be necessary or appropriate to comply with, or effectuate an exemption from, Section 409A. Each payment under an Award granted under this Plan shall be treated as a separate indentified payment for purposes of Section 409A.

If a payment obligation under an Award or an Agreement arises on account of the Participant's termination of employment and such payment obligation constitutes "deferred compensation" (as defined under Treasury Regulation section 1.409A-1(b)(1), after giving effect to the exemptions in Treasury Regulations sections 1.409A-1(b)(3) through (b)(12)), it shall be payable only after the Participant's "separation from service" (as defined under Treasury Regulation section 1.409A-1(h)); provided, however, that if the Participant is a "specified employee" (as defined under Treasury Regulation section 1.409A-1(i)), any such payment that is scheduled to be paid within six months after such separation from service shall accrue without interest and shall be paid on the first day of the seventh month beginning after the date of the Participant's separation from service or, if earlier, within fifteen days after the appointment of the personal representative or executor of the Participant's estate following the Participant's death.

ARTICLE XV
CHANGE IN CONTROL

15.01. **Impact of Change in Control.**

Upon a Change in Control, the Committee is authorized to cause (i) outstanding Options and SARs to become fully exercisable, (ii) outstanding Stock Awards to become transferable and nonforfeitable and (iii) outstanding Performance Units, Incentive Awards and Other Equity-Based Awards to become earned and nonforfeitable in their entirety.

15.02. **Assumption Upon Change in Control.**

In the event of a Change in Control, the Committee, in its discretion and without the need for a Participant's consent, may provide that an outstanding Award shall be assumed by, or a substitute award granted by, the surviving entity in the Change in Control. Such assumed or substituted award shall be of the same type of award as the original Award being assumed or substituted. The assumed or substituted award shall have a value, as of the Control Change Date, that is substantially equal to the value of the original Award (or the difference between the Fair Market Value and the option price or Initial Value in the case of Options and SARs) as the Committee determines is equitably required and such other terms and conditions as may be prescribed by the Committee.

15.03. **Cash-Out Upon Change in Control.**

In the event of a Change in Control, the Committee, in its discretion and without the need of a Participant's consent, may provide that each Award shall be cancelled in exchange for a payment. The payment may be in cash, shares of Common Stock or other securities or consideration received by stockholders in the Change in Control transaction or, in the case of an Incentive Award, the entire amount that can be paid under the Award (and, if the amount payable in settlement of an Incentive Award is based on the value of Common Stock, that value shall be the price per share received by stockholders for each share of Common Stock in the Change in Control transaction). Except as provided in the preceding sentence with respect to Incentive Awards, the amount of the payment shall be an amount that is substantially equal to (i) the amount by which the price per share received by stockholders in the Change in Control exceeds the option price or Initial Value in the case of an Option and SAR, or (ii) the price per share received by stockholders for each share of Common Stock subject to a Stock Award, Performance Unit or Other Equity-Based Award or (iii) the value of the other securities or property in which the Performance Unit or Other Equity-Based award is denominated. If the option price or Initial Value exceeds the price per share received by stockholders in the Change in Control transaction, the Option or SAR may be cancelled under this Section 15.03 without any payment to the Participant.

15.04. **Limitation of Benefits**

The benefits that a Participant may be entitled to receive under this Plan and other benefits that a Participant is entitled to receive under other plans, agreements and arrangements (which, together with the benefits provided under this Plan, are referred to as "Payments"), may constitute Parachute Payments (as hereinafter defined), that are subject to Code Sections 280G and 4999. As provided in this Section 15.04, the Parachute Payments will be reduced pursuant to this Section 15.04 if, and only to the extent that, a reduction will allow a Participant to receive a greater Net After Tax Amount (as hereinafter defined), than a Participant would receive absent a reduction.

The Accounting Firm (as hereinafter defined), will first determine the amount of any Parachute Payments that are payable to a Participant. The Accounting Firm also will determine the Net After Tax Amount attributable to the Participant's total Parachute Payments.

The Accounting Firm will next determine the largest amount of Payments that may be made to the Participant without subjecting the Participant to tax under Code Section 4999 (the "Capped Payments"). Thereafter, the Accounting Firm will determine the Net After Tax Amount attributable to the Capped Payments.

The Participant will receive the total Parachute Payments or the Capped Payments, whichever provides the Participant with the higher Net After Tax Amount. If the Participant will receive the Capped Payments, the total Parachute Payments will be adjusted by first reducing the amount of any benefits under this Plan or any other plan, agreement or arrangement that are not subject to Section 409A of the Code (with the source of the reduction to be directed by the Participant) and then by reducing the amount of any benefits under this Plan or any other plan, agreement or arrangement that are subject to Section 409A of the Code (with the source of the reduction to be directed by the Participant) in a manner that results in the best economic benefit to the Participant (or, to the extent economically equivalent, in a pro rata manner). The Accounting Firm will notify the Participant and the Company if it determines that the Parachute Payments must be reduced to the Capped Payments and will send the Participant and the Company a copy of its detailed calculations supporting that determination.

As a result of the uncertainty in the application of Code Sections 280G and 4999 at the time that the Accounting Firm makes its determinations under this Section 15.04, it is possible that amounts will have been paid or distributed to the Participant that should not have been paid or distributed under this Section 15.04 ("Overpayments"), or that additional amounts should be paid or distributed to the Participant under this Section 15.04 ("Underpayments"). If the Accounting Firm determines, based on either the assertion of a deficiency by the Internal Revenue Service against the Company or the Participant, which assertion the Accounting Firm believes has a high probability of success or controlling precedent or substantial authority, that an Overpayment has been made, the Participant must repay such amount to the Company, without interest; provided, however, that no loan will be deemed to have been made and no amount will be payable by the Participant to the Company unless, and then only to the extent that, the deemed loan and payment would either reduce the amount on which the Participant is subject to tax under Code Section 4999 or generate a refund of tax imposed under Code Section 4999. If the Accounting Firm determines, based upon controlling precedent or substantial authority, that an Underpayment has occurred, the Accounting Firm will notify the Participant and the Company of that determination and the amount of that Underpayment will be paid to the Participant promptly by the Company.

For purposes of this Section 15.04, the term "Accounting Firm" means the independent accounting firm engaged by the Company immediately before the Control Change Date. For purposes of this Section 15.04, the term "Net After Tax Amount" means the amount of any Parachute Payments or Capped Payments, as applicable, net of taxes imposed under Code Sections 1, 3101(b) and 4999 and any State or local income taxes applicable to the Participant on the date of payment. The determination of the Net After Tax Amount shall be made using the highest combined effective rate imposed by the foregoing taxes on income of the same character as the Parachute Payments or Capped Payments, as applicable, in effect on the date of payment. For purposes of this Section 15.04, the term "Parachute Payment" means a payment that is described in Code Section 280G(b)(2), determined in accordance with Code Section 280G and the regulations promulgated or proposed thereunder.

Notwithstanding any other provision of this Section 15.04, the limitations and provisions of this Section 15.04 shall not apply to any Participant who, pursuant to an agreement with the Company or the terms of another plan maintained by the Company, is entitled to indemnification for any liability that the Participant may incur under Code Section 4999. In addition, nothing in this Section 15.04 shall limit or otherwise supersede the provisions of any other agreement or plan which provides that a Participant cannot receive Payments in excess of the Capped Payments.

ARTICLE XVI
AMENDMENT

The Board may amend or terminate this Plan at any time; provided, however, that no amendment may adversely impair the rights of Participants with respect to outstanding Awards.

In addition, an amendment will be contingent on approval of the Company's stockholders if such approval is required by law or the rules of any exchange on which the Common Stock is listed or if the amendment would materially increase the benefits accruing to Participants under the Plan, materially increase the aggregate number of shares of Common Stock that may be issued under the Plan or reduce the option price of an outstanding Option or reduce the Initial Value of an outstanding SAR (in each case other than an adjustment pursuant to Article XII) or materially modify the requirements as to eligibility for participation in the Plan.

ARTICLE XVII
DURATION OF PLAN

No Award may be granted under this Plan after the day before the tenth anniversary of the earlier of the date the Plan is adopted by the Board or the date the Plan is approved by stockholders in accordance with Article XVIII. Awards granted before such date shall remain valid in accordance with their terms.

ARTICLE XVIII
EFFECTIVE DATE OF PLAN

Awards may be granted under this Plan on and after the date that the Plan is adopted by the Board, provided that no Award shall be exercisable, vested or settled unless, within twelve months after the Board's adoption of the Plan, the Plan is approved by holders of a majority of the outstanding Common Stock entitled to vote and present or represented by properly executed and delivered proxies at a duly held stockholders' meeting at which a quorum is present or by unanimous consent of the stockholders.