THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Hon. Perry H. Gravely, Circuit Court Judge

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SC Court of Appeals

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Appellate Case No. 2016-001691
Case No. 2015-CP-23-06023

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iStar Tara, LLC, ..... Respondent,

v.

Stevens Aviation, Inc., Greenville County, South Carolina, and City of Greenville, South Carolina, ..... Defendants,

Of whom

Stevens Aviation, Inc., is the ..... Appellant.

---

# RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
DOCKET NO.: 2015-CP-42-04093

iSTAR TARA LLC, a Delaware limited liability company,

Plaintiff,

vs.

STEVENS AVIATION, INC., a Delaware corporation; GREENVILLE-SPARTANBURG AIRPORT DISTRICT, an airport district and political subdivision of the State of South Carolina.

Defendants.

**CONSENT ORDER**

2016 MAR -3 AM 11:42
M. HOPE BLACKLEY

This matter appears before the undersigned upon the joint motion and consent of the plaintiff, iStar Tara LLC ("iStar") and the defendant, Stevens Aviation, Inc. ("Stevens") to stay this action pending the conclusion of litigation in a parallel action pending in Greenville County, captioned *iStar Tara LLC vs. Stevens Aviation, Inc.; and Greenville County, South Carolina; and the City of Greenville, South Carolina,* at Docket No: 2015-CP-2015-CP-23-06023 (the "Greenville Action"). The parties have represented to the Court and the Court finds that the Greenville Action is virtually identical to the instant action, except for the security sought to be foreclosed, and involves the same loan documents encumbering two separate leasehold estates and improvements thereon and other security. One leasehold estate and related security are situated in Spartanburg County[1], and one leasehold estate and related security are located in Greenville County.

[1] September 11, 2006 General Aviation Lease **and** Facilities Agreement, as Amended (the "**Spartanburg Lease and Facilities Agreement**")

As evidenced by their signatures below, counsel for iStar and Stevens have moved and consent to stay the instant action until the court in the Greenville Action has determined the respective rights of iStar and Stevens under the documents that are the subject of the Greenville Action, and have further agreed that the court's determinations in the Greenville Action will be binding on iStar and on Stevens in the instant action. iStar and Stevens further expressly acknowledge that nothing in this Order or in the Greenville Action shall affect any right or defense of the defendant Greenville-Spartanburg Airport District (the "District"), and specifically shall not constitute the District's consent to the transfer or assignment of the Spartanburg Lease and Facilities Agreement to Plaintiff.

WHEREFORE it is hereby ORDERED that this matter is STAYED until such time as this Court is notified by all parties that the Court in the Greenville Action has judicially determined the rights of iStar and Stevens under the loan documents and other contracts, if any, that are the subject matter of the Greenville Action. Nothing in this Order shall affect any defense of the District or its rights under the Spartanburg Lease and Facilities Agreement or under the Consent Agreement dated November 30, 2006 between Stevens, the District and SFT I, Inc.

This the 3 day of March, 2016.

The Honorable J. Mark Hayes,
Chief Administrative Judge, Spartanburg County

[MOVANT CONSENT SIGNATURE PAGE FOLLOWS]

2016 MAR -3 AM 11:42
M. HOPE BLACKLEY

117085258v3_208972-00585

**WE SO MOVE AND CONSENT:**

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2016 MAR -3 AM 11:42
M. HOPE BLACKLEY

ELECTRONICALLY FILED - 2016 Apr 26 4:50 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

| | |
|---|---|
| **STATE OF SOUTH CAROLINA**<br><br>**COUNTY OF GREENVILLE** | **IN THE COURT OF COMMON PLEAS**<br>**THIRTEENTH JUDICIAL CIRCUIT**<br>**CASE NO.: 2015-CP-23-06023** |
| **iSTAR TARA LLC,**<br><br>**Plaintiff,**<br><br>**vs.**<br><br>**STEVENS AVIATION, INC., GREENVILLE COUNTY, SOUTH CAROLINA, and CITY OF GREENVILLE, SOUTH CAROLINA**<br><br>**Defendants.** | **ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIMS** |

This matter is before this Court on Plaintiff iStar Tara LLC's ("iStar") Motion to Dismiss the counterclaims of Defendant Stevens Aviation, Inc. ("Stevens") under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. A hearing was held on March 14, 2016. Rebecca Lindahl of Katten Muchin Rosenman LLP and Rivers Stilwell of Nelson Mullins Riley & Scarborough LLP appeared on behalf of iStar; Julio Mendoza, Jr. of Nexsen Pruet appeared on behalf of Stevens. Having reviewed the Motion, the memoranda of the parties, and the pleadings on record, having heard and considered the arguments of counsel and having considered applicable law, the Court finds as follows:

1. The "Discounted Payment Contract"[1] is an unauthorized oral modification to the Loan Agreement in direct contravention of its explicit terms prohibiting oral modification;

2. The permitted limited exceptions to prohibitions regarding oral modifications as outlined in *Towers Charter & Marine Corp. v. Cadillac Ins. Co.*, 894 F.2d 516 (2d. Cir. 1990)[2]

[1] All capitalized terms in this Order have the meanings defined in the Complaint and Answer

ELECTRONICALLY FILED - 2016 Apr 26 4:50 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

are inapplicable because (a) Stevens' actions were consistent with the terms of the Loan Agreement, and (b) iStar reminded Stevens, by way of the March 6, 2015 Default Notice, that all modifications to the Loan Agreement must be in writing and therefore Stevens could not have reasonably relied on any purported oral modification of the Loan Agreement;

3. Stevens' alleges that it orally modified the Loan Agreement, but said Agreement, by its terms, could not be orally modified. Dismissal of Stevens' counterclaims is therefore appropriate under Rule 12(b)(6) based on the clear language of Loan Agreement setting forth the terms of the agreement.

IT IS ORDERED that the Counterclaims of Stevens are hereby DISMISSED with prejudice.

This the 26th day of April, 2016.

Perry H. Gravely
Circuit Court Judge

[2] This Court finds that the Loan Agreement is governed by New York law; and, therefore, the Court references applicable New York law.

ELECTRONICALLY FILED - 2016 Apr 26 4:50 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

Greenville Common Pleas

**Case Caption:** Istar Tara LLC vs. Stevens Aviation Inc , defendant, et al

**Case Number:** 2015CP2306023

**Type:** Order/Dismissal

Motion/Order Granted

s/ Honorable Perry H. Gravely, #2755

ELECTRONICALLY FILED - 2016 Jul 27 2:37 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF GREENVILLE | ) | IN THE COURT OF COMMON PLEAS<br>Case No. 2015-CP-23-06023 |
| iStar Tara, LLC,<br><br>Plaintiff,<br><br>vs.<br><br>Stevens Aviation, Inc.; Greenville County, South Carolina; and City of Greenville, South Carolina;<br><br>Defendants. | ) | **ORDER** |

This matter comes before the Court upon Stevens Aviation, Inc.'s Motion to Reconsider, Alter or Amend Order Granting Plaintiff's Motion to Dismiss Counterclaims filed by and through counsel on May 6, 2016. It has come to the Court's attention that this Motion is still outstanding though the matter has been referred to the Master-in-Equity. After fully considering said Motion and Plaintiff's Response in Opposition to Stevens Aviation, Inc.'s Motion to Reconsider, Alter or Amend Order Granting Plaintiff's Motion to Dismiss Counterclaims , this Court finds no need for oral argument in this matter, and the Motion is DENIED;

AND IT IS SO ORDERED!

Perry H. Gravely
Presiding Judge

ELECTRONICALLY FILED - 2016 Jul 27 2:37 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

Greenville Common Pleas

**Case Caption:** Istar Tara LLC vs. Stevens Aviation Inc , defendant, et al

**Case Number:** 2015CP2306023

**Type:** Order/Other

Motion/Order Granted

s/ Honorable Perry H. Gravely, #2755

STATE OF SOUTH CAROLINA, )
)
COUNTY OF GREENVILLE )
)
iSTAR TARA LLC )
Plaintiff, )
)
vs. )
)
STEVENS AVIATION, INC., )
GREENVILLE COUNTY, SOUTH
CAROLINA, and CITY OF GREENVILLE,
SOUTH CAROLINA,
Defendant. )

IN THE COURT OF COMMON PLEAS

SUMMONS

FILE NO. 2015-CP-23- 02023

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 OCT 2 PM 3 58

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Greenville, South Carolina

Dated: October 2, 2015

Plaintiff/Attorney for Plaintiff

Address: Rivers S. Stilwell
SC Bar No. 2108
NELSON MULLINS RILEY &
SCARBOROUGH LLP
Poinsett Plaza, Suite 900
104 South Main Street
Greenville, SC 29601-2122

SCCA 401 (5/02)

**STATE OF SOUTH CAROLINA**

**COUNTY OF GREENVILLE**

**IN THE COURT OF COMMON PLEAS**

**THIRTEENTH JUDICIAL CIRCUIT**

**iSTAR TARA LLC, a Delaware limited liability company,**

**Plaintiff,**

**vs.**

**STEVENS AVIATION, INC., a Delaware corporation; GREENVILLE COUNTY, SOUTH CAROLINA, and CITY OF GREENVILLE, SOUTH CAROLINA**

**Defendants.**

**Civil Action No.: 2015-CP-23-** 06023

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 OCT 22 PM 3:58

**COMPLAINT**
**(Breach of Promissory Notes, Foreclosure of Mortgage, Claim and Delivery of Personal Property, Appointment of a Receiver, Specific Performance, Accounting, Deficiency Judgment Demanded)**

The Plaintiff iStar Tara LLC ("iStar"), complaining of Defendant Stevens Aviation, Inc. ("Stevens"), alleges and says:

PARTIES, JURISDICTION AND VENUE

1. iStar is a Delaware limited liability company with its principal place of business in New York, New York. iStar is a subsidiary of iStar Inc., a Maryland corporation with its principal place of business in New York, New York.

2. Stevens is a Delaware corporation with its principal place of business in Greenville, South Carolina.

3. Stevens is the owner of a leasehold estate created by certain leases (the "Greenville Leases," as defined below) in land, and all buildings, structures and improvements

situated on the land, located within the Donaldson Center Air Industrial Park in Greenville, South Carolina, located in Greenville County and more particularly described as:

> All that certain piece, parcel or tract of land located, lying and being in the County of Greenville, State of South Carolina, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Beck & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Greenville County in Flat Book 1026 at page 46-47 and having, according to said plat, the following metes and bounds, to wit:
>
> > Beginning at a nail set (Labeled as P.O.B.) on the southerly side of Taxiway B-l, having South Carolina Grid Coordinates (NAD 83) of N. 1,067,218.63, E. 1,587,527.34; said point of beginning is located N 73"19'01" W 2393.23 feet (grid) from NGS Monument 23-046, thence N 40"49'19" E 1635.91 feet to a mag nail set, thence S 49"13'30" E 256.85 feet to an iron pin found 1/2" rebar, located on the northwestern right-of-way of Delaware Street (60' total r/w), thence running along the northwestern. right-of-way of Delaware Street, S 40"42'52" W 347.20 feet to an iron pin set 1/2" rebar, thence along a curve to the left, having an are length of 413.82 feet, a radius of 488.00 feet, a chord bearing and distance of S 16"25'16" W 401.53 feet to an iron pin set 1/2" rebar, thence S 07"52'20" E 446.32 feet to an iron pin set 1/2" rebar, thence running along a curve to the right, having an are length of 354.31 feet, a radius of 415.00 feet, a chord bearing and distance of S 16"25'18" W 343.64 feet to an iron pin set 1/2" rebar, thence S 40"52'46" W 505.87 feet to an iron pin set 1/2" rebar (leaving the right-of-way of Delaware Street at point located at approximately 472 feet), thence N 48"56'23" W 61.79 feet to a fence corner, thence N 40"39'36" E 23.86 feet to an iron pin set 1/2" rebar, thence N 49"44'48" W 145.27 feet to an iron pin set 1/2" rebar, thence N 17"06'15" W 74.31 feet to a fence corner, thence N 40"23'24" E 34.87 feet to a fence comer, thence running N 49"13'52" W 528.79 feet to a nail set, thence running along a curve to the left, having an are length of 149.48 feet, a radius of 107.50 feet, a chord bearing and distance of N 06"19'41" W 137.73 feet to the point of beginning, containing 23.550 acres more or less.

(the "Donaldson Property").

4. Stevens leases the Donaldson Property from Defendants Greenville County, South Carolina (the "County") and the City of Greenville, South Carolina (the "City") pursuant to the Greenville Leases, which consist of the following:

- Project Lease Agreement, dated as of October 10, 1997, between Stevens, as lessee, and the County and City, as lessor;

- Lease Agreement, dated as of November 1, 1997, among the County, City and Stevens; and

- Memorandum of Lease, dated as of November 6, 1997, recorded in the Office of the Register of Deeds for Greenville County in Book 1725 at Page 758 on November 6, 2006, as amended by First Amendment to Lease and Memorandum Thereof, dated December 12, 2006, and recorded in Book 2241 at Page 1112 on December 12, 2006.

5. The City and the County are the record owners of the Donaldson Property and have an interest in this action by virtue of the Greenville Leases.

6. The City and County are named as parties to this action solely because of their interest in the Donaldson Property.

7. Stevens is also the owner of a leasehold estate created by a lease (the "Spartanburg Lease," as defined below) in two parcels of land, and all buildings, structures and improvements situated on the land, located within the Greenville-Spartanburg International Airport ("GSP") in Greer, South Carolina, located in Spartanburg County and more particularly described as:

**PARCEL I:**

All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Beck & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Flat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57"06'04" E 20.00 feet to an iron pin set 1/2" rebar, THE TRUE POINT OF BEGINNING, thence running parallel to and 20 feet right of the centerline of Taxiway "B", N 32"55'08" E 1313.89 feet to a drill hole set in concrete, thence S 57"10'24" E 764.98 feet to

an iron pin set 1/2" rebar, thence S 32"49'36" W 295.93 to an iron pin set 1/2" rebar, thence N 57"10'24" W 188.12 feet to a mag nail set, thence N 32"03'54" E 11.85 feet to a fence post, thence N 57"11'18" W 238.71 feet to a fence post, thence S 32"21'57" W 30.08 feet to a point on the face of building wood overhang, thence along the face of building wood overhang S 56"27'23" E 1 1.92 to the corner of wood overhang, thence S 33"02'29" W 18.83 to the corner of wood overhang, thence N 56"56'20" W 36.64 feet to the corner of wood overhang, thence S 33"04'17" W 48.48 feet to the corner of wood overhang, thence S 56"08'19" E 8.52 feet to the corner of wood overhang, thence S 32"58'08" W 50.29 feet to the corner of wood overhang, thence N 56"55'40" W 2.80 feet to a point on the face of wood overhang, thence leaving the face of wood overhang running S 33"04'20" W 6.86 feet to a fence post, thence N 57"00'51" W 14.56 feet to a fence post, thence S 32"19'51" W 94.72 feet to a fence post, thence S 57"39'57" E 6.50 to a fence post, thence S 33"22'35" W 15.31 feet to a point on face of building, thence running along the face of building S 57"08'03" E 73.32 feet to the building corner, thence leaving building and running S 57"08'03" E 144.52 feet to an iron pin set 1/2" rebar, thence S 32"55'16" W 986.69 feet to an iron pin found 5/8" solid rod, thence N 57"05'00" W 88.00 feet to an iron pin found 5/8" solid rod, thence N 32"55'19" E 221.01 feet to a drill hole set in concrete sidewalk, thence N 57"06'04" W 442.10 feet to the TRUE POINT OF BEGINNING, containing 16.735 acres more or less.

**PARCEL II:**

All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Beck & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Flat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57"06'04" E 20.00 feet to an iron pin set 1/2" rebar, thence along a tie line S 27033'51" E 1406. 17 feet to a fence corner, the TRUE POINT OF BEGINNING, thence along a 6' chain link fence S 56"51'54" E 128.73 feet to a fence comer, thence S 17"55'21" E 110.32 feet to a fence corner, thence S 32"14'41" W 160.71 feet to a fence corner, thence N 56"59'25" W 215.93 feet to a fence corner, thence N 32"51'39" E 8.34 feet an iron pin set 1/2" rebar, thence N 57"05'00" W 26.20 feet to an iron pin set 1/2" rebar,

thence N 32"55'00" E 200.00 feet to an iron pin set 1/2" rebar, thence S 57"47'54" E 26.01 feet to an iron pin set 1/2" rebar, thence N 32"51'39" E 21.84 feet to the TRUE POINT OF BEGINNING, containing 1.187 acres more or less.

(the "GSP Property").

8. Stevens leases the GSP Property from Greenville-Spartanburg Airport District pursuant to the Spartanburg Lease, which consists of the following:

- General Aviation Lease and Facilities Agreement, dated as of September 11, 2006, between Greenville-Spartanburg Airport District, as lessor, and Stevens;
- First Amendment to General Aviation Lease and Facilities Agreement, dated as of April 9, 2009, between Greenville-Spartanburg Airport District and Stevens; and
- Memorandum of Lease, dated as of December 12, 2006, recorded in the Office of the Register of Deeds for Spartanburg County in Book 87-J at page 951 on December 12, 2006.

9. The Greenville-Spartanburg Airport District is the record owner of the GSP Property.

10. This matter arises from Stevens' default under a Loan and Security Agreement between Stevens and SFT I, Inc. (the "Original Lender") that is secured by, among other things, leasehold mortgages on the Donaldson Property and GSP Property.

11. iStar seeks a money judgment against Stevens, a judgment allowing foreclosure of the leasehold mortgages securing the loan at issue, possession of personal-property collateral securing the loan at issue, an order compelling the assignment of contracts and licenses to iStar, appointment of a receiver for rents, issues, and profits of the leasehold property, and an accounting to demonstrate that Stevens is complying with negative covenants in its loan documents.

12. Contemporaneously with this action, iStar filed a parallel action in Spartanburg County seeking to foreclose its lien on Stevens' leasehold interest in the GSP Property.

13. This Court has jurisdiction over the subject matter of this dispute and venue is proper in the Greenville County Court of Common Pleas pursuant to S.C. Code § 15-7-10, because it involves the foreclosure of real property and distraint of personal property located in Greenville County, and S.C. Code § 15-7-30 because Stevens is a foreign corporation with its principal place of business in Greenville County.

14. In the alternative, venue is also proper in the Greenville County Court of Common Pleas based on the contractual consents to jurisdiction and venue contained in various loan documents.

**FACTS**

**The Original Loan Documents**

15. On or about December 12, 2006, the Original Lender made a $25,000,000 loan to Stevens (the "Loan") pursuant to a Loan and Security Agreement (the "Loan Agreement"). A true and correct copy of the Loan Agreement is attached as **Exhibit 1**.

16. The Loan was initially evidenced by two promissory notes payable by Stevens to the order of the Original Lender in the original aggregate principal amount of $25,000,000: (i) a Secured Promissory Note, Tranche A in the original principal amount of $21,300,000 (the "Tranche A Note") and (ii) a Secured Promissory Note, Tranche B in the original principal amount of $3,700,000 (the "Tranche B Note," and together with the Tranche A Note, the "Promissory Notes"). True and correct copies of the Promissory Notes are attached as **Exhibit 2**.

17. The Loan is secured by, among other things: (i) a December 12, 2006 South Carolina Leasehold Mortgage, Security Agreement, and Assignment of Rents granting the Original Lender a first-priority lien on Steven's leasehold interest in the Donaldson Property, all

improvements thereon and fixtures attached thereto, whether owned or leased by Stevens, and all rents thereof, recorded in the Office of the Register of Deeds for Greenville County, South Carolina in Book 4692, Page 258 (as amended from time to time, the "Donaldson Mortgage"); and (ii) a December 12, 2006 Leasehold Mortgage and Security Agreement granting the Original Lender a first-priority lien on Steven's leasehold interest in the GSP Property, recorded in the Register of Deeds for Spartanburg County in Book 3800, Page 969 (as amended from time to time, the "GSP Mortgage," and together with the Donaldson Mortgage, the "Mortgages"). True and accurate copies of the Donaldson Mortgage and GSP Mortgage are attached as **Exhibits 3 and 4**, respectively.

18. Per Article I, Section 4 and 5 of the Mortgages, each Mortgage constitutes a "security agreement" and "fixture filing" as those terms are defined by the Uniform Commercial Code ("UCC") of the State of South Carolina. The security agreement and fixture filing provisions of the Mortgages are further evidenced by (i) a UCC Financing Statement filed with the Delaware Secretary of State and bearing Filing Number 64344834 (the "Delaware Financing Statement"), a true and accurate copy of which is attached as **Exhibit 5**; (ii) a UCC Financing Statement filed with the Greenville County Register of Deeds at Book FI 2006, Page 2488 (the "Donaldson Financing Statement"), a true and accurate copy of which is attached as **Exhibit 6**; and (ii) a UCC Financing Statement filed with the Spartanburg County Register of Deeds and bearing File Number 060482 (the "GSP Financing Statement," and together with the Delaware and Donaldson Financing Statements, the "Financing Statements"), a true and accurate copy of which is attached as **Exhibit 7**.

19. The Loan is also secured by, among other things: (i) a December 12, 2006 Assignment of Contracts (the "Assignment of Contracts") which assigned Original Lender the

right to demand, receive, and enforce any rights to or payments under any contracts, instruments, leases, or other agreements in connection with the leasing or occupancy of the Donaldson and GSP Properties (the "Contracts"); and (ii) a December 12, 2006 Assignment of Licenses, Permits, and Approvals (the "Assignment of Licenses," and together with the Assignment of Contracts, the "Assignments"), which assigned Original Lender the right to demand, receive, and enforce any rights to or payments under any licenses, permits, authorizations, development rights, certificates of occupancy, consents, waivers, zoning approvals, and other approvals issued by any government authority in connection with the leasing or occupancy of the Donaldson and GSP Properties (the "Licenses"). True and accurate copies of the Assignment of Contracts and Assignment of Licenses are attached as **Exhibits 8 and 9**, respectively.

20. The Loan Agreement, Promissory Notes, Mortgages, Financing Statements, and Assignments are referred to herein, collectively, as the "Original Loan Documents."

**The Amendment**

21. iStar is the successor-in-interest to the Original Lender, assignee of the Mortgages, and current holder of the Promissory Notes. True and accurate copies of assignments of the Mortgages recorded in the Register of Deeds for Greenville and Spartanburg County are attached as **Exhibits 10 and 11**, respectively.

22. On March 31, 2011, Stevens and iStar executed an Amendment No. 1 to Loan and Security Agreement and Other Loan Documents (the "Amendment"). A true and accurate copy of the Amendment is attached as **Exhibit 12**.

23. In connection with the Amendment, on March 31, 2011, Stevens executed an Amended and Restated Secured Promissory Note, Tranche A in the original principal amount of $18,925,000.00 (the "Amended Tranche A Note") and an Amended and Restated Secured

Promissory Note, Tranche B in the original principal amount of $6,000,000.00 (the "Amended Tranche B Note," and together with the Amended Tranche A Note, the Amended Promissory Notes"). True and correct copies of the Amended Promissory Notes are attached as **Exhibit 13**. The Amended Tranche A Note and the Amended Tranche B Note amended and restated, in their entirety, the Tranche A Note and the Tranche B Note, respectively.

24. Also in connection with the Amendment, on March 31, 2011, Stevens and iStar executed amendments to both the Donaldson Mortgage and the GSP Mortgage (together, the "Mortgage Amendments"), true and correct copies of which are attached as **Exhibit 14**.

25. The Amendment, the Amended Promissory Notes and the Mortgage Amendments, together with the Original Loan Documents, are referred to herein, collectively, as the "Loan Documents".

26. Among other things, the Amendment waived certain existing defaults and modified the definition of "Loan" in Section 1.1 of the Loan Agreement to provide that the "Loan" means the loan in the aggregate principal amount of up to $24,925,000 from iStar to Stevens as evidenced by the Amended Promissory Notes. As of the effective date of the Amendment, the Loan consisted of $24,925,000 advanced to Stevens, $18,925,000 of which was evidenced by the Amended Tranche A Promissory Note (the "Tranche A Loan"), and $6,000,000 of which was evidenced by the Amended Tranche B Promissory Note (the "Tranche B Loan").

27. The Tranche A Loan was further divided into a Component A, which consisted of $10,000,000, and a Component B, which consisted of the remaining $8,925,000 and was initially allocated to a letter of credit issued by iStar in favor U.S. Bank, N.A. for the benefit of Stevens under a separate credit facility. However, on March 17, 2011, that letter of credit was replaced with a cash deposit at Wells Fargo Bank, N.A. for the benefit of Stevens. At the same time, and

as expressly recognized by the Amendment, the principal amount of Component A was increased to $18,925,000 and the balance of Component B was reduced to zero.

28. Component A of the Tranche A Loan, which represents the entire principal amount outstanding under the Tranche A Loan, bears interest at the fixed rate of 5% per annum.

29. The Tranche B Loan bears interest at the fixed rate of 0%. The fixed rates of interest of Component A of the Tranche A Loan and the Tranche B Loan are the "Base Rate" with respect to each.

30. Under the terms of the Amendment, Stevens also granted iStar a first-priority security interest in leaseholds of two additional parcels of real property known as the Nashville International Airport in Nashville, Tennessee and Dayton International Airport in Dayton, Ohio.

**Restrictions on Payments to Thomas C. Foley and NTC Group, Inc.**

31. iStar is informed and believes that Stevens is 98.1% owned by Thomas C. Foley ("Foley"), a Connecticut resident.

32. Stevens is managed by NTC Group, Inc., a Delaware corporation ("NTC"), pursuant to that certain Amended and Restated Management Services Agreement, dated as of March 31, 2011, between NTC and Stevens (the "Management Agreement").

33. iStar is informed and believes that Foley owns and controls NTC.

34. iStar is informed and believes that prior to the execution of the Original Loan Documents, Stevens became indebted to Foley as a result of certain advances made by Foley to Stevens or for Stevens' benefit in the approximate principal amount of $1.22 million (the "Existing Foley Loan") and that some portion of the Existing Foley Loan presently remains outstanding.

35. Pursuant to the Management Agreement, subject to certain restrictions in the Amendment, NTC is entitled to monthly management fees (the "Management Fees") payable by Stevens equal to 0.21% of Stevens' consolidated aggregate assets not to exceed $740,000 annually.

36. NTC and Stevens also entered into that certain Loan and Security Agreement, dated as of February 16, 2011 (as amended, the "NTC Loan Agreement") pursuant to which NTC agreed to advance to Stevens one or more terms loans in an aggregate amount not to exceed $5,000,000.00 (the "NTC Loan").

37. Under the Amendment, Stevens agreed to certain restrictions that relate to its payment of the Existing Foley Loan, the Management Fees and the NTC Loan.

38. Specifically, Section 2.11(d) of the Loan Agreement (as amended) provides that "no portion of the Existing Foley Debt shall be due or payable and no payments of the Existing Foley Debt may be made by [Stevens] except out of (i) [Stevens'] one-half share of proceeds pursuant to Section 2.3(C) above or (ii) the proceeds payable to Foley ... pursuant to this Section 2.11."

39. The Loan Agreement (as amended) defines the Existing Foley Debt as existing indebtedness to Foley in the amount of approximately $4.4 million as further described on Schedule 1.1(A) to the Amendment. Schedule 1.1(A) reflects that the Existing Foley Debt is comprised of the Existing Foley Loan (in the amount of $1.22 million) and accrued Management Fees as of March 31, 2011 in the amount of $3,224,287 (the "Pre-Amendment Management Fees").

40. Section 2.3(C) of the Loan Agreement (as amended) sets forth a payment waterfall for the distribution of proceeds following a "Capital Event" (as defined in the Loan

Agreement, but including, *inter alia*, a sale of substantially all of the assets of Stevens or any transaction resulting in a change of control). Section 2.11 of the Loan Agreement requires that certain contingent payments be made to iStar upon the occurrence of triggering events set forth therein, including, among other things, any payments to Foley or any of his affiliates in connection with a Capital Event or transfer of stock in Stevens.

41. iStar is informed and believes that the conditions precedent to payment of the Existing Foley Loan and the Pre-Amendment Management Fees pursuant to Section 2.11(d) of the Loan Agreement have not occurred since the date of the Amendment such that, at all times since at least the date of the Amendment, any payments by Stevens to Foley or NTC on account of the Existing Foley Loan or the Pre-Amendment Management Fees were prohibited.

42. Section 7.7 of the Loan Agreement addresses the payment of Management Fees that accrued after the effective date of the Amendment (*i.e.*, March 31, 2011) ("Post-Amendment Management Fees") and caps such fees at $740,000 annually. Section 7.7 provides further that:

> such Management Fees shall only be deemed to have been earned and accrue from and after the Effective Date (not to exceed such $740,000 limit annually) of which $240,000 of such Management Fees in the aggregate may be paid annually in equal monthly installments at the end of each calendar month after the Cash Availability Trigger Event has occurred or if earlier, for any monthly payment period in which current interest has been paid on the Permitted Foley Loan and the Tranche A Promissory Note.

43. Accordingly, pursuant to Section 7.7 of the Loan Agreement, Post-Amendment Management Fees may only accrue in the maximum amount of $740,000 annually but may only be paid in the maximum amount of $240,000 annually and only if (i) the Cash Availability Trigger Event has occurred or (ii) Stevens has paid current monthly interest on the NTC Loan and the Tranche A Loan.

44. The Loan Agreement defines the Cash Availability Trigger Event as any time there is "Excess Availability" under Stevens' revolving loan facility advanced by Wells Fargo Bank, N.A. of at least $2.5 million. iStar is informed and believes that the Cash Availability Trigger Event has not occurred since March 31, 2011, and at no point has Stevens paid current monthly interest on the Tranche A Loan. Therefore, the conditions precedent to permit the limited payment of the Post-Amendment Management Fees in the maximum amount of $240,000 annually have never been met and at all times since March 31, 2011, payment of Post-Amendment Management Fees was prohibited.

45. In addition, Section 2.3(D) of the Loan Agreement (as amended) provides as follows:

> Notwithstanding anything to the contrary in this Amendment, no Distribution or payment of Management Fees shall be permitted for so long as an Event of Default exists and the Tranche A Promissory Note, the Letter of Credit or the Tranche B Promissory Note is outstanding unless the proceeds of such Distribution will be sufficient to cause the release of the Letter of Credit and payment of all of the indebtedness evidenced by the Tranche A Promissory Note and Tranche B Promissory Note in full, except for Distributions to the shareholders of Borrower in an amount equal to the amount required to permit such shareholders to satisfy all Attributed Income Tax Liabilities as contemplated by the last sentence of Section 7.12.

46. As discussed below, a maturity event of default under the Loan Agreement has existed since March 1, 2015. Accordingly, since at least March 1, 2015, payment of all Management Fees (both Pre-Amendment and Post-Amendment Management Fees) by Stevens to NTC was prohibited pursuant to Section 2.3(D) of the Loan Agreement.

47. Section 7.7 of the Loan Agreement (as amended) provides further that "[n]otwithstanding anything to the contrary ... Management Fees shall only accrue and be payable ... to the extent that ... no Event of Default [as defined by the Loan Agreement] exists."

Thus, Section 7.7 of the Loan Agreement prohibits both the accrual and payment of Management Fees following an event of default under the Loan Agreement.

48. Similarly, pursuant to Section 2.3(D) and Section 7.12 of the Loan Agreement, no "Distributions" (defined in Section 7.12 of the Loan Agreement as, *inter alia*, "any distributions, dividends or other payments or return [of] any capital to any of [Stevens'] respective partners, members, owners or shareholders or any other Affiliate") may be made by Stevens to Foley, NTC, or any other affiliate of Stevens, except for the limited purpose permitted by Section 7.12 of the Loan Agreement, so long as an event of default has occurred and is continuing under the Loan Agreement.

49. Finally, Section 2.3 of the Loan Agreement (as amended) restricts Stevens' ability to pay interest and outstanding principal on the NTC loan. For example, Section 2.3(A) requires that iStar receive current interest payments under the Amended Tranche A Note to the extent Stevens elects to make current interest payments due on the NTC Loan prior to the occurrence of a Cash Availability Trigger Event and, following the occurrence of a Cash Availability Trigger Event, Section 2.3(B) requires Stevens to pay all accrued and unpaid interest due to iStar under the Amended Tranche A Note before paying down any portion of the outstanding principal due on the NTC Loan.

50. The foregoing payment restrictions in the Loan Agreement (as amended) described in paragraphs 37 to 49 above shall be referred to herein as the "Affiliate Payment Restrictions".

51. In connection with the Amendment, on March 31, 2011, Foley and NTC executed a Joinder to Amendment No. 1 to Loan and Security Agreement and Other Loan Documents (the "Joinder") in which each approved the Amendment and agreed to be bound to the Affiliate

Payment Restrictions, including by agreeing to hold any payments either may receive in violation of the Affiliate Payment Restrictions in trust for the benefit of iStar, to promptly notify iStar of their receipt of any such payments and to pay them over to iStar within one business day after their receipt thereof. A true and correct copy of the Joinder is annexed to the Amendment and is included as part of Exhibit 12 hereto.

**Stevens' Maturity Default**

52. Under the terms of the Loan Agreement (as amended), the Amended Tranche A Promissory Note matured on March 1, 2015 (the "Maturity Date").

53. Stevens defaulted under the terms of the Loan Agreement and the Amended Tranche A Promissory Note by failing to pay the principal balance, together with accrued interest and other amounts due and owing under the Amended Tranche A Promissory Note, on or before the Maturity Date (the "Maturity Default").

54. The Maturity Default is an "Event of Default" under Section 9.1(A) of the Loan Agreement.

55. On March 6, 2015, iStar sent Stevens a Notice of Maturity, Event of Default, Acceleration, and Reservation of Rights (the "Default Notice") that declared all of Stevens' obligations evidenced by the Loan Documents, including Stevens' obligations under the Amended Tranche B Promissory Note, immediately due and payable. A true and accurate copy of the Default Notice is attached as **Exhibit 15**.

56. As a result of the Maturity Default, pursuant to Section 2.2(A) of the Loan Agreement, the outstanding principal balance of the Loan is subject to Default Interest at the Default Rate, defined in the Loan Agreement as the applicable Base Rate plus 5% per annum, from and after the Maturity Date.

57. In addition, pursuant to Section 2.2(D) of the Loan Agreement, as a result of the Maturity Default, Stevens is obligated to pay a late charge in the amount of three percent (3%) of the outstanding principal balance of the Loan (the "Late Charge"), which Late Charge shall bear interest at the Default Rate until paid.

58. As a result of the Maturity Default, the outstanding balance due and owing under the Loan as of October 2, 2015, exclusive of attorney fees, is $31,426,878.41 comprised as follows:

| | |
|---|---|
| Principal Balance of Tranche A Loan | $18,925,000.00 |
| Unpaid Accrued Interest on Tranche A Loan | $4,774,002.84 |
| Default Interest on Tranche A Loan | $623,533.53 |
| Principal Balance of Tranche B Loan | $6,000,000.00 |
| Default Interest on Tranche B Loan | $178,918.65 |
| Late Charge | $877,901.96 |
| Default Interest on Late Charge | $47,521.43 |
| **TOTAL** | **$31,426,878.41** |

**FIRST CLAIM FOR RELIEF**
**(Breach of Promissory Note)**

59. iStar re-alleges and incorporates by reference the allegations of paragraphs 1 through 58 of its Complaint.

60. Stevens has defaulted and is in default under the terms of the Loan Documents, including the Amended Promissory Notes.

61. Despite demand by iStar, Stevens has failed to cure the Maturity Default.

62. As a result of the Maturity Default, iStar is entitled to accelerate the Loan, including the entire principal amount of the Amended Tranche B Note, and enforce its contractual rights against Stevens as to the Amended Promissory Notes.

63. iStar is entitled to judgment against Stevens for the entire outstanding balance due and owing under the Amended Promissory Notes, together with interest, late charges and costs, including reasonable attorneys' fees, as allowed by the Loan Documents and applicable law.

**SECOND CLAIM FOR RELIEF**
**(Judicial Foreclosure of the Donaldson Mortgage)**

64. iStar re-alleges and incorporates by reference the allegations of paragraphs 1 through 63 of its Complaint.

65. The Loan is secured by, among other things, Stevens' leasehold interest in the Donaldson Property.

66. The Loan constitutes a valid debt.

67. The Loan has matured and is in default.

68. In connection with the Loan, Stevens executed the Donaldson Mortgage and a waiver of appraisal rights.

69. By reason of Stevens' default under the Amended Promissory Notes, iStar is now entitled to foreclosure of its lien on Stevens' leasehold interest in the Donaldson Property as provided by the Donaldson Mortgage.

70. iStar is seeking a deficiency judgment for the full amount of the debt connected with the Loan as may be reduced by the proceeds of sale of the Donaldson Property.

71. In addition to the judgment setting the amount of the debt, as set forth in the First Claim for Relief, iStar is entitled to an order allowing it to foreclose the lien created by the

Donaldson Mortgage and other Loan Documents, barring Stevens' equity of redemption, and directing the sale of all property secured by the Donaldson Mortgage.

72. Pursuant to terms of the Loan Documents, including but not limited to the Donaldson Mortgage, the proceeds of the sale must be applied as follows:

(a) First, to the payment of costs and expenses of the foreclosure sale (including attorneys' fees), any judicial proceeding related to such sale, and expenses, liabilities, and advances made or incurred by iStar under the Donaldson Mortgage, including—for example—the cost of title investigation, taxes, levies, or assessments, together with interest at the Default Rate;

(b) Second, to the payment of any other sums required to be paid by iStar pursuant to any provision of the Loan Documents including all expenses, liabilities, and advances made or incurred by iStar under the Donaldson Mortgage or in connection with the enforcement of the Donaldson Mortgage; together with interest at the Default Rate on all such advances from the date of occurrence;

(c) Third, to the payment of all amounts secured by the Donaldson Mortgage, including the outstanding principal under the Amended Promissory Notes, together with unpaid and accrued interest; and

(d) Fourth, to the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

**THIRD CLAIM FOR RELIEF**
**(Claim and Delivery of Personal Property Collateral)**

73. iStar re-alleges and incorporates by reference the allegations of paragraphs 1 through 72 of its Complaint.

74. As evidenced by the Loan Agreement, the Donaldson Mortgage, the Delaware Financing Statement and the Donaldson Financing Statement, the Loan is secured by, among other things, a security interest in fixtures, machinery, equipment, furniture and other tangible personal property now or hereafter affixed to the Donaldson Property or the improvements located thereon (the "Donaldson Personal Property Collateral").

75. The Loan constitutes a valid debt.

76. The Loan has matured and is in default.

77. By reason of Stevens' default, and as provided by the Loan Agreement, the Mortgages and Financing Statements, iStar is now entitled to immediate possession of the Donaldson Personal Property Collateral.

78. iStar thus claims the Donaldson Personal Property Collateral and respectfully requests that the Court enter an order pursuant to S.C. Code Ann. § 15-69-10 awarding iStar possession or control of it.

79. iStar expressly reserves the right to seek immediate delivery of the Donaldson Personal Property Collateral and to notice and conduct a pre-seizure hearing under S.C. Code Ann. § 15-69-30 or § 15-69-100, or to seek an order restraining Stevens from damaging, concealing, or removing the Personal Property Collateral pursuant to S.C. Code Ann. § 15-60-90.

**FOURTH CLAIM FOR RELIEF**
**(Request for Appointment of a Receiver)**

80. iStar re-alleges and incorporates by reference the allegations of paragraphs 1 through 79 of its Complaint.

81. The Loan is secured by, among other things, the Mortgages (including an assignment of rents in the Donaldson Mortgage) and the Assignments.

82. The Loan constitutes a valid debt.

83. The Loan has matured and is in default.

84. Article III, Section 4 of the Donaldson Mortgage provides that iStar may have a receiver of the rents, issues, and profits of the Donaldson Property appointed without the necessity of proving either the depreciation or the inadequacy of the value of the security or Stevens' insolvency.

85. In Article III, Section 4 of the Donaldson Mortgage, Stevens waived proof of iStar's entitlement to and consented to appointment of a receiver for the rents, issues, and profits of the Donaldson and GSP Properties.

86. By reason of Stevens' default, and as provided by the Loan Agreement, Donaldson Mortgage and the Assignments, iStar is now entitled to receive all of the rents, issues, and profits of the Donaldson Property (the "Rents").

87. iStar is informed and believes that the Rents are in danger of being lost, materially injured, or impaired.

88. iStar thus respectfully requests that the Court enter an order pursuant to S.C. Code Ann. § 15-65-10 and Article III, Section 4 of the Donaldson Mortgage appointing a receiver for the Rents.

89. The Donaldson Mortgage is secured by "collateral assignments" as that term is defined by S.C. Code Ann. § 29-3-100(C). Accordingly, iStar expressly reserves the right to directly collect Rents from any entity from which Stevens receives revenues, rents, or profits pursuant to S.C. Code Ann. § 29-3-100(C).

**FIFTH CLAIM FOR RELIEF**
**(Specific Performance to Compel**
**an Assignment of Contracts, Licenses, and Permits)**

90. iStar re-alleges and incorporates by reference the allegations of paragraphs 1 through 89 of its Complaint.

91. The Loan is secured by, among other things, the Mortgages (including an assignment of rents in the Donaldson Mortgage) and the Assignments.

92. The Loan constitutes a valid debt.

93. The Loan has matured and is in default.

94. In the Assignment of Contracts, Stevens appointed iStar its attorney-in-fact to demand, receive, and enforce any rights, interests, and benefits accruing to Stevens under the Contracts after the occurrence of an Event of Default under Loan Agreement.

95. In the Assignment of Licenses, Stevens appointed iStar as Stevens' attorney-in-fact to demand, receive, and enforce any rights in and to Stevens' Licenses after the occurrence of an Event of Default under the Loan Agreement.

96. By reason of Stevens' default under the Loan Agreement, iStar is entitled to immediately exercise its rights to the Contracts and Licenses as Stevens' attorney-in-fact.

97. iStar respectfully requests an order compelling Stevens to specifically perform the Assignments and take any and all required actions to assign all of the Contracts and Licenses to iStar.

**SIXTH CLAIM FOR RELIEF**
**(Request for an Accounting)**

98. iStar re-alleges and incorporates by reference the allegations of paragraphs 1 through 97 of its Complaint.

99. Pursuant to Sections 2.3(D), 7.7 and 7.12 of the Loan Agreement (as amended), since the Maturity Default, Stevens has been prohibited from paying any Management Fees or making any Distributions (except for Distributions to the shareholders of Stevens in an amount equal to the amount required to permit such shareholders to satisfy all Attributed Income Tax Liabilities (as defined in the Loan Agreement)).

100. Further, pursuant to Sections 2.11(d) and 7.7 of the Loan Agreement (as amended), since at least March 31, 2011, Stevens has been prohibited from paying the Existing Foley Loan or the Management Fees because the conditions precedent to permit such payments have not been satisfied.

101. Pursuant to Sections 2.3(A) of the Loan Agreement, Stevens is restricted in its ability to pay interest on the NTC Loan without also paying interest on the Amended Tranche A Note and, pursuant to Section 2.3(B) of the Loan Agreement, Stevens is prohibited from paying the principal amount of the NTC Loan without first paying all accrued and unpaid interest due to iStar under the Amended Tranche A Note.

102. iStar lacks sufficient information to determine whether Stevens has fully complied with the Affiliate Payment Restrictions.

103. iStar respectfully requests an order compelling Stevens to provide iStar with a detailed accounting demonstrating that it has complied, and continues to comply, with the Affiliate Payment Restrictions, including, without limitation, (i) a detailed breakdown, by property location and expense item, of Stevens' corporate overhead charges since March, 31, 2011, (ii) a listing of every payment made by Stevens to Foley, NTC or any of their respective affiliates since March 31, 2011, and (iii) such other information necessary for iStar to identify

whether any payments have been made to Foley, NTC or their respective affiliates in violation of the Affiliate Payment Restrictions, the Loan Agreement or applicable law.

**RESERVATION OF RIGHTS**

104. Nothing in this Complaint is intended to constitute an election by iStar of remedies, but rather reserves all remedies available to iStar, whether arising under the Loan Documents or existing by law.

WHEREFORE, iStar respectfully prays that the Court:

A. Enter judgment determining all outstanding amounts owed on the Amended Promissory Notes, together with all interest, late charges and costs, including reasonable attorneys' fees, as allowed by the Loan Documents and applicable law.

B. Enter judgment against Stevens for the entire outstanding balance owed on the Amended Promissory Notes, together with all interest, late charges and costs, including reasonable attorneys' fees, as allowed by the Loan Documents and applicable law.

C. Enter an order authorizing the foreclosure of the Donaldson Mortgage, barring Defendant Stevens' equity of redemption and directing the sale of all property secured by the Mortgage.

D. That the proceeds of the sale be applied as follows:

(a) First, to the payment of costs and expenses of the foreclosure sale (including attorneys' fees), any judicial proceeding related to such sale, and expenses, liabilities, and advances made or incurred by iStar under the Donaldson Mortgage, including—for example—the cost of title investigation, taxes, levies, or assessments, together with interest at the Default Rate;

(b) Second, to the payment of any other sums required to be paid by iStar pursuant to any provision of the Loan Documents including all expenses, liabilities, and advances made or incurred by iStar under the Donaldson Mortgage or in connection with the enforcement of the Donaldson Mortgage; together with interest at the Default Rate on all such advances from the date of occurrence;

(c) Third, to the payment of all amounts secured by the Donaldson Mortgage, including the outstanding principal under the Agreement and its Amendment, together with unpaid and accrued interest; and

(d) Fourth, to the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

E. Enter an order awarding iStar the immediate possession, delivery, or control of the Donaldson Personal Property Collateral;

F. Enter an order appointing a receiver for the Rents;

G. Enter an order compelling Stevens to assign the Contracts and Licenses to iStar and otherwise comply with the terms of the Assignments;

H. Compel Stevens to provide iStar with an accounting demonstrating that it is complying, and has complied, with the Affiliate Payment Restrictions;

I. Award Plaintiff its costs and expenses, including without limitation its reasonable attorneys' fees; and

J. For such other and further relief as this Court deems appropriate.

This the 2nd day of October, 2015.

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# Exhibits to Summons and Complaint

# EXHIBIT 1

**$25,000,000.00**

# LOAN AND SECURITY AGREEMENT

between

**STEVENS AVIATION, INC.,**
a Delaware corporation,
as Borrower

and

**SFT I, INC.,**
a Delaware corporation,
as Lender

Dated as of December 12, 2006

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## LOAN AND SECURITY AGREEMENT

**THIS LOAN AND SECURITY AGREEMENT** (this "**Agreement**") dated as of December 12, 2006, by **STEVENS AVIATION, INC.**, a Delaware corporation ("**Borrower**"), having an address at 600 Delaware Street, Greenville, South Carolina 29605 and **SFT I, INC.**, a Delaware corporation and a subsidiary of iStar Financial Inc., a Maryland corporation (together with its successors and assigns, hereinafter referred to as "**Lender**"), with offices at 1114 Avenue of the Americas, 27th Floor, New York, New York 10036.

## RECITALS

A. **The Mortgaged Property**. Borrower is the leasehold owner of the Land and Improvements.

B. **The Loan**. Borrower desires to borrow from Lender and Lender desires to lend to Borrower, a loan in the amount of $25,000,000.00.

**NOW, THEREFORE,** in consideration of the foregoing and of the covenants, conditions and agreements contained herein, Borrower and Lender agree as follows:

## SECTION 1
## DEFINITIONS

1.1 **General Definitions**. In addition to any other terms defined in this Agreement, the following terms shall have the following meanings:

"**Accounting Changes**" means (A) changes in accounting principles required by GAAP consistently applied and implemented by Borrower; and (B) changes in accounting principles recommended or approved by Borrower's certified public accountant, with the approval of Lender, which approval shall not be unreasonably withheld.

"**Acquired Debt**" means, with respect to any specified Person: (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Subsidiary of, such specified Person; provided that Indebtedness of such other Person that is redeemed, defeased, retired or otherwise repaid at the time, or immediately upon consummation, of the transaction by which such other person is merged with or into or became a Subsidiary of such Person shall not be Acquired Debt; and (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person; provided that the amount of such Indebtedness shall be deemed to be the lesser of the value of such asset and the amount of the obligation so secured.

"**Affiliate**" means any Person: (A) directly or indirectly controlling, controlled by, or under common control with, another Person; (B) directly or indirectly owning or holding ten percent (10%) or more of any equity interest in another Person; or (C) ten percent (10%) or more of whose voting stock or other equity interest is directly or indirectly owned or held by such other Person. When used with respect to Borrower, the term "Affiliate" shall also include the

spouse, ancestors, descendents and siblings of an Affiliate of Borrower (such Persons being sometimes referred to as "Family Members"), Affiliates of such Family Members and trusts for the benefit of another Affiliate of Borrower.

"**Affiliated Sites**" means Borrower's fixed base operations (other than GSP and GYH) located in (i) Dayton, Ohio (DAY), (ii) Denver, Colorado (BJC), and (iii) Nashville, Tennessee (BNA).

"**Agreement**" means this Loan and Security Agreement (including all schedules, exhibits, annexes and appendices hereto), as amended, modified or supplemented from time to time.

"**Alteration**" is defined in Section 7.14.

"**Annual Budget**" is defined in Section 5.1(D) hereof.

"**Assignment(s)**" means individually and collectively, the assignments of contracts, the assignments of licenses, permits and approvals, and such other assignments of even date herewith, if any, from Borrower to or for the benefit of Lender.

"**Attributed Income Tax Liability**" means any liability (including any estimated liability to the extent amounts are required to be paid on an estimated basis) for federal, state and local income taxes which is attributable to shareholders of the Borrower under the provisions of Subchapter S of the Code or analogous state and local income tax laws arising from the income, deductions and credits of the Borrower, including any liability for taxes and interest resulting from a final audit adjustment. The Attributed Income Tax Liability shall be computed by assuming that the applicable federal income tax rate for each shareholder is the maximum rate, and the applicable state and local income tax rate is the maximum rate applicable to a resident of the City of New York and the State of New York, and without regard to any other income, expense, deduction, loss or credit of any such shareholder.

"**Bankruptcy Code**" means Title 11 of the United States Code entitled "Bankruptcy," as amended from time to time and all rules and regulations promulgated thereunder.

"**Base Rate**" means: (i) with respect to Component A of Tranche A, a fixed rate of interest equal to 11.20% per annum; (ii) with respect to Component B of Tranche A, a fixed rate of interest equal to 3.5% per annum until such L/C is drawn upon; draws under any L/C shall have a fixed rate of interest equal to 11.20% per annum; and (ii) with respect to Tranche B, a fixed rate per annum equal to 11.24%.

"**Borrower Representative**" means Neal McGrail, an executive officer of the Borrower.

"**Budget**" means a budget setting forth the projected revenues and budgeted costs and expenses for the ownership, operation and management for each of the GSP and GYH, the Mortgaged Property in the aggregate, and the business and operations of the Borrower, for each calendar year commencing with calendar year 2006.

"**Business Day**" means any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state is closed.

"**Calculation Date**" means for any measurement as of the end of any Loan Month the fifteenth (15th) day of the following Loan Month (e.g. if the measurement is as of March 31, the applicable Calculation Date is April 15).

"**Capital Lease**" means any lease of any property (whether real, personal or mixed) that, in conformity with GAAP, should be accounted for as a capital lease.

"**Capital Plan**" means Borrower's budget for capital improvements and equipment for the Mortgaged Property for each calendar year.

"**Change of Control**" means the occurrence of any of the following events:

(A) the sale, lease or transfer (other than by way of merger, consolidation, amalgamation or other business combination transaction), in one or a series of related transactions, of all or substantially all of the assets of the Borrower, taken as a whole, to any Person other than one or more Permitted Holders; provided that any sale, lease or transfer otherwise permitted under this Agreement shall not constitute a Change of Control; or

(B) the Borrower becomes aware of the acquisition by any Person or group (within the meaning of Section 13(d)(3) on Section 14(d)(2) of the Exchange Act, as in effect as of the date hereof), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, as in effect as of the date hereof), other than Permitted Holders, in a single transaction or in a series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3(a) under the Exchange Act, as in effect as of the date hereof) of more than 50% of the total voting power of the Voting Shares of the Borrower or any holding company of the Borrower; provided that any Voting Shares of which any Permitted Holder is the beneficial owner shall not in any case be included in any Voting Shares of which any such person or group is the beneficial owner.

"**Closing**" means that all conditions for disbursement of the initial proceeds of the Loan to or for the benefit of Borrower have been satisfied or waived in writing by Lender and the initial disbursement of the proceeds of the Loan shall have been made to, or upon the order of, Borrower.

"**Closing Checklist**" means the closing checklist attached hereto as **Exhibit C**.

"**Closing Date**" means the date on which the Closing occurs.

"**Code**" means the United States Internal Revenue Code of 1986, and any rule or regulation promulgated thereunder from time to time.

"**Collateral**" means the Mortgaged Property and all other real and personal property of Borrower or any other Person pledged or mortgaged to Lender as collateral security for repayment of the Loan.

"**Confidential Information**" is defined in Section 11.12.

"**Component A**" means that portion of Tranche A in the principal amount of $12,375,000.00.

"**Component B**" means that portion of Tranche A in the principal amount of $8,925,000.00, which has been allocated for the Letter of Credit.

"**Construction**" means the restoration, the alterations, the construction, equipping, fixturing and furnishing of any capital improvements and Tenant Improvements and any other construction, equipping, fixturing and furnishing, approved (or deemed approved) by Lender.

"**Construction Legal Compliance**" means Borrower's satisfaction of all of the following with respect to the Mortgaged Property: (A) (i) the applicable Construction through the applicable date of determination, has been constructed substantially in accordance with the applicable plans and specifications (other than deviations therefrom that are immaterial individually and in the aggregate); and (ii) the applicable Construction has been, or will be, constructed in substantial compliance with all Legal Requirements; (B) all material entitlements, approvals, allocations, certificates, authorizations, permits and licenses required through the then-current stage of Construction have been obtained from all appropriate Governmental Authorities and have been validly and irrevocably obtained without qualification, appeal or existence of unexpired appeal periods; (C) all conditions to the issuance of, and the requirements under, all permits, conditional use permits and licenses required through the current stage of construction have been satisfied in all material respects; and (D) no appeals, suits or other actions are pending or threatened in writing by any Governmental Authority which, if determined adversely to the interests of Borrower or the Mortgaged Property, would result in the revocation, suspension or qualification of any of such permits or approvals.

"**Contingent Obligation**," as applied to any Person, means any direct or indirect liability, contingent or otherwise, of that Person: (A) with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (B) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (C) under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar agreement or arrangement designed to protect the applicable Person against fluctuations in interest rates; or (D) under any foreign exchange contract, currency swap agreement or other similar agreement or arrangement designed to protect that Person against fluctuations in currency values. Contingent Obligations shall include (1) the direct or indirect guaranty, endorsement (other than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of another, (2) the obligation

to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement, and (3) any liability of such Person for the obligations of another through any agreement to purchase, repurchase or otherwise acquire such obligation or any property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed.

"**Contracts**" is defined in that certain Assignment of Contracts dated of even date herewith, by and between Borrower and Lender, as amended, modified or supplemented from time to time.

"**Contractual Obligation,**" as applied to any Person, means any written indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject including the Loan Documents.

"**Control**" (including with correlative meanings, the terms "controlling," "controlled by" and "under common control with") means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Covenant Cash Flow Certification**" is defined in Section 5.1(A).

"**Debt Maintenance Test**" shall be determined in accordance with **Schedule 1** attached hereto and made a part hereof.

"**Default**" means a condition or event that, after notice or lapse of time or both, would constitute an Event of Default if that condition or event were not cured or removed within any applicable grace or cure period.

"**Default Interest**" is defined in Section 2.2(A).

"**Default Rate**" means a rate per annum equal to the Base Rate plus five percent (5%).

"**Distribution**" is defined in Section 7.12.

"**Dollars**" and the sign "$" mean the lawful money of the United States of America.

"**DSCR**" or "**Debt Service Coverage Ratio**" shall be determined in accordance with **Schedule 2** attached hereto and made a part hereof.

"**Embargoed Person**" is defined in Section 4.9

"**Employee Benefit Plan**" means any employee benefit plan (as defined in Section 3(3) of ERISA),or any plan (as defined in Section 4975(e)(1) of the Code), or any entity, the assets of

which are deemed to be the assets of an employee benefit plan or a plan pursuant to 29 C.F.R. §2510.3-101.

"**Environmental Claims**" is defined in Section 4.13.

"**Environmental Laws**" means all present and future federal, state and/or local laws, statutes, ordinances, codes, rules, regulations, orders, decrees, licenses, orders, injunctions, requirements and/or directives of Governmental Authorities, as well as common law, imposing liability, standards of conduct or otherwise pertaining or relating to, or for, for the environment, industrial hygiene (to the extent related to exposure to Hazardous Materials), the regulation of Hazardous Materials, natural resources, pollution or waste management.

"**Environmental Reports**" means those reports and audits itemized on **Schedule 1.1(B)** hereto.

"**Equipment Lease**" means a lease to the Borrower of "equipment" (as defined in the UCC).

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and all rules and regulations promulgated thereunder form time to time.

"**ERISA Affiliate**" means, as used with respect to the Borrower, any entity which is treated as a single employer with the Borrower under the meaning of Section 414(b), (c), (m) or (o) of the Code.

"**Event of Default**" is defined in Section 9.1.

"**Excess Interest**" is defined in Section 2.2(C).

"**Existing Indebtedness**" means the mortgage loan encumbering a portion of the Mortgaged Property immediately prior to the Closing and the other Indebtedness set forth on Schedule 1.1(A).

"**Financing Statements**" means the UCC Financing Statements naming Borrower, as debtor, and Lender, as secured party, and filed with such filing offices as Lender may require.

"**FIRREA**" means The Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73 Stat. 183 (1989) and the regulations adopted pursuant thereto, as the same may be amended from time to time.

"**Fixtures**" means all fixtures, machinery, furnishings, equipment, furniture and other tangible personal property now or hereafter affixed or attached to the Land or in the Improvements, together with all accessions, replacements and substitutions thereto or therefor and the proceeds thereof. Fixtures do not include fixtures owned by tenants under Leases of the Mortgaged Property or any part thereof.

"**GAAP**" means generally accepted accounting principles in the United States of America, consistently applied, as of the date in question.

"**Governmental Authority**" means the United States of America, any state, any foreign governments and any political subdivision or regional division of the foregoing, and any agency, department, court, regulatory body, commission, board, bureau or instrumentality of any of them.

"**Ground Lease(s)**" means those documents pursuant to which each of Borrower's leasehold interests in the Mortgaged Property have been created.

"**Ground Lessor**" means each landlord upon each Ground Lease.

"**Ground Lessor Estoppel**" means any estoppel certificates, consents or approvals of the Ground Lessor reasonably determined by Lender to be necessary or desirable in connection with the making of the Loan.

"**Group**" means any Person or Persons acting together which would constitute a "group" for purposes of Section 13(d) of the Exchange Act, as in effect on the date hereof, together with all affiliates and associates (as defined in Rule 12b-2 under the Exchange Act, as in effect on the date hereof) thereof.

"**GSP**" means that portion of the Mortgaged Property known as the Greenville-Spartanburg Airport facility.

"**GYH**" means that portion of the Mortgaged Property known as the Donaldson Center Industrial Air Park.

"**Hazardous Materials**" means (a) any pollutants, toxic pollutants, oil, gasoline, petroleum products, asbestos, materials or substances containing asbestos, explosives, chemical liquids or solids, radioactive materials, polychlorinated biphenyls or related or similar materials, or any other solid, liquid or other emission, substance, material, product or by-product defined, listed or regulated as a hazardous, noxious, or toxic substance, material or waste or defined, listed or regulated as causing cancer or reproductive toxicity, or otherwise defined, listed or regulated as hazardous or toxic in, pursuant to, or by any federal, state or local law, ordinance, rule, or regulation, now or hereafter enacted, amended or modified, in each case to the extent applicable to the Mortgaged Property including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601, *et seq.*); the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, *et seq.*); the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, *et seq.*); Sections 25117, 25281, 25316 or 25501 of the California Health & Safety Code; any so-called "Superfund" or "Superlien" law; the Toxic Substance Control Act of 1976 (15 U.S.C. Section 2601 *et seq.*); the Clean Water Act (33 U.S.C. Section 1251 *et seq.*); and the Clean Air Act (42 U.S.C. Section 7901 *et seq.*); (b) any substance which is or contains asbestos, radon, polychlorinated biphenyl, urea formaldehyde foam insulation, explosive or radioactive material, lead paint, motor fuel or other petroleum hydrocarbons, or (c) fungus, mold, mildew, or other biological agents the presence of which would reasonably be expected to have a Material Adverse Effect.

"**Impositions**" means all real estate and personal property taxes, and vault charges and all other taxes, levies, assessments and other similar charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of every kind and nature whatsoever, which at any time prior to, at or after the execution hereof may be assessed, levied or imposed by, in each case, a

Governmental Authority upon the Mortgaged Property or upon the ownership, use, occupancy or enjoyment thereof, and any interest, cost or penalties imposed by such Governmental Authority with respect to any of the foregoing. Impositions shall not include any sales or use taxes or any income taxes payable by Borrower.

"**Improvements**" means all buildings, improvements, alterations or appurtenances now, or at any time hereafter, located upon, in, under or above the Land or any part thereof to the extent of Borrower's right, title and interest therein.

"**Indebtedness**" means with respect to any Person, without duplication, (a) any indebtedness of such Person for borrowed money (whether by loan, the issuance and sale of debt securities or the sale of any property or asset of such Person to another Person subject to an understanding or agreement, contingent or otherwise, to repurchase such property from such Person), (b) any obligations of such Person for the deferred purchase price of property or services (other than trade payables or other accounts payable incurred in the ordinary course of such Person's business and not outstanding for more than 90 days after the date such payable was created unless such Person's obligations thereunder are being contested in good faith), (c) any obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) any obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) any obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as Capital Leases, (f) any obligations of such Person as a result of any final judgment rendered against such Person or any settlement agreement entered into by such Person with respect to any litigation (unless such obligations are stayed upon appeal (for so long as any such appeals shall be maintained)) which are not fully discharged or bonded within thirty (30) days after the entry of such judgment or execution of such settlement agreement, (g) any obligations, contingent or otherwise, of such Person in respect of acceptances, letters of credit or similar extensions of credit, (h) any Contingent Obligations, and (i) any Indebtedness referred to in clauses (a) through (h) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness.

"**Indemnified Liabilities**" is defined in Section 11.3.

"**Indemnitees**" is defined in Section 11.3.

"**Interest Rate**" means the applicable of the Base Rate or the Default Rate.

"**Investment**" means (A) any direct or indirect purchase or other acquisition by Borrower of any beneficial interest in, including stock, partnership interest or other Securities of, any other Person (not including wholly-owned subsidiaries) or (B) any direct or indirect loan, advance or capital contribution by Borrower to any other Person (not including wholly-owned Subsidiaries), including all indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business.

"**Land**" means the real estate comprising the Mortgaged Property, as more specifically described in the Mortgage including all oil, gas and mineral rights, oil, gas and minerals (whether before or after extraction), easements, appurtenances, water rights, water stock, rights in and to streets, roads and highways (whether before or after vacation thereof), hereditaments and privilege relating, in any manner whatsoever, to the Land (to the extent Borrower has any right, title or interest therein). The Land is legally described on **Exhibit A**.

"**Leases**" means any and all leases, subleases, occupancy agreements or grants of other possessory interests, whereby Borrower acts as the lessor, sublessor, licensor, grantor or in another similar capacity, now or hereafter in force, oral or written, covering or affecting the Land or Improvements, or any part thereof, together with all rights, powers, privileges, options and other benefits of Borrower thereunder and any and all guaranties of the obligations of the lessees, sublessees, occupants, and grantees thereunder (including Rents), as such leases, subleases, occupancy agreements or grants may be extended, renewed, modified or replaced from time to time (exclusive of the GSP Lease, the GYH Lease and any ground lease having Borrower as ground lessee).

"**Legal Requirements**" means all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting Borrower, the Mortgaged Property or any part thereof, the construction, use, alteration or operation thereof, or any part thereof, or any or all of any other Collateral whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record, known to Borrower or otherwise, at any time in force and affecting Borrower or the Mortgaged Property, or any part thereof, or any or all of the other Collateral including, without limitation, any which may (a) require repairs, modifications or alterations in or to the Mortgaged Property or any part thereof, or (b) in any way limit the use and enjoyment thereof.

"**Letter of Credit**" means an irrevocable, unconditional, transferable, Letter of Credit by Lender in favor of U.S. Bank as credit facility trustee in the amount of $8,925,000.00 by order and for account of Borrower issued by Wachovia Bank National Association. Commencing in June, 2009, such Letter of Credit shall be renewable or terminable by Lender, in Lender's sole absolute discretion. If Lender declines to renew such Letter of Credit or elects to terminate such Letter of Credit, Lender shall give Borrower written notice of Lender's decision at least sixty (60) days prior to the termination or Letter of Credit expiration date, as the case may be.

"**Lien**" means any lien, mortgage, pledge, security interest, charge or monetary encumbrance of any kind, whether voluntary or involuntary (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any agreement to give any security interest) and (b) any negative pledge or analogous agreement including any agreement not to directly or indirectly convey, assign, sell, mortgage, pledge, hypothecate, grant a security interest in, grant options with respect to, transfer or otherwise dispose of, voluntarily or involuntarily, by operation of law or otherwise, any direct or indirect interest in an asset or direct or indirect interest in the ownership of an asset.

"**Loan**" means the loan in the aggregate principal amount of $25,000,000.00 from Lender to Borrower as evidenced by the Note.

"**Loan Documents**" means this Agreement, the Note, the Mortgage, the Assignments, the Financing Statements and all other documents, instruments, certificates and other deliveries made by Borrower to Lender in accordance herewith or which otherwise evidence, secure and/or govern the Loan.

"**Loan Month**" means a calendar month.

"**Loan Quarter**" means a calendar quarter.

"**Material Adverse Effect**" means (A) a material adverse effect upon the business, operations, properties, assets or condition (financial or otherwise) of Borrower or the Mortgaged Property taken as a whole, or (B) the impairment, in any material respect, of the ability of Borrower to perform its respective obligations under any of the Loan Documents or of Lender to enforce or collect any of the Obligations. In determining whether any individual event would result in a Material Adverse Effect, notwithstanding that such event does not of itself have such effect, a Material Adverse Effect shall be deemed to have occurred if the cumulative effect of such event and all other then existing events having a direct impact on Borrower or the Mortgaged Property would result in a Material Adverse Effect.

"**Material Contracts**" means (a) the Ground Leases, (b) any agreements evidencing the Permitted Encumbrances (not including the Letter of Credit or any agreement related to Permitted Encumbrances related to the Letter of Credit to the extent such Letter of Credit is no longer to be funded by Lender), and (c) those GSP and GYH Leases and/or Contracts (not otherwise referred to in this definition of Material Contracts) set forth on **Schedule 4.6(C)** attached hereto which, if not complied with by Borrower, would reasonably be expected to have a Material Adverse Effect.

"**Maturity Date**" means (a) with respect to the Tranche A Promissory Note, December 1, 2016, (b) with respect to the Tranche B Promissory Note, December 1, 2016 or (c) such earlier date as the Loan is prepaid in full or accelerated.

"**Maximum Rate**" is defined in Section 2.2(C).

"**Minimum DSCR**" is 1.50 to 1.00.

"**Mortgage**" means collectively, each of the GSP and GYH leasehold mortgages and security agreements of even date herewith from Borrower to or for the benefit of Lender, constituting a first Lien on the Mortgaged Property as collateral for the Loan.

"**Mortgaged Property**" means Borrower's right, title and interest in the Land, the Improvements, the Fixtures, the Leases and the Rents, the Proceeds thereof and all substitutions therefor, replacements and accessions thereto, and proceeds including "proceeds" (as defined in the UCC) derived therefrom of each of GHY and GSP, all as more specifically described in the Mortgage.

"**Multiemployer Plan**" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA.

"**Note**" means, collectively, the Tranche A Promissory Note and the Tranche B Promissory Note, together with the Substitute Notes and all future advances, extensions, renewals, substitutions, modifications and amendments of the Promissory Note and Substitute Notes.

"**Obligations**" means, in the aggregate, all obligations, liabilities and indebtedness of every nature of Borrower from time to time owed to Lender under the Loan Documents, including the aggregate principal amount of all debts, claims and indebtedness, accrued and unpaid interest and all fees, costs and expenses, whether primary, secondary, direct, contingent, fixed or otherwise, heretofore, now and/or from time to time hereafter owing, due or payable to Lender under the Loan Documents whether before or after the filing of a proceeding under the Bankruptcy Code by or against Borrower. The term "Obligations" shall also include any judgment against Borrower or the Mortgaged Property with respect to such obligations, liabilities and indebtedness of Borrower.

"**OFAC**" is defined in Section 4.9.

"**Officer's Certificate**" means the certificate of an executive officer, chief financial officer or other officer or representative with knowledge of the matters addressed in such certificate.

"**Organizational Documents**" means, as applicable, for any Person, such Person's articles or certificate of incorporation, by-laws, partnership agreement, trust agreement, certificate of limited partnership, articles of organization, certificate of formation, shareholder agreement, voting trust agreement, operating agreement, limited liability company agreement and/or analogous documents, as amended, modified or supplemented from time to time.

"**Payment Date**" means the 1st day of each calendar month commencing on February 1st, 2007.

"**Pension Plan**" means any employee pension benefit plan (as defined in Section 3(2) of ERISA), including any Multiemployer Plan, that is subject to Title IV of ERISA.

"**Permitted Contest**" is defined in Section 5.3(B).

"**Permitted Encumbrances**" means the following: (a) the Leases identified on **Schedule 4.6(C)** and Leases hereafter entered into in compliance with this Agreement, (b) the matters identified on **Exhibit B**, (c) the Ground Leases, each with respect to the Mortgaged Property and (d) the title policy exceptions identified in each of the Title Policies.

"**Permitted Holder**" means any of (i) Thomas C. Foley and the members of his immediate family and/or any of his or their descendants who are legal heirs; (ii) any Person Controlled by Thomas C. Foley and any directors or executive officers of such Person; (iii) any trust or similar instrument created for the benefit of the persons described in clause (i); and/or (iv) any Successor Fixed Base Operator.

"**Permitted Indebtedness**" means (a) ordinary and customary trade payables, including, but not limited to those incurred in the ordinary course of business of ownership and operation of the Mortgaged Property, (b) working capital financing from Wachovia Bank, N.A. and/or its affiliates not to exceed $10,000,000.00, (c) floor plan financing, (d) the Loan, (e) any Existing Indebtedness, and extensions, renewals and refinancings thereof, (f) the Obligations, (g) Indebtedness secured by Liens which constitute Permitted Encumbrances, and extensions, renewals and refinancings thereof, (h) Indebtedness of the Borrower to any Subsidiary of Borrower or Indebtedness of any Subsidiary of Borrower to the Borrower or another Subsidiary of Borrower, and unsecured guarantee obligations made in the ordinary course of business by the Borrower or any of its Subsidiaries of obligations of the Borrower or any Subsidiary of the Borrower, (i) any Indebtedness which is expressly subordinated to the Obligations, (j) hedging obligations for bona fide hedging purposes, provided that such Hedging Obligations shall be for bona fide hedging purposes and not for speculation, (k) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is extinguished within five business days of incurrence; (l) guarantees of the Borrower or any Subsidiary of the Borrower of the Indebtedness of any Subsidiary of the Borrower, and guarantees of the Borrower or any Subsidiary of the Borrower of any Existing Indebtedness, (m) Indebtedness represented by letters of credit and guarantees for the account of the Borrower in order to provide security for workers' compensation claims, payment obligations in connection with self-insurance or similar requirements in the ordinary course of business, and other Indebtedness with respect to workers' compensation claims, self-insurance obligations, performance, surety and similar bonds, and completion guarantees provided by the Borrower in the ordinary course of business and (n) any other Indebtedness, in addition to the Indebtedness listed above, provided that at the time of incurring such Indebtedness referred to in this clause (n), and after taking into account such Indebtedness, (y) Borrower is in compliance with both the Debt Maintenance Test and the Minimum DSCR and (z) no Event of Default shall have occurred and be continuing.

"**Person**" means and includes natural persons, corporations, limited liability companies, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governments and agencies and political subdivisions thereof and their respective permitted successors and assigns (or in the case of a governmental person, the successor functional equivalent of such Person).

"**Physical Condition Report**" means the report(s) regarding the physical inspection of the Land and Improvements listed on **Schedule 1.1(C)**.

"**Post-Closing Endeavor Letter**" means a certain letter agreement of even date herewith between Borrower and Lender regarding satisfaction of certain conditions to the Closing.

"**Prescribed Laws**" means, collectively, (a) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (The USA PATRIOT Act), (b) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and implementing

regulations thereto, (c) the International Emergency Economic Power Act, 50 U.S.C. § 1701 *et seq.*, (d) all other laws, regulations and executive orders administered by OFAC and (e) all other Legal Requirements relating to money laundering or terrorism.

"**Proceeds**" is defined in Section 8.1.

"**Promissory Note**" means the Tranche A Promissory Note and the Tranche B Promissory Note, each dated of even date herewith made by Borrower to the order of Lender in the original aggregate principal amount of $25,000,000.00.

"**Proprietary Rights**" is defined in Section 4.11.

"**Rents**" means rents, income, receipts, royalties, profits, issues, service reimbursements, fees, termination payments receivables, accounts receivable and payments from or related to the Land and/or Improvements from time to time accruing under the Leases.

"**Retiree Medical Plan**" is defined in Section 4.10.

"**Required Restoration Date**" is defined in Section 8.1.

"**Restoration**" is defined in Section 8.1.

"**'S' Corporation**" means a small business corporation for which an election under Section 1362(a) of the Code is in effect.

"**Securities**" means any stock, shares, voting trust certificates, bonds, debentures, options, warrants, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"**Securitization**" is defined in Section 10.1.

"**Subsidiary**" means, with respect to any Person (the "**parent**") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than fifty percent (50%) of the ordinary voting power or, in the case of a partnership, more than fifty percent (50%) of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more Subsidiaries of the parent or by the parent and one or more Subsidiaries of the parent.

"**Substitute Note**" means all notes given in substitution or exchange for the Promissory Note or another Substitute Note.

"**Successor Fixed Based Operator**" means an existing and established fixed based operator who on a combined proforma basis (after giving effect to any Change in Control) would have a minimum of $200,000,000 in annual revenues (with reference to Schedule 1), a lease-adjusted debt to EBITDAR ratio of no more than 4.0, measured on the basis of the average proforma EBITDAR for the prior twenty-four months (calculated in accordance with the methodology set forth in Schedule 1), is fully qualified to perform the duties and obligations of Borrower under the applicable Ground Lease and meets all FAA and Department of Transportation licensure and regulatory requirements, or any other Person, who upon the occurrence of a Change of Control reasonably approved by Lender, engages a fixed base operator having qualifications consistent with the foregoing.

"**Title Company**" means Lawyers Title Insurance (a Land America company).

"**Title Policy**" means a leasehold mortgagee's policy of title insurance issued on the 1992 Form B ALTA form by the Title Company (or the closest equivalent available in any given jurisdiction), together with such reinsurance and direct access agreements as Lender may reasonably require, insuring that each Mortgage is a valid first and prior enforceable lien on Borrower's leasehold interest in the Mortgaged Property (including any easements appurtenant thereto but excluding any non-real estate property interests included in the definition of Mortgaged Property) subject only to the Permitted Encumbrances. The Title Policy shall contain such endorsements as Lender may reasonably require.

"**Total Loss**" means (i) a casualty, damage or destruction of all or any portion of the Mortgaged Property, the cost of restoration of which (as reasonably determined by Lender) would exceed $6,000,000.00, (ii) a permanent taking of twenty-five percent (25%) or more of the gross leasable area of the Land or Improvements, (iii) a permanent taking of twenty-five percent (25%) or more of the automobile parking spaces located on the Land or such number of parking spaces as would cause the Borrower or the Mortgaged Property to cease to comply with applicable Legal Requirements, Leases or the Ground Lease, or (iii) a permanent taking of so much of the Land or Improvements, in either case, such that it would be impracticable, in Lender's reasonable discretion, even after restoration, to operate the Mortgaged Property as an economically viable whole and with respect to which the Leases or Ground Leases do not require such restoration.

"**Tranche A**" means that portion of the Loan in the principal amount of $21,300,000.00, which is composed of Component A and Component B.

"**Tranche B**" means that portion of the Loan in the original principal amount of $3,700,000.00.

"**Tranche A Promissory Note**" means that certain Tranche A Secured Promissory Note dated as of the date hereof made by Borrower to the order of Lender in the original principal amount of $21,300,000.00.

"**Tranche B Promissory Note**" means that certain Tranche B Promissory Note dated as of the date hereof, herewith made by Borrower to the order of the Lender in the original principal amount of $3,700,000.00.

"**Transfer**" means, (a) when used as a verb, to, directly or indirectly, lease, sell, assign, convey, give, exchange, devise, mortgage, encumber, pledge, hypothecate, alienate, grant a security interest, or otherwise create or suffer to exist any Lien, transfer or otherwise dispose, or to contract or agreement to do any of the foregoing, whether by operation of law, voluntarily, involuntarily or otherwise as well as any other action or omission which has the practical effect of initiating or completing the foregoing and (b) when used as a noun, a direct or indirect, lease, sale, assignment, conveyance, gift, exchange, devise, mortgage, encumbrance, pledge, hypothecation, alienation, grant of a security interest or other creation or sufferance of a Lien, transfer of other disposition, or contract or agreement by which any of the foregoing may be effected, whether by operation of law, voluntary or involuntary and any other action or omission which has the practical effect of initiating or completing the foregoing.

"**Treasury Rate**" means the annualized yield on securities issued by the United States Treasury having a maturity corresponding to the remaining term to the originally scheduled Maturity Date, as quoted in Federal Reserve Statistical Release H. 15(519) under the heading "U.S. Government Securities – Treasury Constant Maturities" for the Treasury Rate Determination Date (as defined below), converted to a monthly equivalent yield. If yields for such securities of such maturity are not shown in such publication, then the Treasury Rate shall be determined by Lender by linear interpolation between the yields of securities of the next longer and next shorter maturities. If said Federal Reserve Statistical Release or any other information necessary for determination of the Treasury Rate in accordance with the foregoing is no longer published or is otherwise unavailable, then the Treasury Rate shall be reasonably determined by Lender based on comparable data.

"**208972**" means the plan asset regulation of the Department of Labor codified at 29 C.F.R. § 2510.3-101.

"**UCC**" means the Uniform Commercial Code as in effect in the State of New York.

"**UCC Collateral**" is defined in Section 2.9.

"**Voting Shares**" means the outstanding Stock or other equity interests of the Borrower or any successor thereto having voting power to elect a majority of the Board of Directors or managers of the Borrower or any successor thereto, as applicable.

"**Yield Maintenance Amount**" means the positive excess, if any, as of the date of prepayment of (i) the present value of the Yield Maintenance Cash Flows, which present value shall be calculated using a discount rate equal to "X" divided by 12; where "X" equals the Treasury Rate plus two and one-half percent (2.5%) (the "**Yield Maintenance Spread**") in the event of a prepayment of the Note, over (ii) the outstanding principal balance of the Loan on the date of prepayment. For purposes of computing the Yield Maintenance Amount with regard to Section 2.4(C)(iii) the date of prepayment shall be deemed the date the Loan is accelerated. The Yield Maintenance Amount shall be computed assuming the scheduled "Maturity Date" of each of the applicable Notes. Notwithstanding the foregoing, (a) if a Change of Control occurs that is not permitted hereunder, and is not otherwise approved by the Lender, Borrower shall be given a period of up to 90 days to pay the Obligations in full, together with the Yield Maintenance Amount, calculated with a Yield Maintenance Spread equal to three and one half percent (3.5%)

and (b) in no event will any Indebtedness related to the Letter of Credit (but only to the extent not drawn down) be considered in calculating the Yield Maintenance Amount.

"**Yield Maintenance Cash Flows**" mean the aggregate of the monthly scheduled payments that would be payable to Lender from the date of prepayment through the Maturity Date if the Loan were not prepaid, assuming for this purpose that the scheduled payments would be paid in full, in cash on the dates such scheduled payments would be otherwise due and payable and further assuming that all Tranche A Additional Amounts and Tranche B Additional Amounts would have been applied to principal and not interest, provided, however, that in no event will any Indebtedness related to the Letter of Credit (but only to the extent not drawn down) be considered in calculating Yield Maintenance Cash Flows.

1.2 **Terms; Utilization of GAAP for Purposes of Financial Statements Under Agreement**. For purposes of this Agreement, all accounting terms not otherwise defined herein shall have the meanings assigned to such terms in conformity with GAAP. Financial statements and other information furnished to Lender pursuant to subsection 5.1 shall be prepared in accordance with GAAP as in effect at the time of such preparation. No Accounting Changes shall affect financial covenants, standards or terms in this Agreement; provided, that Borrower shall prepare footnotes to the financial statements required to be delivered hereunder that show the differences between the financial statements delivered (which reflect such Accounting Changes) and the basis for calculating financial covenant compliance (without reflecting such Accounting Changes).

1.3 **Other Definitional Provisions**. References to "**Sections**," "**Exhibits**" and "**Schedules**" shall be to Sections, Exhibits and Schedules, respectively, of this Agreement unless otherwise specifically provided. Any of the terms defined in Section 1.1 may, unless the context otherwise requires, be used in the singular or the plural depending on the reference. In this Agreement, "**hereof**," "**herein**," "**hereto**," "**hereunder**" and the like mean and refer to this Agreement as a whole and not merely to the specific section, paragraph or clause in which the respective word appears; words importing any gender include the other genders; references to "**writing**" include printing, typing, lithography and other means of reproducing words in a tangible visible form; the words "**including**," "**includes**" and "**include**" shall be deemed to be followed by the words "**without limitation**"; the phrase "**and/or**" shall mean that either "and" or "or" may apply; the phrases "**attorneys' fees**," "**legal fees**" and "**counsel fees**" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including court costs, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Mortgaged Property and the Collateral and enforcing its rights hereunder and/or the other Loan Documents; references to agreements and other contractual instruments shall be deemed to include subsequent amendments, assignments, and other modifications thereto, but only to the extent such amendments, assignments and other modifications are not prohibited by the terms of this Agreement or any other Loan Document; references to Persons include their respective permitted successors and assigns or, in the case of governmental Persons, Persons succeeding to the relevant functions of such Persons; references to a Person's "**knowledge**" in this Agreement or the other Loan Documents refers to the actual knowledge of the Person in question and such knowledge as a reasonably prudent Person would have acquired by virtue of such inquiry and due diligence as a reasonably prudent Person would have undertaken and all references to statutes and related regulations shall include any amendments of same and any successor statutes

and regulations. Where any provision of this Agreement or any of the other Loan Documents refers to action to be taken by any Person, or which such Person is prohibited from taking, such provisions shall be applicable whether such action is taken directly or indirectly by such Person.

## SECTION 2
## AMOUNTS AND TERMS OF THE LOAN

**2.1 Loan Disbursement and Note.** Subject to the terms and conditions of this Agreement, Lender shall lend the proceeds of the Loan to Borrower on the Closing Date. The proceeds of the Loan shall be used to (i) satisfy a portion of the Existing Indebtedness encumbering the Mortgaged Property, (ii) provide working capital to the Borrower, including the providing for or replacement of the Letter of Credit, (iii) provide for the issuance of the Letter of Credit, and (iv) provide for the payment of Closing costs. The disbursement of the Loan in accordance with the foregoing shall be made on the Closing Date. The Loan shall be evidenced by the Note. The Obligations of Borrower under this Agreement, the Note and the other Loan Documents are secured by, among other things, the Mortgage and the Liens created or arising under the other Loan Documents.

**2.2 Interest.**

(A) **Interest Rate.** Subject to the provisions of Section 2.2(C) hereof, the outstanding principal balance of the Loan shall bear interest at the Base Rate. However, (a) upon and during the continuance of any Default by Borrower in the payment of any sum of principal, interest or other Indebtedness of Borrower owing Lender when due, (b) during the existence of any Event of Default, or (c) after the Maturity Date or earlier upon acceleration of the Loan, the principal amount of the Loan shall bear interest ("**Default Interest**") at the Default Rate. With respect to any scheduled payments of principal and interest (excluding the payment due on the Maturity Date), Borrower will be entitled to a grace period of five (5) days from such date before Default Interest is imposed by reason of such late payment; provided, however, such grace period will not be available more than twice in any 12 Loan Month period and if Borrower fails to make the required payment within said five (5) day period, Default Interest will be calculated from the original due date. Except as set forth in the preceding sentence, the Default Interest shall commence, without notice, immediately upon and from the occurrence of (a), (b) or (c) above, as the case may be, and shall continue until all such Defaults are cured and all sums then due and payable under the Loan Documents are paid in full. Default Interest shall be payable upon demand, and, to the extent unpaid, shall be converted to a monthly equivalent yield at the Default Rate. The obligations of the Borrower under this Agreement, the Note and the other Loan Documents are secured by, among other things, the Mortgage.

(B) **Computation and Payment of Interest.** Interest on the Loan and all other Obligations owing to Lender shall be computed on the daily principal balance of the Note on the basis of a 30 day-month and a 360-day year. Interest on the Loan is payable in arrears. Payments of interest shall be paid to Lender as specified in Section 2.3. In addition, all accrued and unpaid interest shall be paid to Lender on the earlier of the date of prepayment (to the extent prepayment is permitted under Section 2.4) and maturity, whether by acceleration or otherwise. The Loan shall commence to bear interest on the date the proceeds of the Loan are to be disbursed to or for the order of Borrower, provided, however, if the proceeds are disbursed to an

escrowee, the Loan shall commence to bear interest from and including the date of disbursement to such escrowee regardless of the date such proceeds are disbursed from escrow.

(C) **Interest Laws**. Notwithstanding any provision to the contrary contained in this Agreement or the other Loan Documents, Borrower shall not be required to pay, and Lender shall not be permitted to collect, any amount of interest in excess of the maximum amount of interest permitted by law ("**Excess Interest**"). If any Excess Interest is provided for or determined by a court of competent jurisdiction to have been provided for in this Agreement or in any of the other Loan Documents, then in such event: (1) the provisions of this Section shall govern and control; (2) Borrower shall not be obligated to pay any Excess Interest; (3) any Excess Interest that Lender may have received hereunder shall be, at Lender's option, (a) applied as a credit against the outstanding principal balance of the Obligations due and owing to Lender (without any prepayment penalty or premium therefor) or for accrued and unpaid interest thereunder (not to exceed the maximum amount permitted by law), (b) refunded to the payor thereof, or (c) any combination of the foregoing; (4) the interest rate(s) provided for herein shall be automatically reduced to the maximum lawful rate allowed from time to time under applicable law (the "**Maximum Rate**"), and this Agreement and the other Loan Documents shall be deemed to have been and shall be, reformed and modified to reflect such reduction; and (5) Borrower shall not have any action against Lender for any damages arising out of the payment or collection of any Excess Interest. Notwithstanding the foregoing, if for any period of time interest on any Obligation due and owing to Lender is calculated at the Maximum Rate rather than the applicable rate under this Agreement, and thereafter such applicable rate becomes less than the Maximum Rate, the rate of interest payable on such Obligations due and owing to Lender shall, to the extent permitted by law, remain at the Maximum Rate until Lender shall have received or accrued the amount of interest which Lender would have received or accrued during such period on Obligations due and owing to Lender had the rate of interest not been limited to the Maximum Rate during such period.

(D) **Late Charges**. If any scheduled payment of principal and/or interest or other amount owing pursuant to this Agreement or the other Loan Documents is not paid when due, Borrower shall pay to Lender, in addition to all sums otherwise due and payable, a late charge ("**Late Charge**") in an amount equal to three percent (3%) of the unpaid amount. With respect to regular monthly payments of principal and/or interest (excluding the payment due on the Maturity Date), Borrower will be entitled to a grace period of five (5) days from the date due before a late charge is imposed by reason of such late payment; provided, however, such grace period will not be available more than twice in any calendar year. Any unpaid late charge shall bear interest at the Default Rate until paid.

2.3 **Payments**.

(A) Interest for the period commencing on the date of disbursement of the Loan and ending on December 31, 2006 shall be paid on the Closing Date. On each Payment Date thereafter commencing with the Payment Date occurring on February 1, 2007, Borrower shall pay to Lender principal and interest in the amounts set forth on (i) **Schedule 2.3(A)** with respect to the Tranche A Promissory Note, and (ii) **Schedule 2.3(B)** with respect to the Tranche B Promissory Note. With respect to **Schedule 2.3(A)**, if and to the extent the Letter of Credit is

drawn upon, replaced in whole or part by cash or other collateral or otherwise reduced, such **Schedule 2.3(A)** shall be modified by Lender to reflect the foregoing, as applicable.

(B) (i) With respect to the Tranche A Promissory Note, commencing on the Payment Date on February 1, 2012, Borrower shall pay amounts in excess of (i) $216,757.00 (assuming the Letter of Credit has been drawn down or exchanged in full for cash), or (ii) $159,046.00 (if the Letter of Credit is outstanding but not drawn down in whole or part), on each Payment Date, as set forth on **Schedule 2.3(A)** (the "**Tranche A Additional Amounts**"). In Lender's sole discretion, such Tranche A Additional Amounts may be applied by Lender to interest or to reduce the principal amount of the Loan in inverse order of scheduled payment/maturity.

(ii) With respect to the Tranche B Promissory Note, commencing on the Payment Date on February 1, 2012, Borrower shall pay amounts in excess of $54,921.00 on each Payment Date, as set forth on **Schedule 2.3(B)** (the "**Tranche B Additional Amounts**"). In Lender's sole discretion, such Tranche B Additional Amounts may be applied by Lender to interest or to reduce the principal amount of the Loan in inverse order of scheduled payment/maturity.

2.4 **Payments and Prepayments on the Loan; Manner and Time of Payment**. Borrower agrees to pay all of the Obligations relating to the Loan as such amounts become due or are declared due pursuant to the terms of this Agreement and the other Loan Documents. All payments shall be made without deduction, defense, setoff or counterclaim by the wire transfer of good immediately available wire transferred federal funds to Lender's account as indicated on **Schedule 2.4(A)**, or at such other place as Lender may direct from time to time by reasonable notice to Borrower as the account to which all payments by Borrower to Lender hereunder shall be made. Borrower shall receive credit for such funds on the date received if such funds are received by Lender by 1:00 P.M. (New York time) on such day. In the absence of timely receipt, such funds shall be deemed to have been paid by Borrower on the following Business Day. Whenever any payment to be made under the Loan Documents shall be stated to be due on a day that is not a Business Day, or any time period relating to a payment to be made hereunder is stated to expire on a day that is not a Business Day, the payment may be made on the following Business Day and the period will not expire until the following Business Day.

(B) **Maturity**. The outstanding principal balance of the Loan, all accrued and unpaid interest thereon and all other sums owing to Lender pursuant to the Loan Documents, shall be due and payable on the Maturity Date.

(C) **Prepayments**.

(i) Any prepayments on the principal balance of the Loan evidenced by the Note whether voluntary or involuntary, shall be made upon thirty (30) days' prior written notice to Lender and shall be accompanied by payment of interest accrued to the date of prepayment, together with the applicable Yield Maintenance Amount. Any prepayments made pursuant to the foregoing shall be made on a Payment Date, provided, however, Borrower may elect to make any such prepayments on a Business Day which is not a Payment Date if, in addition to all interest which has accrued to and including the date of prepayment and the Yield Maintenance

Amount, Borrower also pays all interest which would accrue on the Loan to, but not including, the Payment Date following the date of prepayment.

(ii) If, following an Event of Default, payment of all or any part of the Loan is tendered by Borrower or otherwise recovered by Lender, such tender or recovery shall be deemed a voluntary prepayment by Borrower and Borrower shall pay to Lender, in addition to the other Obligations, the Yield Maintenance Amount. If the Maturity Date is accelerated, due to an Event of Default or otherwise, or if any prepayment of all or any portion of the Loan hereunder occurs, whether in connection with Lender's acceleration of the Loan or otherwise, or if the Mortgage is satisfied or released by foreclosure (whether by power of sale or judicial proceeding), deed in lieu of foreclosure or by any other means, then the Yield Maintenance Amount shall become immediately due and owing and Borrower shall immediately pay the Yield Maintenance Amount to Lender.

2.5 **Lender's Records; Mutilated, Destroyed or Lost Notes**. The balance on Lender's books and records shall be presumptive evidence (absent manifest error) of the amounts due and owing to Lender by Borrower; provided that any failure to so record or any error in so recording shall not limit or otherwise affect Borrower's obligation to pay the Obligations. In case any Note shall become mutilated or defaced, or be destroyed, lost or stolen, Borrower shall, upon request from Lender, execute and deliver a new Note of like principal amount in exchange and substitution for the mutilated or defaced Note, or in lieu of and in substitution for the destroyed, lost or stolen Note. In the case of a mutilated or defaced Note, the mutilated or defaced Note shall be surrendered to Borrower upon delivery to Lender of the new Note. In the case of any destroyed, lost or stolen Note, Lender shall furnish to Borrower, upon delivery to Lender of the new Note (i) certification of the destruction, loss or theft of such Note and (ii) such security or indemnity as may be reasonably required by Borrower to hold Borrower harmless.

2.6 **Taxes**. Any and all payments or reimbursements made under the Agreement, the Note or the other Loan Documents shall be made free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto arising out of or in connection with the transactions contemplated by the Loan Documents; excluding, however, the following: taxes imposed on the income of Lender by any jurisdiction or any political subdivision thereof; taxes that are not directly attributable to the Loan; and any "doing business" taxes, however denominated, charged by any state or other jurisdiction (all such taxes, levies, imposts, deductions, charges or withholdings and all liabilities with respect thereto, excluding such taxes imposed on income, taxes not directly attributable to the Loan and any "doing business" taxes, herein "**Tax Liabilities**"). If Borrower shall be required by law to deduct any such amounts from or in respect of any sum payable hereunder to Lender, then the sum payable hereunder shall be increased as may be necessary so that, after making all required deductions, Lender receives an amount equal to the sum it would have received had no such deductions been made. In the event that, subsequent to the Closing Date, (1) any changes in any existing law, regulation, treaty or directive or in the interpretation or application thereof, (2) any new law, regulation, treaty or directive enacted or any interpretation or application thereof, or (3) compliance by Lender with any new request or directive (whether or not having the force of law) from any governmental authority, agency or instrumentality does or shall subject Lender to any tax of any kind whatsoever with respect to this Agreement, the other Loan Documents or the Loan, or change the basis of taxation of payments to Lender of principal, fees, interest or any

other amount payable hereunder (except for income taxes, or franchise taxes imposed in lieu of income taxes, imposed generally by federal, state or local taxing authorities with respect to interest or commitment or other fees payable hereunder or changes in the rate of interest or tax on the overall income of Lender, taxes that are not directly attributable to the Loan and any "doing business" taxes, however denominated, charged by any state or other jurisdiction) and the result of any of the foregoing is to increase the cost to Lender of making or continuing its Loan hereunder, as the case may be, or to reduce any amount receivable hereunder, then, in any such case, Borrower shall promptly pay to Lender, within thirty (30) days after its demand, any additional amounts necessary to compensate Lender, on an after-tax basis, for such additional cost or reduced amount receivable, as determined by Lender with respect to this Agreement or the other Loan Documents. If Lender becomes entitled to claim any additional amounts pursuant to this Section 2.6, it shall promptly notify Borrower of the event by reason of which Lender has become so entitled.

2.7 **Application of Payments**. Except as otherwise expressly provided in the last sentence of this Section 2.7, all payments made hereunder shall be applied first, to the payment of any Late Charges and other sums (other than principal and interest) due from Borrower to Lender under the Loan Documents, second, to any interest then due at the Default Rate, third to interest then due at the Base Rate, and last to the principal amount, in inverse order of maturity. Following and during the continuance of an Event of Default, all sums collected by Lender shall be applied in such order of priority to such items set forth below as Lender shall determine in its sole discretion: (i) to the costs and expenses, including reasonable attorneys' and paralegals' fees and costs of appeal, incurred in the collection of any or all of the Loan due or the realization of any collateral securing any or all of the Loan; and (ii) to any or all unpaid amounts owing pursuant to the Loan Documents in any order of application as Lender, in its sole discretion, shall determine.

2.8 **Letter of Credit**. At the Closing, Lender shall cause the issuance and/or renewal of the Letter of Credit, and shall cause such reissuance or renewal of such Letter of Credit until June, 2009. Commencing in June, 2009, Lender may, in Lender's sole and absolute discretion, cause the termination, issuance and/or renewal of the Letter of Credit; provided, however, that Lender shall give Borrower sixty (60) days' prior written notice of Lender's election to terminate, issue and/or renew such Letter of Credit. Each issuance and/or renewal of the Letter of Credit shall be subject to the following terms:

(A) The Letter of Credit shall have an expiration date and terms acceptable to the Lender and the proposed beneficiary;

(B) The applicable portion of any issuance fee that has been paid for the issuance of the Letter of Credit is deemed earned in full on the date hereof, regardless of any draws or lack of draws upon, or subsequent return, cancellation or expiration of the Letters of Credit;

(C) So long as the Letter of Credit remains issued and outstanding, commencing on the Closing Date, the Borrower shall pay the Lender a letter of credit fee at the rate equal to three and one-half percent (3.50%) per annum, payable in arrears on each Payment Date and at maturity, whether by acceleration or otherwise, with the first such payment commencing on the Closing, based on the face amount of the Letter of Credit on such payment date (as such amount may be reduced form time to time hereafter), less any amounts drawn thereunder. Fees for the

period commencing on the Closing Date and ending on the date preceding the next succeeding Payment Date shall be payable by the Borrower to Lender on the Closing Date;

(D) If the beneficiary of the Letter of Credit or any party on its behalf shall draw upon all or any portion of the Letters of Credit, then such drawn amount shall be considered as a distributed amount of the Loan under Tranche A;

(E) Borrower at any time, upon sixty (60) days' prior written notice to Lender, may terminate the Letter of Credit, provided, however, that such termination by Borrower shall not serve to reduce or eliminate Borrower's ability to borrow all or any portion of Component B of Tranche A previously allocated to the Letter of Credit; and

(F) Except as otherwise provided herein, the provisions of this Agreement and all other Loan Documents shall be applicable to the Letter of Credit.

**2.9 Security Agreement**. To secure the payment, performance and discharge of the Obligations, Borrower hereby grants, assigns, transfers, conveys and sets over unto Lender, and hereby grants to Lender a continuing first priority, perfected security interest in all of Borrower's right, title and interest in, to and under any and all of the following, whether now and/or existing and/or now owned and/or hereafter acquired and/or arising.

(1) the Fixtures;
(2) the Leases;
(3) the Rents
(4) the Proceeds; and
(5) together with all accessions to, substitutions for, and replacements of, and of the foregoing and any and all products and cash and non-cash proceeds of any of the foregoing (collectively, the "**UCC Collateral**").

With respect to all UCC Collateral constituting a part of the Mortgaged Properties, this Agreement shall constitute a "security agreement" within the meaning of, and shall create a security interest under, the UCC.

**2.10 Certain Secured Party Remedies**. If an Event of Default shall have occurred and be continuing, Lender shall have all the remedies of a secured party under the UCC and all other rights and remedies now or hereafter provided or permitted by law, including, without limitation, the right to take immediate and exclusive possession of the UCC Collateral, or any part thereof, and for that purpose Lender may, as far as Borrower can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace) upon any premises on which any of the Collateral or any part thereof may be situated, provided, however, Lender shall take no action nor exercise any remedy that would cause or constitute a separate or independent default (other than those defaults, if any, then existing) under either of the Ground Leases. Without limitation of the foregoing, Lender shall be entitled to hold, maintain, preserve and prepare all of the Collateral for sale and to dispose of said Collateral, if Lender so chooses, from any of the Mortgaged Properties, provided that Lender may require Borrower to assemble such UCC Collateral and make it available to Lender for disposition at a place to be designated by Lender from which the UCC Collateral would be sold or disposed of, and provided further that,

for a reasonable period of time prior to the disposition of such UCC Collateral, Lender shall have the right to use same in the operation of the Mortgaged Property. Borrower will execute and deliver to Lender any and all forms, documents, certificates and registrations as may be necessary or appropriate to enable Lender to sell and deliver good and clear title to the UCC Collateral to the buyer at the sale as herein provided. Unless the UCC Collateral is of the type customarily sold on a recognized market, Lender will give Borrower at least ten (10) days' notice of the time and place of any public sale of such UCC Collateral or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice shall be met if such notice is given to Borrower at least ten (10) days before the time of the sale or disposition. Lender may buy at any public sale and, if the UCC Collateral is of a type customarily sold in a recognized market or is a type which is the subject of widely distributed standard price quotations, it may buy at private sale. Unless Lender shall otherwise elect, any sale of the UCC Collateral shall be solely as a unit and not in separate lots or parcels, it being expressly agreed, however, that Lender shall have the absolute right to dispose of such UCC Collateral in separate lots or parcels. Lender shall further have the absolute right to elect to sell the UCC Collateral as a unit with, and not separately from, the Land and Improvements constituting a portion of the Mortgaged Property. The net proceeds realized upon any disposition of the UCC Collateral, after deduction for the expenses of retaining, holding, preparing for sale, selling and the like and the attorneys' fees and legal expenses incurred by Lender shall be applied towards satisfaction of such of the Obligations secured hereby, and in such order of application, as Lender may elect. If all of the Obligations are satisfied, Lender will account to Borrower for any surplus realized on such disposition.

## SECTION 3
## CONDITIONS TO LOAN

**3.1 Conditions to Funding of the Loan on the Closing Date.** The obligation of Lender to disburse the Loan is subject to the prior or concurrent satisfaction of the conditions set forth below.

(A) **Performance of Agreements; Truth of Representations and Warranties; No Injunction.** Borrower and all other Persons executing any Loan Document on behalf of Borrower shall have performed in all material respects all agreements which any of the Loan Documents provide shall be performed on or before the Closing Date. The representations and warranties contained in the Loan Documents shall be true, correct and complete in all material respects on and as of the Closing Date to the same extent as though made on and as of that date (except to the extent such representations or warranties speak as of an earlier date, in which case they shall be true, correct and complete in all material respects as of such earlier date). No Legal Requirements shall have been adopted, no order, judgment or decree of any Governmental Authority shall have been issued or entered, and no litigation shall be pending or threatened, which in the reasonable judgment of Lender would enjoin, prohibit or restrain, or impose or result in an adverse effect upon the making, borrowing or repayment of the Loan or the execution, delivery or performance of the Loan Documents. No Default or Event of Default shall have occurred and then be continuing.

(B) **Opinion of Counsel.** Lender shall have received and approved written opinions of counsel for Borrower, including Borrower's local, New York and Delaware counsel, in form

and substance reasonably satisfactory to Lender and its counsel, dated as of the Closing Date. By execution of this Agreement, Borrower authorizes and directs its counsel to render and deliver such opinions to Lender.

(C) **Loan Documents**. On or before the Closing Date, Borrower shall execute and deliver and cause to be executed and delivered, to Lender all of the Loan Documents, each, unless otherwise noted, dated the Closing Date, duly executed, in form and substance satisfactory to Lender and in quantities designated by Lender (except for the Promissory Note, of which only the original shall be executed). Borrower hereby authorizes Lender to file the financing statements in such filing offices as Lender elects.

(D) **Officer's Certificate**. Lender shall have received and approved an Officer's Certificate executed by the chief financial officer or other senior executive officer of Borrower in his capacity as an officer of the Borrower and not in an individual capacity stating that: (a) on such date, and after giving effect to the Loan, no Default or Event of Default exists; (b) no material adverse change in the financial condition or operations of the business of Borrower has occurred since December 31, 2005; and (c) the representations and warranties of Borrower set forth in this Agreement and the other Loan Documents are true, and correct in all material respects on and as of such date with the same effect as though made on and as of such date, except to the extent such representations and warranties speak as of an earlier date, in which case, they shall be true, correct and complete as of such earlier date.

(E) **Insurance Policies and Endorsements**. Lender shall have received and approved the policies of insurance required to be maintained under this Agreement and the other Loan Documents, together with endorsements satisfactory to Lender naming Lender as additional insured under such policies.

(F) **Organizational and Authorization Documents**. Lender shall have received all documents reasonably requested by Lender, including all Organizational Documents, with regard to the due organization, existence, internal governance, power and authority, due authorization, execution and delivery, authorization to do business and good standing of Borrower and such other Persons as Lender may reasonably designate, the validity and binding effect of the Loan Documents and other matters relating thereto, in form and substance satisfactory to Lender.

(G) **Closing Statement**. Lender shall have received and approved a closing and disbursement statement executed by Borrower with respect to the disbursement of the proceeds of the Loan.

(H) **Financial Statements**. Lender shall have received and approved such financial statements of Borrower as Lender may require. Lender shall have received and approved a pro forma balance sheet of Borrower dated the Closing Date giving effect to the making of the Loan and the transactions occurring on the Closing Date, accompanied by an Officer's Certificate.

(I) **Budget and Capital Plan**. Lender shall have received the Budget and Capital Plan for Borrower for calendar year 2007.

(J) **Ground Lease Matters**. Lender shall have received and approved the Ground Leases and the Ground Lessor Estoppels.

(K) **Appointment of Agent for Service of Process**. Lender shall have received evidence satisfactory of Corporation Service Company's appointment as Borrower's agent for service of process.

(L) **Material Contracts**. Lender shall have received a true, correct and complete certified copy of the Material Contracts. Lender shall have received executed estoppel certificates from all Parties to the Ground Lease designated by Lender (and not otherwise addressed in this Section 3.1).

(M) **Environmental Assessments, Physical Condition Reports and Lender's Inspection**. Lender shall have received and approved the Environmental Reports and Physical Condition Reports relating to the Mortgaged Property, together with letters from the preparer(s) thereof permitting Lender (and Persons designated by Lender) to rely upon the Environmental Reports and Physical Condition Reports. To the extent in the possession of, or reasonably obtainable by, the Borrower, a true, correct and complete copy of "as-built" plans and specifications for the Improvements. Lender shall have completed its site visit(s) to the Mortgaged Property and be satisfied with such visit(s).

(N) **Title Policy, Survey, Searches, Perfection and Priority**. Lender shall have received and approved (i) the Title Policy for and (ii) a plat of survey of the Land, Improvements and other components of the Mortgaged Property constituting real estate certified to such Persons as Lender may designate and prepared in accordance with Lender's requirements. Lender shall have received and approved copies of Uniform Commercial Code financing statement, judgment, tax lien, bankruptcy and litigation search reports of such jurisdictions and offices as Lender may reasonably designate with respect to Borrower and such other Persons as Lender may reasonably require. Lender shall have received such other evidence as Lender may require confirming that Lender has a perfected first priority security interests and Lien upon the Collateral.

(O) **Licenses, Permits and Approvals, Zoning and Land Use Compliance**. Lender shall have received and approved (i) a copy of the permanent certificate of occupancy issued with respect to the Mortgaged Property and all other applicable licenses, permits and approvals required to own, use, occupy, operate and maintain the Mortgaged Property, including all necessary licenses and permits relating to wetlands compliance and use of water; (ii) evidence satisfactory to Lender of the existence, ownership and status of all Proprietary Rights and Material Contracts; and (iii) evidence reasonably satisfactory to Lender as to the compliance in all material respects of the Mortgaged Property with all applicable Legal Requirements including letters from the applicable Governmental Authorities confirming such compliance.

(P) **Leases**. Lender shall have received true, correct and complete certified copies of each of the Leases.

(Q) **Other Documents and Deliveries**. Borrower shall have delivered such other documents and deliveries as are set forth on the Closing Checklist or otherwise waived by Lender.

(R) **Legal Fees; Closing Expenses**. Borrower shall have paid any and all reasonable legal fees and expenses of counsel to Lender, together with all recording fees and taxes, title insurance premiums, and other costs and expenses related to the Loan.

(S) **Photographs**. Borrower shall have provided Lender with reproducible photographs of the Land and Improvements, of such quality, and in such quantities, sizes and views, as Lender may require.

## SECTION 4
## REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender that, after giving effect to the Loan, as of the Closing Date:

4.1 **Organization, Powers, Qualification and Organization Chart**. Borrower is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation. Borrower has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and proposed to be conducted, and to enter into each Loan Document to which it is a party and to perform the terms thereof. Borrower's U.S. taxpayer identification number is set forth on **Schedule 4.1(A)-1**. Borrower is duly qualified and in good standing wherever necessary to carry on its present business and operations, except to the extent that the failure to be so qualified or in good standing would not reasonably be likely to have a Material Adverse Effect. The organization chart attached hereto as **Schedule 4.1(A)-2** correctly identifies each Subsidiary of Borrower and each Person directly owning (and/or indirectly owing ten percent (10%) or more of) the ownership interests in Borrower, each Person that Controls the Borrower and accurately depicts the affiliation, if any, of (i) Borrower, and (ii) each direct or indirect owner of such an interest in Borrower. The principal place of business and chief executive office of Borrower for the five (5) year period preceding the Closing Date is set forth on **Schedule 4.1(A)-3**. Borrower has filed in a timely manner all reports, documents and other materials required to be filed by it with any Governmental Authorities, except for any failure to so file that would not reasonably be expected to have a Material Adverse Effect, and the information contained in each of such filings is true, correct and complete in all material respects). Borrower has retained all records and documents required to be retained by it pursuant to any law, ordinance, rule, regulation, order, policy, guideline or other requirement of any Governmental Authority, except for any failure to so retain such materials as would not reasonably be expected to have a Material Adverse Effect.

4.2 **Authorization of Borrowing; No Conflicts; Governmental Consents; Binding Obligations and License and Security Interests of Loan Documents**. Borrower has the power and authority to incur the Obligations evidenced by the Note and other Loan Documents, to execute and deliver the Loan Documents and to perform its Obligations, to own the Mortgaged Property subject to the Mortgages and to continue its businesses and affairs as presently conducted. The incurring of the Obligations and the execution, delivery and performance by Borrower of each of the Loan Documents to which it is a party and the consummation of the transactions contemplated thereby have been duly authorized by all necessary corporate action. Except as would not reasonably be expected to have a Material Adverse Effect, the incurring of the Obligations and the execution, delivery and performance by Borrower of the Loan Documents to

which it is a party and the consummation of the transactions contemplated thereby do not and will not: (1) violate any provision of law applicable to Borrower or the Mortgaged Property, the Organizational Documents of, or applicable to, Borrower, or any order, judgment or decree of any court or other agency of government binding on Borrower or its properties including the Mortgaged Property; (2) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any Material Contracts or any other agreement or document to which such Person is a party or by which such Person or its property may be bound; (3) result in or require the creation or imposition of any Lien upon the Mortgaged Property or assets of Borrower (other than the Liens of Lender); or (4) require any approval or consent of any Person under any Material Contracts or any other agreement or document to which such Person is a party or by which such Person or its property may be bound (except to the extent such approvals or consents have been unconditionally obtained on or before the Closing Date). The incurring of the Obligations, the execution, delivery and performance by Borrower of the Loan Documents and the consummation of the transactions contemplated thereby do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any federal, state or other Governmental Authority or regulatory body (except to the extent unconditionally obtained on or before the Closing Date). The Loan Documents, when executed and delivered by Borrower, will be the legally valid and binding obligations of Borrower, enforceable against Borrower, subject to bankruptcy, insolvency, moratorium, reorganization and other similar laws affecting creditors' rights generally and to the application of general equitable principles in connection with the enforcement thereof. This Agreement and the Mortgage, together with the Financing Statements to be filed in connection therewith, create a valid, enforceable and perfected lien and security interest in the Mortgaged Property subject to no other interests, Liens or encumbrances, other than the Permitted Encumbrances.

4.3 **Financial Statements**. All financial statements concerning Borrower which have been or will hereafter be furnished by Borrower to Lender pursuant to this Agreement have been or will be prepared in accordance with GAAP consistently applied (except as disclosed therein, to the extent Lender approves such disclosure) present fairly in all material respects, the financial condition of the Persons covered thereby as at the dates thereof and the results of their operations for the periods then ended.

4.4 **Indebtedness**. As of the Closing Date, after giving effect to the transactions contemplated hereby, Borrower does not have any Indebtedness except for the Existing Indebtedness. All material expenses owing or accrued as of the Closing Date which have become due or payable, have been paid in full or have been reserved for in accordance with GAAP. No claim of any creditor of Borrower exists which would have a Material Adverse Effect.

4.5 **No Material Adverse Change**. Since December 31, 2005, no event or change has occurred that has caused or evidences, either individually or together with such other events or changes, a Material Adverse Effect.

4.6 **Title to Property; Liens; Zoning; Contracts; Condition of the Mortgaged Property**.

(A) Borrower has valid and defensible leasehold title to the Land and the Improvements and good title to the other components of the Mortgaged Property, subject only to

the Permitted Encumbrances. Borrower owns or leases all real and personal property necessary for the operation of the Mortgaged Property subject only to the Permitted Encumbrances. Except for the Permitted Encumbrances, the Mortgaged Property is free and clear of Liens and other encumbrances. There are no outstanding Claims and all work, services or materials the provision of which might ripen into a Claim have been fully paid for. There are no delinquent ground rents, assessments for improvements or other similar outstanding charges or Impositions affecting the Mortgaged Property. Except as otherwise set forth on the survey, no Improvements lie outside the boundaries and building restriction lines of the Land or encroach onto any easements to any extent (unless affirmatively insured by the Title Policy), and no improvements on adjoining properties encroach upon the Land to any extent which would materially impair the Mortgaged Property. The Title Policy premium has been fully paid. The Permitted Encumbrances do not and will not materially interfere with the security intended to be provided by the Mortgage, the use or operation of the Mortgaged Property, the ability of the Mortgaged Property to generate Net Cash Flow sufficient to service the Loan or the marketability or value of the Mortgaged Property. Borrower will preserve its right, title and interest in and to the Mortgaged Property for so long as the Obligations remain outstanding and will warrant and defend same and the validity and priority of the Mortgage and the Liens arising pursuant to the Loan Documents from and against any and all claims whatsoever other than the Permitted Encumbrances.

(B) To Borrower's knowledge, Borrower is not in violation of, and, the Mortgaged Property is in full compliance with all applicable zoning, subdivision, land use and other Legal Requirements. No legal proceedings are pending or, to Borrower's knowledge threatened, with respect to the compliance of the Mortgaged Property with Legal Requirements. Subject to the Ground Lease, to Borrower's knowledge in the event that all or any part of the Improvements are destroyed or damaged, said Improvements can be legally reconstructed to their condition prior to such damage or destruction, and thereafter exist for the same use without violating any zoning or other Legal Requirements applicable thereto and without the necessity of obtaining any variances or special permits. To the Borrower's knowledge, all licenses, certificates of occupancy, permits and other Proprietary Rights necessary to operate the Mortgaged Property as it is currently operated are in full force and effect including all liquor licenses, and all water permits and approvals. Borrower has not received any written notice of any violation of any such licenses, permits, authorizations, registrations or approvals that materially impair the value of the Mortgaged Property for which such notice was given or which would affect the use or operation of the Mortgaged Property in any material respect, which noticed violation remains uncured.

(C) Borrower has provided Lender with true and complete copies of all Material Contracts, all of which are specifically listed on **Schedule 4.6(C)** hereof. Except for the Loan Documents and as set forth on **Schedule 4.6(C)**, Borrower is not a party to and neither it nor the Mortgaged Property is bound by any material agreement, document or instrument which is binding upon the Mortgaged Property other than the Loan Documents, the Permitted Encumbrances, the other Material Contracts, if any, and such party's organizational documents, true, correct and complete copies of which have been delivered to Lender. Except for the Loan Documents, Borrower is not a party to or bound by, nor is any of its property subject to or bound by, any contract or other agreement which restricts its ability to conduct its business at the Mortgaged Property in the ordinary course or, either individually or in the aggregate, has a Material Adverse Effect or could reasonably be expected to have a Material Adverse Effect.

Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Material Contract of any such Person which could have a Material Adverse Effect. No Default or Event of Default exists.

(D) All of the Improvements are in good condition and repair. To Borrower's knowledge, except as disclosed in the Physical Condition Report, there are no latent or patent structural or other significant defects or deficiencies in the Improvements or Fixtures. To the Borrower's knowledge, municipal or private water supply, storm and sanitary sewers, and electrical, gas and telephone facilities are available to the Mortgaged Property to the boundary lines of the Mortgaged Property through publicly dedicated streets or highways or perpetual appurtenant easements are sufficient to meet the reasonable needs of the Mortgaged Property as now used or as otherwise presently contemplated to be used, and are connected to, and is in full unimpaired operation with respect to the Improvements and no other utility facilities are necessary to meet the reasonable needs of the Mortgaged Property as now used. Except as set forth on **Schedule 4.6(D)** or on the plat of survey delivered to Lender, no part of the Mortgaged Property is within a flood plain or in a flood hazard area as defined by the Federal Insurance Administration. The Land and Improvements have legally adequate contiguous rights of access to public ways. All roads necessary for the full utilization of the Land and Improvements for their current purpose have been completed and dedicated to public use and accepted by all Governmental Authorities or are validly created and existing perpetual appurtenant easements. No offsite improvements are necessary or used for the ownership, use or operation of the Mortgaged Property, other than public utilities. The Improvements, the Land, the Fixtures and equipment and other tangible property located on the Land constitute all of the real property, equipment, fixtures and other tangible property currently owned or leased by Borrower for use in the operation of the Mortgaged Property and the Fixtures and equipment and other tangible property owned by the Borrower are sufficient to own, operate and use the Land and Improvements as currently operated. Except for the Fixtures and items of tangible personal property owned by tenants under the Leases, no other tangible personal property is located on the Land or in the Improvements. Borrower has not entered into any agreement or option, and is not otherwise bound, to sell the Mortgaged Property (or any part thereof) or to acquire any additional real estate or Investments. As of the date hereof, no portion of the Improvements constituting part of the Mortgaged Property or on the Land has been materially damaged, destroyed or injured by fire or other casualty which has not been fully restored.

(E) Except as qualified on **Schedule 4.6(E)**, with respect to each Ground Lease, either (1) the fee interest of the Ground Lessor is subordinated to the Lien of the Mortgage or (2) all of the following apply to the Ground Lease either by its terms or pursuant to the Ground Lessor Estoppels: (1) such Ground Lease or a memorandum thereof has been duly recorded; such Ground Lease (or the related estoppel letter or lender protection agreement between Lender and the related ground lessor) permits the interest of the lessee thereunder to be encumbered by the Mortgage; (2) the lessee's interest in the Ground Lease is not subject to any Liens or encumbrances superior to, or of equal priority with, the Mortgage other than the ground lessor's related fee interest and Permitted Encumbrances; (3) Borrower's interest in the Ground Lease is assignable to Lender and its successors and assigns upon notice to, but (except in the case where such consent cannot be unreasonably withheld) without the consent of, the lessor thereunder (or, if such consent is required, it has been unconditionally obtained prior to the Closing Date and, in the event that it is so assigned, is further assignable by Lender and its successors and assigns

upon notice to, but without the need to obtain the consent of, such lessor (except in the case where such consent cannot be unreasonably withheld); (4) such Ground Lease is in full force and effect, and Borrower has not received any notice that an event of default has occurred thereunder, and there exists no condition that, but for the passage of time or the giving of notice, or both, would result in an event of default under the terms of such Ground Lease; (5) such Ground Lease, or an estoppel letter or other agreement, requires the lessor under such Ground Lease to give notice of any default by the lessee to Lender, its successors and assigns, and such Ground Lease, or an estoppel letter or other agreement, further provides that no notice of termination given under the Ground Lease is effective against Lender, its successors and assigns unless a copy has been delivered to Lender, its successors and assigns; (6) a mortgagee/beneficiary under a deed of trust is permitted a reasonable opportunity (including, where necessary, sufficient time to gain possession of the interest of the lessee under such Ground Lease) to cure any default under such Ground Lease which is curable after the receipt of notice of any such default, before the lessor thereunder may terminate such Ground Lease; (7) under the terms of such Ground Lease and the Loan Documents taken together, any related insurance proceeds other than in respect of a total or substantially total loss or taking, will be applied either to the repair or restoration of all or part of the related Property, with the mortgagee/beneficiary of a deed of trust or a trustee appointed by it having the right to hold and disburse such proceeds as the repair or restoration progresses (except in such cases where a provision entitling another party to hold and disburse such proceeds would not be viewed as commercially unreasonable by a prudent commercial mortgage lender), or to the payment of the outstanding principal balance of the Loan together with any accrued interest thereon; (8) such Ground Lease does not impose any restrictions on subletting which would be viewed, as commercially unreasonable; and such Ground Lease contains a covenant that the lessor thereunder is not permitted, in the absence of an uncured default, to disturb the possession, interest or quiet enjoyment of any subtenant of the lessee, or in any manner, which would materially adversely affect the security provided by the applicable Mortgage; and (9) such Ground Lease requires the lessor to enter into a new lease with Lender or its successors or assigns in the event of a termination of the Ground Lease by reason of a default by Borrower under the Ground Lease, including rejection of the Ground Lease in a bankruptcy proceeding.

4.7 **Litigation**. Except as set forth on **Schedule 4.7**, there are no judgments outstanding against Borrower or are binding upon the Mortgaged Property or any property of Borrower, nor is there any litigation, governmental investigation or arbitration pending or, to Borrower's knowledge, threatened (in writing) against Borrower, if adversely determined, that (i) could reasonably be expected to result, either individually or in the aggregate, in any Material Adverse Effect or (ii) relate to the transactions contemplated hereby. No petition in bankruptcy, whether voluntary or involuntary, or assignment for the benefit of creditors, or any other action involving debtors' and creditors' rights has ever been filed under the laws of the United States of America or any state thereof, or threatened, by or against, Borrower. There are no mechanics' or materialmen's liens, alienable bills or other claims constituting a Lien on the Mortgaged Property or any part thereof, and no work for which any such Lien could be asserted has been performed payment for which is past due. Borrower has not received any written notice from any governmental or quasi-governmental body or agency or from any person or entity with respect to (and Borrower does not know of) any actual or threatened taking of the Land or Improvements, or any portion thereof, for any public or quasi-public purpose or of any moratorium which may affect the use, operation or ownership of the Mortgaged Property.

4.8 **Payment of Taxes**. All tax returns and reports of Borrower required to be filed by such Persons have been timely filed, and all material taxes, assessments, fees and other governmental charges upon such Person and upon the Mortgaged Property, assets, income and franchises which are due and payable or which have been levied, imposed or assessed and which amounts are due and payable have been paid in full, except to the extent such taxes, assessments, fees or changes are being contested in good faith by appropriate proceedings. To Borrower's knowledge, no tax returns of Borrower are under audit and which amounts are due and payable. No tax liens have been filed and, to Borrower's knowledge no claims are being asserted with respect to any such taxes. The charges, accruals and reserves on the books of Borrower in respect of any taxes or other governmental charges are in accordance with GAAP. **Schedule 4.8** contains a complete and accurate list of all audits of all tax returns that were filed by Borrower since January 1, 2000, including a reasonably detailed description of the nature and outcome of each audit. All deficiencies proposed as a result of such audits have been paid, reserved against, settled, or, as described in **Schedule 4.8**, are being contested in good faith by appropriate proceedings. **Schedule 4.8** describes all adjustments to the United States federal income tax returns filed by Borrower for all taxable years since 1999, and the resulting deficiencies proposed by the Internal Revenue Service. Except as described in **Schedule 4.8**, Borrower has not given or been requested to give waivers or extensions (or is or would be subject to a waiver or extension given by any other Person) of any statute of limitations relating to the payment of taxes of Borrower, or for which Borrower may be liable. All taxes that Borrower is or was required by Legal Requirements to withhold or collect have been duly withheld or collected and, to the extent required, have been paid to the applicable Governmental Authority. All tax returns filed by (or that include on a consolidated basis) Borrower are true, correct and complete. Borrower is taxed as an 'S' corporation for all federal and state income (or analogous) tax purposes. The Borrower does not intend to treat the Loan and related transactions hereunder as being a "reportable transaction" (within the meaning of Treasury Regulation Section 1.6011-4). In the event the Borrower determines to take any action inconsistent with the previous sentence, it will promptly notify the Lender thereof. If the Borrower so notifies Lender, the Borrower acknowledges that Lender may treat the Loan as part of a transaction that is subject to Treasury Regulation Section 301.6112-1, and that Lender may maintain any lists and other records required by such Treasury Regulation.

4.9 **Governmental Regulation; Margin Loan**. Borrower is not, nor after giving effect to the Loan, will be, subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act or the Investment Company Act of 1940 or to any federal or state statute or regulation limiting its ability to incur indebtedness for borrowed money. Borrower shall use the proceeds of the Loan only for the purposes set forth in this Agreement and consistent with all applicable laws, statutes, rules and regulations. No portion of the proceeds of the Loan shall be used by Borrower in any manner that might cause the borrowing or the application of such proceeds to violate Regulation U, Regulation T or Regulation X or any other regulation of the Board of Governors of the Federal Reserve System or to violate the Exchange Act or any other Legal Requirements. The Loan is an exempt transaction under the Truth-in-Lending Act (15 U.S.C.A. §§ 1601 *et seq.*). Borrower is not a non-resident alien for purposes of U.S. income taxation and Borrower is not a foreign corporation, partnership, foreign trust or foreign estate (as said terms are defined in the United States Internal Revenue Code). Borrower is not, and shall not become, a Person with whom Lender is restricted from doing business with under regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including,

but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) or other governmental action relating to terrorism financing, terrorism support and/or otherwise relating to terrorism and are not and shall not engage in any dealings or transaction or otherwise be associated with Persons named on OFAC's Specially Designated and Blocked Persons list. At all times throughout the term of the Loan, including after giving effect to any Transfers, (a) none of the funds or other assets of Borrower constitute property of, or are beneficially owned, directly or indirectly, by any government or other Person subject to trade restrictions under U.S. law, including, but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 *et seq.*, The Trading with the Enemy Act, 50 U.S.C. App. 1 *et seq.*, and any Executive Orders or regulations promulgated thereunder or any other laws, regulations or executive orders administered by the Office of Foreign Assets Control with the result that an investment in Borrower (whether directly or indirectly), is prohibited by law or the Loan made by the Lender is in violation of law ("**Embargoed Person**"); (b) no Embargoed Person has any interest of any nature whatsoever in Borrower, with the result that the investment in Borrower (whether directly or indirectly) is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower have been derived from any unlawful activity with result that the investment in Borrower (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

**4.10** **Employee Benefit Plans; ERISA; Employees**. Borrower is not an Employee Benefit Plan, and the Mortgaged Property and Borrower's assets do not constitute assets of an Employee Benefit Plan. No actions, suits or claims (other than routine claims for benefits) under ERISA which could result in material liability, have been brought, or, to Borrower's knowledge, are threatened against Borrower. Borrower has no material liability which remains unsatisfied for any taxes or penalties with respect to any "employee benefit plan" (as defined in Section 3(3) of ERISA), or of any lien which has been imposed on Borrower's assets pursuant to section 412 of the Code or section 302 or 4068 of ERISA. The Loan, the execution, delivery and performance of the Loan Documents and the transactions contemplated by this Agreement are not a non-exempt prohibited transaction under ERISA. Borrower employs a sufficient number of employees to conduct the business of the Mortgaged Property. Borrower is not a party to any collective bargaining or other employment agreement other than the agreements identified on **Schedule 4.10(A)**. Neither the Borrower nor any ERISA Affiliate currently maintains, administers, contributes to or is obligated to contribute to, or during the five (5) year period ending on the date hereof maintained, administered or contributed to any Pension Plan. Except as required by Section 4980B of the Code or other Legal Requirements, the Borrower does not maintain an employee welfare benefit plan (as defined in Section 3(1) of ERISA) which provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of the Borrower or coverage after a participant's termination of employment ("**Retiree Medical Plan**"). Borrower has made all required contributions to all "employee benefit plans" (as defined in Section 3(3) of ERISA), that it maintains or administers within the time periods required by the applicable provisions of ERISA and any other federal or state law. Each "employee benefit plan" (as defined in Section 3(3) of ERISA) which is maintained by or contributed to by the Borrower complies and shall continue to comply, in all material respects, with the respective terms of such "employee benefit plan" (as defined in Section 3(3) of ERISA) and the provisions of ERISA, the Code and other applicable law. **Schedule 4.10(B)** (which

Borrower may update from time to time for all purposes of this Agreement) contains a true and complete list of each material "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) maintained by or contributed to by the Borrower during the five year period ending on the date hereof or with respect to which Borrower may otherwise reasonably be expected to have liability.

4.11 **Intellectual Property**. **Schedule 4.11** sets forth a true, correct and complete list of all of the patents, trademarks, tradenames, technology, other intellectual property rights and other Proprietary Rights used in the ownership, operation and management of the business of Borrower as conducted at the Mortgaged Property. Borrower possesses, owns or has valid licenses, permits, certificates of public convenience, service marks, authorizations, licenses, patents, patent rights or licenses, trademarks, trademark rights, trade name rights, trade styles, trade dress, logos and other source or business affiliation identifiers, and copyrights, certificates, consents, orders, approvals and other authorizations from, and has made all declarations and filings with, all federal, state, local and other Governmental Authority, all self-regulatory organizations and all courts and other tribunals presently required or necessary to own or lease, as the case may be, and to operate, the Mortgaged Property and to carry on its business as now conducted at the Mortgaged Property in accordance with the Budget, except where the failure to obtain same would not, individually or in the aggregate, have a Material Adverse Effect (collectively, together with the goodwill associated therewith, "**Proprietary Rights**"). Borrower has fulfilled and performed all of its obligations with respect to such permits, and no event has occurred which allows, or after notice or lapse of time would allow, revocation or termination thereof or could result in any other material impairment of the rights of the holder of any such permit; and Borrower has not received any notice of any proceeding relating to unenforceability, invalidity, revocation or modification of any Proprietary Rights, except where such failure to fulfill or perform obligations, revocation, unenforceability, invalidity, or modification would not, individually or in the aggregate, have a Material Adverse Effect. Borrower has not received any notice that any Proprietary Rights have been declared unenforceable or otherwise invalid by any court or Governmental Authority other than notices relating to Proprietary Rights the loss of which would not, individually or in the aggregate, have a Material Adverse Effect. Borrower has not received any notice of infringement of, or conflict with, and Borrower does not know of any such infringement of or conflict with, asserted rights of others with respect to any Proprietary Rights which, if such assertion of infringement or conflict were sustained, would have a Material Adverse Effect. To Borrower's Knowledge, the reproduction and dissemination by, or on behalf, of Lender, of photographs, images and other depictions of the Mortgaged Property and the name and address of the Land and Improvements does not require the consent of any other Person and will not subject Lender or Borrower to claims of copyright infringement or any other claim regarding unlawful or unauthorized use, reproduction or dissemination of such items.

4.12 **Broker's Fees**. No broker's or finder's fee, commission or similar compensation will be payable with respect to the Loan, the issuance of the Note or any of the other transactions contemplated hereby or by any of the Loan Documents based upon any broker or lender engaged by Borrower or any affiliate of Borrower, except DAMG Worldwide, Attention: Joseph A. Piscitell, who shall be paid by Borrower the full amount of its fee, commission and compensation on the Closing Date.

4.13 Environmental Compliance. There are no claims, liabilities, investigations, litigation, administrative proceedings, whether pending or, to Borrower's knowledge threatened, or judgments or orders relating to any Hazardous Materials (collectively called "**Environmental Claims**") asserted or, to Borrower's knowledge, threatened against Borrower, or, to Borrower's knowledge, any predecessor owner, tenant or operator or relating to any real property currently or formerly owned, leased or operated by Borrower including the Mortgaged Property. Except as disclosed in the Environmental Reports, to Borrower's knowledge, neither Borrower nor any other Person has caused or permitted any Hazardous Material to be used, generated, reclaimed, transported, released, treated, stored or disposed of in a manner which could reasonably be expected to form the basis for an Environmental Claim against Borrower. Except as disclosed in the Environmental Reports, to Borrower's knowledge, no Hazardous Materials in violation of applicable Environmental Laws are or were stored or otherwise located, and no underground storage tanks or surface impoundments are or were located, on real property currently or formerly owned, leased or operated by Borrower, including the Mortgaged Property, or to the knowledge of Borrower, on adjacent parcels of real property, and no part of such real property or, to the knowledge of Borrower no part of such adjacent parcels of real property, including the groundwater located thereon, is presently contaminated by Hazardous Materials in violation of applicable Environmental Laws or to any extent which has, or could reasonably be expected to have, a Material Adverse Effect. Except as disclosed in the Environmental Reports, to Borrower's knowledge, Borrower and the Mortgaged Property has been and is currently in compliance in all material respects with all applicable Environmental Laws, including obtaining and maintaining in effect all permits, licenses or other authorizations required by applicable Environmental Laws.

4.14 Solvency. As of the date of this Agreement and after giving effect to the consummation of the transactions contemplated by the Loan Documents, Borrower: (A) owns and will own assets the fair saleable value of which are (1) greater than the total amount of liabilities (including Contingent Obligations) of Borrower, and (2) greater than the amount that will be required to pay the probable liabilities of Borrower's then existing debts as they become absolute and matured considering all financing alternatives and potential asset sales reasonably available to Borrower; (B) has capital that is not insufficient in relation to its business as presently conducted or any contemplated or undertaken transaction; and (C) does not intend to incur and does not believe that it will incur debts beyond its ability to pay such debts as they become due. Borrower has not entered into the Loan Documents or the transactions contemplated under the Loan Documents with the actual intent to hinder, delay, or defraud any creditor. After giving effect to the Loan and the transactions occurring on the Closing Date; no Default or Event of Default exists. No material adverse change in the financial conditions or operation of the business of Borrower has occurred since the applicable dates of the financial statements of the Borrower provided on or before the Closing Date.

4.15 Disclosure. The representations and warranties of Borrower contained in the Loan Documents, the financial statements referred to in Section 5.1(A), and any other documents, certificates or written statements furnished to Lender by or on behalf of Borrower for use in connection with the Loan do not contain any untrue statement of a material fact or omit or will omit to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which the same were made. There is no material fact known to Borrower that has had or will have a Material Adverse Effect that is continuing

that has not been disclosed in this Agreement or in such other documents, certificates and statements furnished to Lender by or, on behalf of, Borrower for use in connection with the Loan.

4.16 **Insurance**. **Schedule 4.16** sets forth a list of the names of all insurers, policy numbers, expiration dates, amounts and types of coverage with respect to all policies of insurance that will be in effect as of the Closing Date for Borrower and such policies of insurance satisfy all of the requirements of Section 5.4. All premiums thereon have been paid in full through the expiration dates set forth on said **Schedule 4.16**, no notice of cancellation has been received with respect to such policies and Borrower is in compliance, in all material respects, with all conditions contained in such policies.

4.17 **Budget**. The Budget submitted to Lender for the Mortgaged Property is a true, correct and complete copy of the Budget and Capital Plan in effect on and as of the Closing Date. A true, correct and complete copy of the initial Budget for the fiscal year ending December 31, 2006 is attached hereto as **Schedule 4.17**. The Budget and all of the amounts set forth therein, present a true, full and complete line itemization (by category for the fiscal year to which such Budget applies) of: (i) all reasonably estimated gross revenues; and (ii) all reasonably estimated expenses which Borrower expects to pay or anticipates becoming obligated to pay. As of the date hereof, no material capital expenditures with respect to the Mortgaged Property are being incurred, contemplated or, to the Borrower's knowledge, are reasonably necessary, except as specified in the Budget.

4.18 **Affiliated Sites**. Each of the leaseholds for the Affiliated Sites is free and clear of all Liens either securing or evidencing any Indebtedness.

4.19 **Management Agreement**. Borrower has not contracted with any managing agent to assist Borrower in the management and operation of the Mortgaged Property.

4.20 **Special Assessments; Taxes**. There are no pending or, to the knowledge of Borrower proposed, special or other assessments for public improvements or otherwise affecting the Mortgaged Property, nor, to Borrower's knowledge, are there any contemplated improvements to the Mortgaged Property that may result in such special or other assessments. Borrower has provided Lender with true, correct and complete copies of all bills and invoices for Impositions which have been levied or assessed against or are outstanding with respect to the Mortgaged Property. Borrower has provided Lender with a true, correct and complete schedule of the assessment of the Mortgaged Property in effect as of the Closing Date. Borrower has not received any written notice that any portion of the Mortgaged Property has been re-assessed or is currently the subject of a reassessment or exempt from taxation or constitutes an "omitted" tax parcel. No Impositions are currently delinquent or outstanding with respect to the Mortgaged Property. The conveyance of the Mortgaged Property to Borrower did not, in and of itself, constitute the basis for any reassessment of all or any part of the Mortgaged Property or the basis for any increase in any currently outstanding or previously satisfied Impositions which has not already been imposed and disclosed in writing to Lender by Borrower. No tax contests of any Impositions or assessments are currently pending. The Land and Improvements constitute a separate tax lot or lots, with a separate tax assessment or assessments, independent of any other

land or improvements not constituting a part of the Mortgaged Property and no other land or improvements is assessed and taxed together with any portion of the Mortgaged Property.

4.21 **Leases**. The only Leases are the Leases identified on **Schedule 4.21**. The rent roll delivered pursuant to the Agreement accurately discloses (a) the identity of each Lease tenant and Lease guarantor, (b) the date of each Lease, (c) the commencement date of each Lease, (d) the scheduled termination date of each Lease, (e) the current base, fixed or minimum rent payable under each Lease, (f) the last date to which base, fixed or minimum rent has been paid with respect to each Lease, (g) the identification of the portion of the Mortgaged Property which has been leased to the tenants under each Lease, (h) the proportionate share, if any, of each tenant with respect to payment of operating expenses and taxes, (i) the base year under each Lease with respect to payment of the tenants' share of operating expenses and taxes, or, if applicable, the applicable Lease "stop" for such items, (j) each expansion option, right of first refusal, right of first offer or similar pre-emptive right, (k) each unexercised extension option and the term of such extension, (l) any disputed payments of rent or other payments from tenants, (m) the amount and form of any security deposits (and whether such security deposits are interest bearing), (n) scheduled base, fixed or minimum rent adjustments, (o) the last date to which operating expense and tax reimbursement payments from tenant have been made, (p) with respect to percentage rent, the percentages, breakpoints and payments within the past 12 consecutive months, (q) the suite, office or space number, (r) base rent per square foot, (s) reimbursed expenses per square foot, (t) each termination option (with notice requirements), and (u) the SIC Code for each tenant. Except as disclosed on **Schedule 4.21**, (i) no tenant is an Affiliate of Borrower, (ii) to Borrower's knowledge, the tenant and landlord are not in default under any of the Leases and no fact, condition, event or circumstance has occurred or exists which might ripen into any such default, (iii) the Leases have not been amended or modified, (iv) the tenant has taken occupancy of the premises demised pursuant to the Leases, (v) no so-called rent concession, "free-rent," lease assumption, tenant improvement or other similar landlord obligations exist, (vi) the landlord has properly billed each tenant for its operating and tax reimbursement obligations and no tenant is entitled to a refund of any payments previously paid to the landlord, (vii) no commissions, finders' fees or similar unsatisfied obligations exist or remain unsatisfied or will arise on account of any Lease expansion, extension, renewal or similar event, (viii) no tenant has any termination, surrender or cancellation rights, (ix) the landlord has satisfied all of its obligations under the Leases, (x) no tenant or Lease guarantor is a debtor in any proceeding under the Bankruptcy Code, and (xi) no tenant has any right or option to purchase the Mortgaged Property or any part of the Mortgaged Property. Borrower is the landlord under, and absolute owner of, the Leases and has not assigned any of the Leases except to Lender pursuant to the Loan Documents. Borrower has provided Lender with true, complete and correct copies of all of the Leases and all amendments or modifications of the Leases. Except as disclosed on **Schedule 4.21**, no tenant has paid any rent under any of the Lease more than one (1) month in advance.

4.22 **Representations Remade**. Borrower warrants and covenants that the foregoing representations and warranties will be true in all respects and shall be deemed remade as of the date of the Closing (except to the extent stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct as of such earlier date) and as of the date of each other advance of Loan proceeds pursuant to the Agreement. All representations and warranties made in the other Loan Document or in any certificate or other document delivered to

Lender by or on behalf of Borrower pursuant to the Loan Documents shall be deemed to have been relied upon by Lender, notwithstanding any investigation made by or on behalf of Lender. All such representations and warranties shall survive the making of the Loan and any or all of the advances of the Loan and shall continue in full force and effect until such time as the Loan has been paid in full.

## SECTION 5
## AFFIRMATIVE COVENANTS

Borrower covenants and agrees that so long as this Agreement shall remain in effect or the Note shall remain outstanding, Borrower shall perform and comply with all covenants in this Section 5.

5.1 **Financial Statements and Other Reports**. Borrower will maintain a system of accounting in accordance with sound business practices to permit preparation of financial statements in conformity with GAAP and proper and accurate books, records and accounts reflecting all of the financial affairs of Borrower with respect to all items of income and expense in connection with the operation of the Mortgaged Property.

(A) **Financial Statements**. Within one hundred twenty (120) days after the end of each calendar year, Borrower shall provide to Lender true and complete annual audited consolidated financial statements for (i) Borrower, and (ii) unaudited statements for the operation of the Mortgaged Property, on both a property-by-property basis as well as a consolidated basis, prepared in accordance with GAAP. Such financial statements (except for unaudited statements) shall (x) be audited for the Borrower only by a so-called "Big-4" accounting firm or another independent certified public accounting firm reasonably satisfactory to Lender and (y) include a balance sheet as of the end of such year, profit and loss statements for such year and a statement of cash flow for such year, with such detailed supporting schedules covering the operation of the Mortgaged Property as Lender shall reasonably require. As soon as reasonably practicable (but in any event within forty-five (45) days) after the end of each calendar quarter, Borrower shall provide to Lender a true and complete quarterly cash flow, balance sheet, and operating statement for Borrower, certified by the chief financial officer (or similar position) of Borrower, which quarterly statements shall be in form and substance acceptable to Lender. As soon as reasonably practicable (but in any event within twenty (20) days) after the end of each month, Borrower shall provide to Lender a true and complete monthly cash flow and operating statement for Borrower certified by the chief financial officer (or similar position) of Borrower. Such monthly statements shall also (w) state gross revenues, expenses and net cash flow for the month most recently ended, (x) be in form and substance reasonably acceptable to Lender, (y) include a comparison to the prior year's month and year-to-date. Borrower shall also provide such other financial information as Lender may, from time to time, reasonably request. In addition to the monthly statements, Borrower shall provide to Lender, not later than the Calculation Date in each Loan Quarter, a statement (a "**Covenant Certification**") certified by the chief financial officer of Borrower (or analogous position) setting forth a calculation of both the Debt Maintenance Test and the Debt Service Coverage Ratio, calculated in accordance with **Schedule 1** and **Schedule 2**, which statement shall be subject to review and verification by Lender. Borrower will deliver, concurrently with the annual and quarterly statements, a certificate of its

chief financial officer (or analogous position) certifying that no Default or Event of Default has occurred and is continuing.

(B) **Intentionally Omitted**.

(C) **Accountants' Reports**. Reasonably promptly upon receipt thereof, Borrower will deliver copies of all significant reports submitted to Borrower, by independent public accountants in connection with each annual, interim or special audit of the financial statements of Borrower, made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit.

(D) **Annual Budgets and Capital Plans**. Not later than November 30th of each calendar year beginning in November 2007, Borrower shall deliver a Budget and a Capital Plan for the following calendar year for Borrower and the Mortgaged Property to Lender (the Budget and Capital Plan are collectively referred to as the "**Annual Budget**". Borrower shall, within one hundred twenty (120) days after the end of each calendar year during the term of the Loan, deliver to Lender an annual summary of any and all capital expenditures made at the Mortgaged Property during the prior twelve (12) month period.

(E) **Notices, Events of Default and Litigation**. Borrower shall reasonably promptly deliver, or cause to be delivered, copies of all notices, demands, reports or requests given to, or received by Borrower from, any Governmental Authorities or with respect to any Indebtedness of Borrower, the Leases or any Material Contracts, and shall notify Lender within five (5) Business Days after Borrower receives written notice of any material violation of Legal Requirements, investigation, subpoena or audit by any Governmental Authority or default with respect to the Mortgaged Property or any Indebtedness, Leases or Material Contracts that is continuing and is not capable of being cured. Within five (5) Business Days of Borrower obtaining knowledge of any of the following events or conditions, Borrower shall deliver a certificate of such Person's chief financial officer or other executive officer specifying the nature and period of existence of such condition or event and what action Borrower has taken, is taking and proposes to take with respect thereto: (1) any condition or event that constitutes an Event of Default or Default; and/or (2) or any fact, circumstance, event or condition which has, or would reasonably be expected to have, a Material Adverse Effect. Within five (5) Business Days of Borrower obtaining knowledge of (1) the institution of any action, suit, proceeding, governmental investigation or arbitration against or affecting Borrower or the Mortgaged Property, or any other property of Borrower or (2) any material development in any action, suit, proceeding, governmental investigation or arbitration at any time pending against or affecting Borrower or the Mortgaged Property or any other property of Borrower, Borrower will give notice thereof to Lender and provide such other information as may be available to it to enable Lender and its counsel to evaluate such matters.

(F) **ERISA**. Borrower shall deliver to Lender such certifications or other evidence from time to time throughout the term of the Loan, as Lender, in its sole discretion, may request that Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans.

(G) **Tax Returns**. Borrower will deliver to Lender copies of all federal and state income and other tax returns, schedules, statements and reports to its owners within ten (10) days after the earlier of filing or delivery of such tax returns or other items with the Internal Revenue Service or the applicable Governmental Authority or delivery to its owners.

(H) **Intentionally Omitted**.

(I) **Estoppel Certificates**. Within ten (10) Business Days following a request by Lender, Borrower shall provide to Lender, a duly acknowledged written statement confirming the amount of the outstanding Obligations, the terms of payment and maturity date of the Note, the date to which interest has been paid, and whether, to Borrower's knowledge, any offsets or defenses exist against the Obligations, and if any such offsets or defenses are alleged to exist, the nature thereof shall be set forth in detail.

(J) **Other**. With reasonable promptness, Borrower will deliver such other information and data with respect to Borrower as from time to time may be reasonably requested by Lender. Borrower shall deliver, or cause to be delivered, to Lender annually, concurrently with the renewal of the insurance policies required hereunder, an Officer's Certificate stating that the insurance policies required to be delivered to Lender pursuant to Section 5.4 are maintained with insurers who comply with the terms of Section 5.4, setting forth a schedule describing all premiums required to be paid by Borrower to maintain the policies of insurance required under Section 5.4, and confirming full payment of all such premiums. Borrower will, promptly after it obtains knowledge of such change, notify Lender of any change in the information set forth in **Schedule 4.1(A)-2** and, upon request from Lender from time to time, will, within five (5) Business Days after such request is given to Borrower, provide Lender with either an updated **Schedule 4.1(A)(2)** certified by Borrower as true and complete or a certificate of Borrower to the effect that the information set forth on **Schedule 4.1(A)-2** has not changed except as previously expressly disclosed in writing to Lender.

(K) **Electronic Format**. To the extent available, Borrower will provide to Lender a copy of any reports, notices, statements or other deliveries required pursuant to this Section 5.1 in an electronic format reasonably satisfactory to Lender.

5.2 **Existence; Qualification**. Borrower will at all times preserve and keep in full force and effect its existence, and all rights and franchises material to its respective business. Borrower will continue to be qualified in all jurisdictions in which it is required to qualify.

5.3 **Payment of Impositions and Lien Claims; Permitted Contests**.

(A) Subject to Section 5.3(B), Borrower will pay, or cause payment of, (i) all Impositions before in each instance any penalty or fine is incurred with respect thereto, (ii) all claims ("**Claims**") (including claims for labor, services, materials and supplies) for sums that have become due and payable and that by law have or may become a Lien applicable to Borrower upon any of the Mortgaged Property or Borrower, before in each instance any penalty or fine is incurred with respect thereto, and (iii) all federal, state and local income taxes, sales taxes, excise taxes and all other taxes and assessments levied, imposed, confirmed or assessed

against Borrower, its business, income, liabilities or assets or the Mortgaged Property, before in each instance any penalty or fine is incurred with respect thereto.

(B) With prior notice to Lender, Borrower shall have the right to pay Impositions, in full, under "protest." Notwithstanding Section 5.3(A), Borrower shall not be required to pay, discharge or remove or cause payment, discharge or removal of any Imposition or Claims pertaining to labor, services, materials and supplies supplied to the Land and Improvements so long as Borrower contests (each such contest, a "**Permitted Contest**") in good faith such Imposition or Claims or the validity, applicability or amount thereof by an appropriate legal proceeding which operates to prevent the collection of such amounts and the sale of the Mortgaged Property or any portion thereof so long as: (a) at least thirty (30) days prior to the date on which such Imposition or Claims would otherwise have become delinquent, Borrower shall have given Lender notice of its intent to contest said Imposition, (b) at least thirty (30) days prior to the date on which such Imposition would otherwise have become delinquent, Borrower shall have deposited with Lender (or with a court of competent jurisdiction or other appropriate Person approved by Lender) such additional amounts or other security as are necessary to keep on deposit at all times, an amount equal to at least one hundred twenty-five percent (125%) (or such higher amount as may be required by applicable law) of the total of (x) the balance of such Imposition or Claims then remaining unpaid, and (y) all interest, penalties, costs and charges accrued or accumulated thereon, (c) no risk of sale, forfeiture or loss of any interest in the Mortgaged Property or any part thereof arises, in Lender's reasonable judgment, during the pendency of such contest, (d) such contest does not, in Lender's reasonable judgment, have a Material Adverse Effect and (e) in the case of Claims, the liens, if any, securing the Claims in question have been defeased or bonded against in a manner satisfactory to Lender. Each Permitted Contest shall be prosecuted, at Borrower's sole cost and expense, with reasonable diligence, and Borrower shall promptly pay, or cause payment of, the amount of such Imposition or Claims as finally determined; together with all interest and penalties payable in connection with such Permitted Contest. Lender, in its sole discretion, may apply any amount or other security deposited with Lender under this subsection or otherwise to the payment of any unpaid Imposition or Claims to prevent the sale, loss or forfeiture of the Mortgaged Property or any portion thereof. Lender shall not be liable for any failure to so apply any amount or other security deposited. Any surplus retained by Lender after payment of the Imposition or Claims for which a deposit was made shall be repaid to Borrower unless an Event of Default exists, in which case the surplus may be applied by Lender to the Obligations. Notwithstanding any provision of this Section 5.3 to the contrary, Borrower shall promptly pay any Imposition or Claims which it might otherwise be entitled to contest if, in reasonable determination of Lender, the Mortgaged Property or any portion thereof is in jeopardy or in danger of being forfeited or foreclosed. If Borrower refuses to pay any such Imposition or Claims, Lender may (but shall not be obligated to) make such payment and Borrower shall reimburse Lender on demand for all such advances which advances will bear interest at the Default Rate.

(C) Subject to Section 2.6, Borrower shall pay any and all taxes, charges, filing, registration and recording fees, excises and levies imposed upon Lender by reason of its interests in, or measured by amounts payable under, the Note, this Agreement, the Mortgage or any other Loan Document (other than income, franchise and doing business taxes), and shall pay all stamp taxes and other taxes required to be paid on the Note or any of the other Loan Documents. If Borrower fails to make such payment within five (5) days after notice thereof from Lender,

Lender may (but shall not be obligated to) pay the amount due, and Borrower shall reimburse Lender on demand for all such advances which will bear interest at the Default Rate. If applicable law prohibits Borrower from paying such taxes, charges, filing, registration and recording fees, excises, levies, stamp taxes or other taxes, then Lender may declare Borrower's Obligations to be immediately due and payable, upon ninety (90) days' prior written notice.

5.4 **Insurance**. Borrower shall at all times provide, maintain and keep in force or cause to be provided, maintained and kept in force, at no expense to Lender, the following policies of insurance with respect to the Mortgaged Property and Borrower, as applicable:

(i) Aviation commercial general liability insurance with limits of not less than $25,000,000 per occurrence, covering bodily injury and property damage occurring on, in or about the Mortgaged Property and any adjoining streets, sidewalks, and passageways arising out of or connected with the possession, use, leasing, operation, or condition of the Mortgaged Property as well as the Borrower's other properties. Such coverage shall include but not be limited to premises operations, contractual liability, products/completed operations, personal injury and advertising injury, and hangarkeeper's liability.

(ii) Property insurance on an "all-risk" or special form causes of loss basis covering the Mortgaged Property including all structures and other improvements located upon the Property in an amount equal to one hundred percent (100%) of the replacement value of said structures and other improvements. The policy shall not contain any co-insurance restriction and shall be valued on a replacement cost basis. Except as otherwise required under the Ground Lease, the proceeds of such insurance shall be used to repair or replace the insured property. The policy should contain the following endorsements: (a) building, ordinance or law coverage and (b) a standard mortgagee clause acceptable to Lender. Such policy will also include the following coverage: (i) comprehensive boiler and machinery coverage in amounts as determined by Lender; (ii) wind, earthquake and earth movement for the full replacement cost of the Mortgaged Property or, in amounts agreed upon by Lender if full replacement cost is not reasonably available; (iii) flood insurance if the Improvements are located in a special flood hazard area as designated by the Director of the Federal Emergency Management Agency, in sufficient amounts as determined by Lender; and (iv) business interruption, extra expense, or gross income from the Mortgaged Property.

(iii) Environmental liability insurance with limits of not less than $3,000,000 per occurrence and $3,000,000 in the aggregate and underground storage tank liability insurance with limits of not less than $3,000,000 per occurrence, covering the Mortgaged Property and the Affiliated Sites.

(iv) Automobile liability insurance with limits of not less than $1,000,000 each accident combined for bodily injury and property damage, covering all owned, non-owned, and hired automobiles.

(v) Statutory workers' compensation insurance, including employers' liability for not less than $1,000,000 per accident, per employee, and policy limit, as required by

the state where the Mortgaged Property is located to protect Borrower against claims for employee injuries sustained in the course of employment.

(vi) Umbrella/excess liability insurance for not less than $10,000,000 each loss and aggregate; providing limits in excess of the above mentioned automobile and employers' liability policies.

(vii) All-clear aircraft insurance covering the physical damage to any owned, non-owned, or leased aircraft for the full value on the hulls; and bodily injury and property damage liability which result from the use, operation, or maintenance of any owned, non-owned, or leased aircraft. The liability limits shall not be less than $50,000,000 each occurrence for turbine aircraft and $10,000,000 each occurrence for piston aircraft.

(B) All insurance policies listed in sections (i), (ii), (iii) above shall be endorsed to provide that: (i) Lender, its successors, and/or assigns, is named as additional insured-mortgagee with respect to the all risk property; as a loss payee with respect to all business interruption/extra expense coverage; and as additional insured on all liability coverage, with the understanding that any obligation imposed upon the insureds (including the liability to pay premiums) shall be the sole obligation of Borrower and not of any other insured; (ii) the interests of Lender shall not be invalidated by any action or inaction of Borrower or any other Person, and such policies shall insure Lender regardless of any breach or violation by Borrower or any other Person of any warranties, declaration or conditions in such policies; (iii) the insurer under each such policy shall waive all rights of subrogation against Lender, any right to set-off and counterclaim and any other right to deduction, whether by attachment or otherwise; (iv) such insurance shall be primary and without right of contribution of any other insurance carried by or on behalf of Lender with respect to its interest in the Mortgaged Property; (v) if such insurance is canceled for any reason whatsoever, including nonpayment of premium or, if any substantial modification, change or reduction is made in the coverage which affects the interests of Lender, such cancellation, modification, change or reduction in coverage shall not be effective as to Lender until thirty (30) days after receipt by Lender of written notice sent by registered mail from such insurer; (vi) any such insurance shall be endorsed to provide in as much as the policy is written to cover more than one insured, all terms, conditions, insuring agreements and endorsements with the exception of limits of liability, shall operate in the same manner as if there were a separate policy covering each insured; and (vii) if required by Lender, such insurance shall contain "cut-through" endorsements providing Lender with direct access to any re-insurers.

(C) Borrower shall deliver to Lender certificates of insurance or upon request a copy of each insurance policy with further evidence of such insurance acceptable to Lender, together with a copy of the declaration page for each such policy. Renewal certificates and copies of policies should be provided no later than fifteen (15) days prior to the expiration of each policy. Upon request, Borrower shall deliver a renewed policy or policies, or duplicate original or originals thereof, marked "premium paid," or accompanied by such other evidence of payment satisfactory to Lender with standard non-contributory mortgagee clause in favor of and acceptable to Lender. Borrower shall comply promptly with and conform to (i) all provisions of each such insurance policy and (ii) all requirements of the insurers applicable to Borrower as respects use, occupancy, possession, operation, maintenance, alteration or repair of the

Mortgaged Property. Borrower shall not use or permit the use of the Mortgaged Property in any manner that would permit any insurer to cancel any insurance policy or void coverage required to be maintained by this Agreement. No insurance policy may provide for assessments to be made against Lender or Lender's servicer, if any. If a policy permits assessments against others, such policy must waive any right to a Lien upon the Mortgaged Property and no such assessments may result in a Lien against the Mortgaged Property. The insurance coverage required under this Section 5.4 may be effected under a blanket policy or policies covering the Mortgaged Property and other properties and assets not constituting a part of the Mortgaged Property; provided that any such blanket policy shall specify the portion of the total coverage of such policy that is allocated to the Mortgaged Property, and any sublimits in such blanket policy applicable to the Mortgaged Property, which amounts shall not be less than the amounts required pursuant to this Section 5.4 and which shall in any case comply in all other respects with all of the requirements of this Section 5.4. Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that any insurance which Borrower shall cause any tenant to provide that shall otherwise be in compliance with all of the terms and conditions of this Section 5.4 shall satisfy Borrower's obligations with respect thereto hereunder. Borrower will not take out separate insurance contributing in the event of loss with that required to be maintained pursuant to this Section 5.4 unless such insurance complies with this Section 5.4. All insurance policies shall be in form, with endorsements, risk coverage, deductibles and amounts and maintained with companies approved by Lender, such approval not to be unreasonably withheld or delayed. Without limiting Lender's ability to approve the aforementioned, an insurance company shall not be reasonably satisfactory unless such insurance company or member of an underwriting group or member of an underwriting group (a) has a rating of a least A with financial size of Class X or better as specified in Best's Key Rating Guide, (b) is licensed or authorized to do business, as required under applicable law, in the State where the Mortgaged Property is located and (c) a claims-paying ability rating by S&P of not less than "A+" and an equivalent rating by another Rating Agency. All insurance policies insuring against casualty, business interruption and other appropriate policies shall provide that no claims be paid thereunder without twenty (20) days advance written notice to Lender. Lender shall not, by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, incur any liability for or with respect to the amount of insurance carried, the form or legal sufficiency of insurance contracts, solvency of insurance companies, or payment or defense of lawsuits, and Borrower hereby expressly assumes full responsibility therefore and all liability, if any, with respect thereto. If Borrower fails to provide to Lender the policies of insurance required by this Section 5.4 or any other Loan Documents, Lender may (but shall have no obligation to) procure such insurance or single-interest insurance for such risks covering Lender's interest and Borrower will pay all premiums thereon promptly upon demand by Lender, and until such payment is made by Borrower, the amount of all such premiums shall bear interest at the Default Rate and shall constitute additions to the Obligations.

5.5 **Disputes with the Ground Lessors**. If a Ground Lessor shall default in any of its obligations to Borrower with respect to if Ground Lease or otherwise in connection with the Mortgaged Property, Lender shall be entitled to participate with Borrower in the enforcement of, Borrower's rights against the Ground Lessor (and in any recovery or relief obtained), which shall include, but shall not be limited to prosecution of any action or proceeding. Borrower shall pay to Lender within ten (10) Business Days after demand, any and all reasonable costs and expenses incurred by Lender in connection with any such action or proceeding.

5.6 **Maintenance of Mortgaged Property**. Borrower will maintain or cause the Mortgaged Property to be maintained in compliance with all Legal Requirements and in good repair, working order and condition and will make or cause to be made all appropriate repairs, renewals and replacements thereof to the extent the same are tenant's responsibility under the Ground Lease. Borrower shall use all reasonable efforts to cause each Ground Lessor to make all such appropriate repairs, renewals and replacements thereof as are the responsibility of such Ground Lessor under its applicable Ground Lease. Subject to the terms of the applicable Ground Lease and the provisions contained herein, including, inter alia, Section 8, to the extent that Proceeds are made available to Borrower for such purposes, Borrower will promptly restore and repair all loss or damage occasioned by (i) any casualty which has occurred to at least the condition existing prior to any such casualty or (ii) any condemnation to an economically and structurally integrated unit. Borrower will not commit or permit any waste of the Mortgaged Property or any part thereof.

5.7 **Inspection; Lender Meeting**. Borrower shall, upon reasonable request from Lender and during normal business hours, permit (and cause to be permitted) Lender's designated representatives to (a) visit, examine, audit, photograph and inspect the Mortgaged Property, (b) examine, audit, inspect, copy, duplicate and abstract Borrower's financial, accounting and other books and records, and (c) discuss Borrower's and the Mortgaged Property's affairs, finances and business with Borrower's officers, senior management, representatives, independent public accountants and agents (including the Manager). Borrower shall cause its books and records to be maintained at Borrower's principal offices. Borrower will not change its principal offices or the location where its books and records are kept without giving at least thirty (30) days' advance notice to Lender. Borrower shall pay Lender's costs and expenses incurred in connection with such audit if an Event of Default has occurred or if any audit reveals any material discrepancy, in Lender's reasonable judgment, in the financial information provided by Borrower. All audits, inspections and reports shall be made for the sole benefit of Lender. Neither Lender nor Lender's auditors, inspectors, representatives, agents or contractors assumes any responsibility or liability (except to Lender) by reason of such audits, inspections or reports. Borrower will not rely upon any of such audits, inspections or reports. The performance of such audits, inspections and reports will not constitute a waiver of any of the provisions of the Loans Documents. Neither Lender nor any other of Lender's inspectors, representatives, agents or contractors, shall be responsible for any matters related to design or construction of the Improvements or any Construction. Borrower shall cooperate, from time to time, with Lender and use reasonable efforts to assist Lender in obtaining an appraisal of the Mortgaged Property. Such cooperation and assistance from Borrower shall include reasonable access to the Mortgaged Property and books and records pertaining to the Mortgaged Property for Lender and its appraiser. The appraiser performing any such appraisal shall be engaged by Lender. Borrower shall not be responsible for the expenses of any such appraisal provided, however, Borrower shall pay the fees of such appraiser in connection with one appraisal of the Mortgaged Property during the term of the Loan and any such appraisal when conducted following the occurrence of an Event of Default. Borrower shall cooperate with Lender with respect to any proceedings before any Governmental Authority which may in any way affect the rights of Lender under any of the Loan Documents and, in connection therewith, not prohibit Lender, at its election, from participating in any such proceedings.

5.8 **Environmental Compliance**. Borrower shall: (a) comply at all times with all applicable Environmental Laws in all material respects, and (b) promptly take, or cause to be taken, any and all necessary remedial actions upon obtaining knowledge of the presence, storage, use, disposal, transportation, release or discharge of any Hazardous Materials on, under or about the Mortgaged Property which has a Material Adverse Effect or is in violation of any Environmental Laws. Borrower shall cause all remedial action with respect to Hazardous Material on, under or about the Mortgaged Property, to comply in all material respects with all applicable Environmental Laws and the applicable policies, orders and directives of all federal, state and local Governmental Authorities. If Lender at any time has a reasonable basis to believe that there may be a material violation of any Environmental Law by, or any material liability arising thereunder of, Borrower or related to the Mortgaged Property, Borrower shall, upon request from Lender, provide Lender with such reports, certificates, engineering studies and other written material or data as Lender may reasonably require to confirm material compliance by Borrower and the Mortgaged Property with all applicable Environmental Laws. Borrower shall permit Lender, its authorized representatives, consultants or other Persons retained by Lender to enter upon, examine, test and inspect the Mortgaged Property with regard to compliance with Environmental Laws, the presence of Hazardous Materials and the environmental condition of the Mortgaged Property and properties adjacent to the Land. Such entry, examination, testing and inspecting and reporting shall be at the expense of Borrower if (x) an Event of Default has occurred or (y) Lender has reasonably determined that there may be a material violation of Environmental Law or any material liability arising under Environmental Law, and Borrower has failed to promptly initiate its own investigation into such potential violations or liability after receipt of notice of Lender's determination which expense shall be paid by Borrower to Lender upon demand.

5.9 **Environmental Disclosure**. Borrower shall, without unreasonable delay, upon becoming aware thereof advise Lender in writing and in reasonable detail of: (1) any release, disposal or discharge of any Hazardous Material at the Mortgaged Property required to be reported to any federal, state or local governmental or regulatory agency under all applicable Environmental Laws; (2) any and all written communications sent or received by Borrower or its agents with respect to any Environmental Claims against Borrower or any release, disposal or discharge of Hazardous Material required pursuant to applicable Environmental Law to be reported by Borrower to any federal, state or local governmental or regulatory agency; (3) any remedial action taken by Borrower or any other Person in response to any Hazardous Material on, under or about any real property owned, leased or operated by Borrower or the Mortgaged Property or its agents, the existence of which could reasonably be expected to result in an Environmental Claim against Borrower; (4) the discovery by Borrower or its agents of any occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Property which could reasonably be expected to cause such real property or any part thereof to be classified as "border-zone property" or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws; and (5) any request for information from any Governmental Authority that indicates such Governmental Authority is investigating whether Borrower or another present or former occupant of the Mortgaged Property may be potentially responsible for a release, disposal or discharge of Hazardous Materials from any of the Mortgaged Property. Borrower shall promptly notify Lender of any proposed action to be taken by Borrower to commence any operations that could reasonably be expected to subject Borrower to additional laws, rules or regulations, including

laws, rules and regulations requiring additional or amended environmental permits or licenses. Borrower shall, at its own expense, provide copies of such documents or information as Lender may reasonably request in relation to any matters disclosed pursuant to this Section 5.9.

5.10 **Compliance with Laws, Employee Benefit Plans and Contractual Obligations.** Borrower will promptly and faithfully (A) comply and cause the Mortgaged Property to comply, in all material respects, with the requirements of all Legal Requirements including the Prescribed Laws, and the orders and requirements of any Governmental Authority in all jurisdictions in which it is now doing business or may hereafter be doing business and of every board of fire underwriters or similar body exercising similar functions, (B) maintain all licenses, certificates of occupancy, permits and Proprietary Rights now held or hereafter acquired by it or with respect to which a Material Adverse Effect will result if same are not existing and held by Borrower and (C) perform, observe, comply and fulfill all of its obligations, covenants and conditions contained in the Loan Documents, the Leases, the Ground Leases and the Material Contracts. Borrower shall: (i) promptly notify Lender of any claim made against Borrower that Borrower is in default under any Material Contract or that any other party is in default under any Material Contract; (ii) not terminate, or permit termination of, any Material Contract, and (iii) not enter into, amend or modify any Material Contract without first obtaining the prior written approval of Lender. Except for the plans listed in **Schedule 4.10(B)**, Borrower is not a party to, and will not establish or otherwise become a party to, any material "employee benefit plan" (as defined in Section 3(3) of ERISA). Except with respect to the plans listed in **Schedule 4.10(B)**, Borrower will not commence making contributions to (or obligate itself to make contributions to) any material "employee benefit plan" (as defined in Section 3(3) of ERISA). For so long as any portion of the Loan is outstanding, Borrower shall comply with all requirements and take all actions necessary to maintain Borrower's status as a REOC and to otherwise operate so as to continue to qualify as a REOC.

5.11 **Further Assurances.** Borrower shall, from time to time, at its sole cost and expense, execute and/or deliver, or cause execution and/or delivery of, such documents, agreements and reports, and perform such acts as Lender at any time may reasonably request to carry out the purposes and otherwise implement the terms and provisions provided for in the Loan Documents. Borrower shall execute any documents and take any other actions necessary to provide Lender with a first priority, perfected security interest in the Collateral. Borrower shall, at Borrower's sole cost and expense: (i) upon Lender's request therefore given from time to time (but not more frequently than once per calendar year unless an Event of Default then exists) pay for (a) current reports of Uniform Commercial Code, federal tax lien, state tax lien, judgment and pending litigation searches with respect to Borrower, (b) current good standing and existence certificates with respect to Borrower, and (c) current searches of title to the Mortgaged Property, each such search to be conducted by search firms reasonably designated by Lender in each of the locations reasonably designated by Lender; (ii) furnish to Lender all instruments, documents, boundary surveys, footing or foundation surveys, certificates, plans and specifications, appraisals, title and other insurance reports and agreements, and each and every other document, certificate, agreement and instrument required to be furnished pursuant to the terms of the Loan Documents; and (iii) execute and deliver to Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary, to evidence, preserve and/or protect the Collateral at any time securing or intended to secure the Obligations, as Lender may require in Lender's reasonable discretion. Borrower shall promptly execute, acknowledge,

deliver, file or do, at its sole cost and expense, all acts, assignments, notices, agreements or other instruments as Lender may require in order to effectuate, assure, convey, secure, assign, transfer and convey unto Lender any of the rights granted by this Agreement and to more fully perfect and protect any assignment, pledge, lien and security interest confirmed or purported to be created under the Loan Documents or to enable Lender to exercise and enforce their rights and remedies hereunder, in respect of the Collateral.

## SECTION 6
## ECONOMIC ABANDONMENT

**6.1** During the term of the Loan and subject to the limitations set forth herein, if one or more of GYH or GSP (in either case, a "**Site**") becomes uneconomical or unsuitable for continued use in Borrower's business whether through Casualty, Condemnation or otherwise, or if Borrower shall fail to maintain the Minimum DSCR or is unable to otherwise satisfy Section 7.13 herein, Borrower may seek to terminate the Mortgage with respect to the uneconomical Site or Sites in accordance with the provisions of this Section 6. From time to time during the term of the Loan and provided no Event of Default has occurred and is continuing, if Borrower shall determine in good faith and deliver to Lender a certificate signed by the president or chief financial officer of Borrower certifying that (i) a Site is economically obsolete or does not allow the Borrower to maintain the Minimum DSCR, (ii) that continued use and occupancy by Borrower in Borrower's business at such Site is no longer consistent with either the business operation or business strategy of Borrower, and (iii) Borrower has determined to abandon the use at such Site, then Borrower may give Lender not less than 90 calendar days' prior written notice ("**Site Notice**") that Borrower intends to either (i) substitute a like kind property for the Site in accordance with the provisions of paragraph 6.2 below (herein "**Site Substitution**"), or (ii) arrange a sale of the Site (herein, "**Site Sale**") in accordance with the provisions of paragraph 6.4 below. The Site Notice shall specify whether a Site Substitution or a Site Sale (but not both) is intended for such Site.

**6.2** In the case of a Site Substitution, (i) the substitute property (including the land, equipment, buildings and improvements as applicable, collectively, the "**Substitute Parcel**") must have a fair market value as determined by an independent appraisal report prepared by an independent appraiser approved by Lender, such approval not to be unreasonably withheld, conditioned or delayed, (herein "**Appraisal Report**"), equal to or greater than the amount that would be due under either Tranche A or Tranche B, as the case may be, if such Tranche were to be prepaid in full (the "**Site Price**") for such Site, (ii) the condition of title and the environmental condition for the Substitute Parcel must be satisfactory to Lender, and (iii) upon completion of a substitution, the Substitute Parcel will be owned and/or leased(by ground lease or otherwise) by Borrower and be encumbered by a mortgage in favor of Lender. As of the date of substitution, the Substitute Parcel (1) must have a useful life no less than the Site as of the date of substitution, (2) must be occupied and in current use by Borrower, or will be as of the date of the Site Substitution, at a location in the United States, and (3) be otherwise acceptable to Lender. Such Substitution Parcel will be substituted for the Site (which is the subject of such Site Notice) subject to and in accordance with the requirements set forth below.

**6.3** Borrower may not elect to substitute a Substitute Parcel for the Site which is the subject of such Site Notice unless Borrower provides to Lender:

(A) an Appraisal Report indicating that the fair market value of the Substitute Parcel is equal to or greater than the Site Price for such Site, and that the utility and remaining useful life of the Substituted Parcel is not less than utility and remaining useful life of the Site being substituted immediately prior to such substitution, and is not in a state or locality having franchise, income, transfer or other taxes which are greater than those payable in the jurisdiction in which the Site sought to be substituted is located and which are not paid or payable by Borrower hereunder, unless Borrower agrees to make Lender whole for Lender's payments of such amounts;

(B) a leasehold or fee mortgage, in form and substance reasonably acceptable to Lender (the "**Substitution Deed**"), duly executed and acknowledged by Borrower or the then-title holder, conveying to Lender a first priority lien upon the land, equipment, buildings and improvements, as applicable, comprising the Substitute Parcel, subject only to encumbrances approved by Lender in its sole discretion;

(C) an amendment to the Loan Documents, duly executed by Borrower providing for the Loan secured by the Substitute Parcel by Lender to Borrower upon all of the same terms and conditions set forth in the existing applicable Tranche (including the monthly payment amounts) for the then remaining term of the Loan and amending, as required, the Exhibits to the Loan Documents;

(D) an opinion(s) of counsel, which counsel and opinions must be reasonably satisfactory to Lender in its sole discretion, confirming the continued validity and enforceability of any amendments to the Loan Documents and confirming that Borrower has all necessary authority and has obtained all consents (excluding from Lender) necessary to replace such Site with the Substitute Parcel, that the documents delivered to effect such substitution have been duly authorized and validly executed by Borrower and constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, subject to customary carve-outs, which opinion shall be in a form and substance satisfactory to Lender in its sole discretion;

(E) endorsements reasonably satisfactory to Lender to Lender's title insurance policies or new policies insuring Lender's and title and interest in and to such Substitute Parcel in an amount at least equal to the fair market value thereto as determined by the Appraisal Report, together with such endorsements to such title policies as Lender may require, subject only to such items as shall have been approved in writing by Lender in its sole discretion;

(F) an ALTA "as-built" survey (in paper and electronic form, if available) of the Substitute Parcel prepared by a licensed surveyor and reasonably acceptable to Lender, certified to Lender and the title insurance company issuing the endorsements or policies required under the immediately preceding clause (E);

(G) an environmental Site assessment with respect to the Substitute Parcel by a firm reasonably acceptable to Lender, indicating that the Substitute Parcel is in material compliance with the Environmental Laws, and is otherwise reasonably satisfactory to Lender or, if the Premises are then covered by an environmental insurance policy, a binder to such policy

including the Substitute Parcel within the coverage of such environmental insurance policy, in a form reasonably acceptable to Lender;

(H) receipt of sufficient funds to pay any and all transfer taxes, recording fees, mortgage recording taxes, transfer or application fees and similar charges and all of Lender's costs, fees and expenses (including attorney's fees, due diligence costs, and title insurance premiums and charges) incurred in connection with such substitution;

(I) a covenant and undertaking ("**Site Undertaking**") from Borrower, in form acceptable to Lender, pursuant to which Borrower (1) represents and warrants that Borrower is permanently abandoning such Site, (2) covenants to vacate such Site within three (3) months, (3) covenants not to reopen such Site or otherwise utilize such Site within five (5) years of the date of substitution, and (4) acknowledges and agrees that a breach or violation of such Site Undertaking shall be an immediate Event of Default under this Agreement;

(J) if the Substitute Parcel is evidenced by a ground lease, evidence that the ground lease complies with Section 4.6 herein or is otherwise acceptable to Lender in its discretion; and

(K) such other documents or instruments (similar to those mutually provided upon the execution of this Agreement), including, without limitation, insurance certificates as Lender may reasonably request to insure the continued validity and enforceability of this Agreement, as amended.

**6.4** In the case of an Site Sale, Borrower must arrange the sale of the Site on behalf of Lender (i) for a price not less than the Site Price for such Site and (ii) otherwise in accordance with purchase procedures reasonably approved by Lender. Upon the sale of the Site, an amount equal to all Obligations due and owing Lender under the applicable Tranche shall be paid to Lender, including, without limitation, the Yield Maintenance Charge. Tenant shall pay all charges incident to any transaction pursuant to this Section 6, including landlord's attorneys' fees and expenses together with all fees and expenses solely with respect to the applicable Site, including attorneys' fees and expenses, arising out of such transaction.

## SECTION 7
## NEGATIVE COVENANTS

Borrower covenants and agrees that from the date hereof and so long as this Agreement shall remain in effect or the Note remains outstanding, Borrower shall comply with all covenants and agreements in this Section 7.

**7.1** **Indebtedness**. The Borrower shall not directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt) other than Permitted Indebtedness; provided, however, (and subject to Section 7.15 herein) that the Borrower may incur Indebtedness (including Acquired Debt), and the Subsidiaries of the Borrower may incur Indebtedness, if the Debt Maintenance Test for the Borrower's most recently ended two Loan Quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred would be complied with, calculated in accordance with **Schedule 1**, determined on a pro forma basis

(including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred at the beginning of such two-quarter period.

7.2 **Liens and Related Matters**. Borrower will not directly or indirectly create, incur, assume or permit to exist any Lien on or with respect to the Mortgaged Property or other Collateral whether now owned or hereafter acquired, or any income or profits therefrom, except Permitted Encumbrances. Borrower shall have the right to contest any such Lien securing Claims in accordance with Section 5.3(B).

7.3 **Material Rights**. Without Lender's consent (which shall not be unreasonably withheld) or except in the ordinary course of Borrower's business or use and operation of the Mortgaged Property in the business, Borrower shall not (a) amend, modify or waive the performance of material obligations with regard to the Material Contracts or Proprietary Rights, (b) request a waiver or consent from, any party to, or issuer of any of the Material Contracts or Proprietary Rights or (c) terminate or permit termination of any Material Contracts or Proprietary Rights. Borrower will not acquire, or permit any Affiliate of Borrower to acquire, fee simple title to any portion of the Mortgaged Property ground leased to Borrower, as Borrower.

7.4 **Restriction on Fundamental Changes**. Borrower will not: (1) amend, modify or waive in any material respect any term or provision of its Organizational Documents, (2) liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution), (3) merge or consolidate with another Person, (4) convert into another form of organization, or (5) acquire by purchase or otherwise all or any part of the business or assets of, or stock or other evidence of beneficial ownership of, any Person if the effect of any of the foregoing would be Borrower's non-compliance with the Debt Maintenance Test. Borrower will not issue, sell, assign, pledge, convey, dispose or otherwise encumber any partnership, stock, membership, beneficial or other ownership interests or grant any options, warrants, purchase rights or other similar agreements or understandings with respect thereto if the effect of any of the foregoing would result in Borrower's non-compliance with the Debt Maintenance Test or a Material Adverse effect.

7.5 **Restriction on Leases**.

(A) Borrower shall not hereafter enter into any Lease or other rental or occupancy arrangement or concession agreement with respect to the Mortgaged Property or any portion thereof without Lender's consent, not to be unreasonably withheld. Borrower shall not modify, amend or terminate any Leases, give any material consents, waive any material obligations under any Leases or release any Borrower or guarantor of any Leases, without, in each instance, Lender's consent, not to be unreasonably withheld.

(B) Borrower shall perform and comply, in all material respects, with all of the Lender's obligations under each Lease and shall not suffer or permit any material breach or default on the part of the Lender to occur thereunder.

(C) Without limitation of Section 7.5(A), all Leases entered into by Borrower after the date hereof shall by their express terms (i) be subject and subordinate to the Mortgage (through a subordination provision contained in such Lease), provided that such subordination may be contingent upon nondisturbance by Lender, (ii) provide that the Borrower shall attorn to Lender

or any other Person succeeding to the interests of Lender upon the exercise of its remedies or the Loan Documents or applicable law or any transfer in lieu thereof without any change in the terms of the Lease, and that the Borrower shall, at the option of Lender or of any other Person succeeding to the interest of Lender as a result of such enforcement, recognize Lender or such successor in the interest as lessor under the Lease without change in the provisions thereof; provided, however, Lender or such successor in interest shall not be (x) liable for any act or omission of any prior Lender under any such Lease; (y) bound by any Rent or additional Rent which Borrower might have paid to Borrower for more than the current month or more than one (1) month prior to the due date for the then current installment; (z) liable for any deposits made or prepaid Rent paid by Borrower hereunder unless such deposits have been transferred to Lender; or (aa) or modification or amendment of such Lease made without Lender's consent to the extent such amendment or modification required Lender's consent under this Section 7.5, and (iii) provide that at the request of Lender, the Borrower shall execute and deliver any agreement in the form customarily utilized by Lender providing for attornment by Borrower. Lender shall, within a reasonable time after written request by Borrower, enter into a subordination, attornment and non-disturbance agreement, on Lender's standard form with such reasonable modifications as shall be reasonably acceptable to Lender, with any Borrower (other than an Affiliate of Borrower) entering into a Lease after the date hereof, provided that, such request is accompanied by an Officer's Certificate stating that such Lease complies in all respects with this Section 7.5. All reasonable costs and expenses of Lender in connection with the negotiation, preparation, execution, delivery and recordation of any such agreement, including reasonable attorneys' fees and disbursements shall be paid by Borrower (in advance, if requested by Lender). Except as otherwise provided for in this Section 7.5, Borrower agrees that it shall not have the right or power, without Lender's consent, to cancel, abridge or otherwise modify any Lease, or to accept prepayments of installments of Rent for more than one (1) month in advance provided that Borrower shall have the right, following expiration of applicable Lease grace periods, if any, to terminate a Lease in the event that there shall be a material uncured default by the Borrower thereunder. All lease securities of Borrowers of the Mortgaged Property shall be treated as trust funds and shall not be commingled with any other funds of Borrower.

7.6 **Transactions with Affiliates**. Borrower shall not directly or indirectly enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any director, officer, employee or Affiliate of Borrower, except (i) transactions in the ordinary course of the business of Borrower, (ii) transactions upon fair and reasonable terms which are no less favorable to Borrower than would be obtained in a comparable arm's length transaction with a Person that is not an Affiliate, director, officer or employee of Borrower, (iii) any transaction between or among the Borrower and Subsidiaries of the Borrower, (iv) any employment agreement entered into by the Borrower in the ordinary course of business of the Borrower, (v) payment of reasonable fees, compensation or employee benefits arrangements to and indemnity provided for the benefit of employees, directors or officers of the Borrower or any Subsidiary of the Borrower in the ordinary course of business, (vi) loans or advances to employees, directors, officers or consultants in an aggregate amount not to exceed $500,000.00 outstanding at any one time, (vii) issuances or sales of equity interests to affiliates, employees, officers or directors of the Borrower or any of its Subsidiaries, (viii) transactions pursuant to any contract or agreement with the Borrower or any of its Subsidiaries in effect on the date of this Agreement, as the same may be amended, modified or replaced from time to time so long as any such amendment, modification or replacement is not less favorable to

the Borrower and/or its Subsidiaries in any material respect than the original agreement as in effect on the date of this Agreement, (ix) transactions pursuant to any stockholders agreement as in effect on the date of this Agreement or any similar agreement or any amendment, modification or replacement of such stockholders agreement or similar agreement provided a Change in Control does not occur, (x) any sale, assignment or other Transfer of any of its ownership interests in Stevens Yachting LLC, TCF Yachting LLC or Seagoing Services Ltd., (xi) any dividends permitted to be paid by Section 7.12, (xii) management fees permitted by Section 7.7 or set forth on Schedule 7.7. Lender acknowledges that Stevens Yachting LLC is the maker of that certain Secured Promissory Note dated December 24, 2003 in the amount of $3,250,000, payable to the order of Thomas C. Foley. Borrower shall cause payments on such note to be fully subordinated to repayment in full of the Obligations, provided, however, that so long as no Event of Default has occurred, periodic payments of interest on such note shall be permitted.

7.7 **Management Fees and Compensation; Contracts**. Except as set forth on Schedule 7.7, Borrower will not enter into or become obligated under any management (property and asset), brokerage or other such similar agreement, whether with an Affiliate or any other Person, with respect to the Mortgaged Property, unless the same may be terminated, without cause and without payment of a penalty or fee, on not more than thirty (30) days' prior written notice.

7.8 **Conduct of Business**. Borrower shall not use the Mortgaged Property or any part thereof, or allow the same to be used or occupied, for any purpose other than for the purposes of a fixed base operation/airport and related amenities, or for any unlawful purpose, or in violation of any certificate of occupancy or other permit or certificate, or any Legal Requirement. Borrower will not suffer any act to be done or any condition to exist on the Mortgaged Property or any part thereof or any article to be brought thereon, which may be dangerous (unless safeguarded as required by Legal Requirement) or which may constitute a nuisance, public or private, or which may void or make voidable any insurance then in force with respect thereto. Borrower shall at all times maintain valid and defensible leasehold title to the Mortgaged Property free and clear of any encumbrances other than the Permitted Encumbrances. Borrower shall not change its fiscal year without giving advance notice thereof to Lender.

7.9 **Use of Lender's Name**. Borrower shall not use the names of Lender or any of Lender's Subsidiaries or Affiliates in connection with the development, marketing, leasing, use and operation of the Mortgaged Property. Borrower shall not disclose or permit any Affiliate, officer, director, partner, manager, member or employee of Borrower to disclose any of the terms and conditions of the Loan to any Person except (a) to the extent disclosed in the Mortgage and the Financing Statements, (b) to the extent such disclosure is required pursuant to the Loan Documents or applicable legal process or (c) to the extent Lender consents to such disclosure.

7.10 **Compliance with ERISA**. Borrower shall not adopt, sponsor, maintain, modify or terminate any material "employee benefit plan" (as defined in Section 3(3) of ERISA) which Borrower maintains or administers, except for any such plan which is listed in **Schedule 4.10(B)**. Borrower shall not fail to maintain and operate each existing "employee benefit plan" (as defined in Section 3(3) of ERISA) which it maintains or administers in compliance in all material respects with the provisions of ERISA, which it maintains or administers the Code and all other applicable Legal Requirements and interpretations thereof. Borrower shall not engage in any transaction which would cause the Obligations, or any action taken or to be taken under this

Agreement or the other Loan Documents or otherwise (or the exercise by Lender of any of its rights under the Loan Documents), to be a non-exempt prohibited transaction under ERISA. Borrower shall not become an Employee Benefit Plan to which ERISA or the Code applies and Borrower shall not permit its assets to be assets of any Employee Benefit Plan.

7.11 **Due on Sale or Encumbrance**. Subject to Section 13 herein, without Lender's consent, which consent may be given or withheld in the sole discretion of Lender, neither Borrower nor any other Person directly or indirectly holding any direct or indirect legal, beneficial, equitable or other interest in Borrower (at each and every tier or level of ownership) shall, or permit other Persons to, Transfer (whether or not for consideration or of record) all or any portion of the Mortgaged Property or any of the Affiliated Sites (so long as, with respect to each of the Affiliated Sites, the underlying ground lease of any such Affiliated Site has not expired in accordance with its terms.)

7.12 **Payments; Distributions**. Except as permitted by the following sentence, Borrower shall not pay any distributions, dividends or other payments or return any capital to any of its respective partners, members, owners or shareholders or any other Affiliate (other than dividends or distributions payable in stock or other equity interests of the Borrower or any Subsidiary of the Borrower) or make any distribution of assets, rights, options, obligations or securities to any of its respective partners, members, shareholders or owners or any other Affiliate (individually, or collectively, a "Distribution") unless, with respect to subsections (a), (b) and (c) immediately following, on the date of the proposed Distribution, and after giving effect to the subsequent Distribution, (a) no Default or Event of Default exists; (b) as of the most recent Calculation Date, the DSCR is equal to or greater than the Minimum DSCR and the Debt Maintenance Test has been satisfied; and (c) Borrower is not "insolvent" (as defined in the Bankruptcy Code) and will not be rendered insolvent by virtue of such Distribution. Borrower shall deliver, at least ten (10) days in advance of the proposed Distribution, to Lender, an Officer's Certificate executed by the chief financial officer or similar officer of Borrower, stating that the foregoing conditions (a), (b) and (c) have been satisfied. Notwithstanding the foregoing or anything else contained in this Agreement, for so long as the Borrower is an 'S' Corporation, Borrower may pay dividends or other Distributions to its shareholders which will be sufficient to permit such shareholders to satisfy their Attributed Income Tax Liabilities (which Distributions may be paid in sufficient time to permit such shareholders to pay their Attributed Income Tax Liabilities arising from such stockholding at the times such shareholder is obligated to make payments (including estimated payments) in respect thereof to the relevant taxing authorities).

7.13 **Minimum DSCR**. Borrower shall not permit the DSCR to be less than the Minimum DSCR.

7.14 **Alterations**. Subject in all respects to the terms and conditions of the applicable underlying Lease and/or Ground Lease:

Borrower shall not alter, remove or demolish or permit the alteration, removal or demolition of, any Improvement except as the same may be necessary in connection with (i) a Restoration in connection with a taking or casualty in accordance with the terms and conditions of the Agreement, (ii) Capital Improvements and Borrower improvements in accordance with the terms and conditions of the Agreement and (iii) other Alterations permitted in accordance with

the terms and conditions of this Section 7.14. If no Event of Default exists, Borrower may undertake any alteration, improvement, demolition or removal of Improvements or any portion thereof (any such alteration, improvement, demolition or removal, an "**Alteration**") so long as (i) Borrower provides Lender with at least thirty (30) days' prior notice of any such Alteration, (ii) such Alteration is undertaken in accordance with the applicable provisions of this Agreement, is not prohibited by, and is in full compliance with, and does not violate, any Material Contracts, Leases or Legal Requirements and does not, during Construction and upon completion, have a Material Adverse Effect, (iii) Borrower provides Lender with evidence, satisfactory to Lender, that Borrower has sufficient funds, through a combination of Loan proceeds, Proceeds, funds deposited with Lender or otherwise to complete and pay all of the costs of the Alterations, (iv) such Alterations does not eliminate or materially modify any amenity available to Borrowers and their employees or customers, (v) such Alteration is in the nature of (x) a Borrower Improvement to be made pursuant to Leases entered into pursuant to Section 7.5 or otherwise consented to by Lender, (y) Capital Improvements permitted under this Agreement, (z) a Restoration required or permitted under the Agreement or (z) if not in the nature of the Alterations contemplated by (x), (y) or (z), such Alteration has been consented to by Lender (such consent will not be unreasonably withheld in the case of Alterations the cost of which, as estimated by Lender, does not exceed $50,000) and (vi) prior to commencement and from time to time upon request from Lender, Borrower delivers an Officer's Certificate certifying that conditions (i)–(v), inclusive, have been satisfied. Any Alteration shall, unless Lender otherwise approves or the Agreement otherwise provides, be conducted under the supervision of an independent architect approved by Lender. No Alteration shall be undertaken until Lender has approved plans and specifications and cost estimates for the Alterations, prepared by such independent architect or another Person approved by Lender.

7.15 Affiliated Sites. Borrower will not directly or indirectly create, incur, assume or permit to exist any Lien securing or evidencing any Indebtedness on all or any portion of any of the leaseholds for the Affiliated Sites, other than any statutory Liens for taxes not yet due and payable.

## SECTION 8
## CASUALTY AND CONDEMNATION

8.1 Restoration Following Casualty or Condemnation. After the happening of any casualty or condemnation to the Mortgaged Property or any part thereof, Borrower shall give prompt notice thereof to Lender.

Subject in all respects to the terms and conditions of the applicable underlying Lease and/or Ground Lease:

(A) In the event of any damage or destruction of all or any part of the Mortgaged Property, all Proceeds shall be payable to Lender. Borrower hereby authorizes and directs any affected insurance company or condemning Governmental Authority or other Persons to make payment of such proceeds directly to Lender. Borrower shall obtain Lender's approval prior to any settlement, adjustment or compromise of any claims for loss, damage or destruction under any policy or policies of insurance or with respect to any condemnation, and Lender shall have the right to participate with Borrower in negotiation of any such settlement, adjustment or

compromise provided, however, Borrower shall be permitted, so long as no Event of Default exists, to settle insurance claims of $100,000 or less without Lender's approval (but with reasonable advance notice to Lender) and utilize any such funds for Restoration. Lender shall also have the right to appear with Borrower in any action against an insurer based on a claim for loss, damage or destruction under any policy or policies of insurance.

(B) All compensation, proceeds, damages, claims, insurance recoveries, rights of action and payments which Borrower may receive or to which Borrower may become entitled with respect to the Mortgaged Property or any part thereof as a result of any casualty or condemnation, except as set forth below in this Section 8.1 (the "**Proceeds**"), shall be paid over to Lender and shall be applied first toward reimbursement of all costs and expenses of Lender in connection with recovery of the same, and then, except as set forth below in this Section 8.1, shall be applied in the sole and absolute discretion of Lender, without regard to the adequacy of Lender's security hereunder, to the payment or prepayment of the Obligations in such order as Lender may determine, and any amounts so applied shall reduce the Obligations *pro tanto* (together with any Yield Maintenance Amount due in connection therewith). Any application of the Proceeds or any portion thereof to the Obligations shall not be construed to cure or waive any Default or Event of Default or invalidate any act done pursuant to any such Default or Event of Default.

(C) Subject to the other provisions of this Section 8.1, and provided that (i) all Proceeds have been deposited with Lender; (ii) no Event of Default shall exist; (iii) a Total Loss with respect to the Property shall not have occurred; (iv) the Restoration is capable, as reasonably determined by Lender, of being completed before the earlier (the "**Required Restoration Date**") to occur of (w) the date which is six (6) months prior to the Maturity Date, (x) the date on which the insurance carried by Borrower pursuant to Section 5.4 with respect to the Mortgaged Property shall expire, (y) the date specified in each Lease as the date required for completion of a Restoration or such date with respect to which non-completion of the Restoration, would entitle a Borrower to terminate its Lease, and (z) six (6) months after the occurrence of the casualty or condemnation in question; (v) Lender shall have been furnished with an estimate of the cost of restoration accompanied by an architect's certificate as to such costs and appropriate final plans and specifications for reconstruction of the Improvements, all of which shall be approved by Lender, which approval shall not be unreasonably withheld; (vi) the Improvements so restored or rebuilt shall be of at least equal value and substantially the same character as prior to the damage or destruction and appropriate for the purposes for which they were originally erected (and, if requested by Lender, Borrower will furnish, at its expense, an appraisal confirming such valuation); (vii) Borrower shall have furnished Lender with evidence reasonably satisfactory to Lender that all Improvements so restored and/or reconstructed and their use fully comply with all zoning, building laws, ordinances and regulations and other Legal Requirements and that all required certificates of occupancy, licenses and approvals required for use, operation and occupancy of the Improvements can be obtained; (viii) if the estimated cost of the Restoration exceeds the Proceeds available, Borrower shall have deposited with Lender such sums or other security as may be necessary, in Lender's reasonable judgment, to pay such excess costs; (ix) the economic feasibility of the Improvements after completion of the Restoration will be such that the Minimum DSCR and the Debt Maintenance Test requirements can be met; and (x) Lender shall have received notice within thirty (30) days of the fire or other hazard or of the condemnation proceedings specifying the date of such fire or other hazard or the date the notice

of condemnation proceedings was received and the request to Lender to make said Proceeds available to Borrower; then the Proceeds, less the actual costs, fees and expenses, if any, incurred in connection with adjustment of loss and Lender's reasonable administrative expenses relating to such loss and the disbursement of the Proceeds shall be applied by Lender to the payment of all the costs of the aforesaid restoration, repairs, replacement, rebuilding or alterations, including the cost of temporary repairs or for the protection of property pending the completion of permanent restoration, repairs, replacements, rebuilding or alterations (all of which temporary repairs, protection of property and permanent restoration, repairs, replacement, rebuilding or alterations are hereinafter collectively referred to as the "**Restoration**"), and shall be paid out from time to time as such Restoration progresses upon the request of Borrower if the work for which payment is requested has been done in a good and workmanlike manner, in compliance with applicable Legal Requirements and substantially in accordance with the plans and specifications therefor. Each request by Borrower for disbursement of Proceeds shall (unless Lender otherwise elects, in its sole discretion, with respect to a Restoration estimated by Lender to cost $100,000 or less to complete, to waive any of the following requirements) be accompanied by the required Lien Waivers, a Request for Release, and, to the extent not subsumed within a Request for Release, the following:

(i) A certificate signed by Borrower, dated not more than thirty (30) days prior to such request, setting forth the following: (A) that the sum then requested either has been paid, or is justly due to contractors, subcontractors, materialmen, engineers, architects or other persons who have rendered services or furnished materials for the restoration therein specified or have paid for the same, the names and addresses of such persons, a brief description of such services and materials, the several amounts so paid or due to each of said persons in respect thereof (together with supporting statements and invoices for the same), that no part of such expenditures has been or is being made the basis of any previous or then pending request for the withdrawal of Proceeds or has been made out of any of the Proceeds received by Borrower, and that the sum then requested does not exceed the value of the services and materials described in the certificate; and (B) that the costs, as estimated by the persons signing such certificate, of the Restoration required to be done subsequent to the date of such certificate in order to complete and pay for the same, do not exceed the Proceeds, plus any amount or security approved by Lender and deposited by Borrower to defray such costs and remaining in the hands of Lender after payment of the sum requested in such certificate.

(ii) A title insurance report or other evidence satisfactory to Lender to the effect that there has not been filed with respect to the Mortgaged Property, or any part thereof, any vendor's, contractor's, mechanics', laborer's, materialmen's or other Lien which has not been discharged of record or bonded or insured over, except such as will be disbursed by payment of the amount then requested.

(iii) A certificate signed by an independent architect and/or engineer in charge of the Restoration, who shall be selected by Borrower and approved in writing by Lender, certifying that the Restoration is proceeding in accordance with the plans and specifications approved by Lender and in accordance with all zoning, subdivision and other Legal Requirements. Upon compliance with the foregoing provisions, Lender shall, out of Proceeds (and the amount of security approved by Lender, if any, deposited by

Borrower to defray the costs of the Restoration), pay or cause to be paid to Borrower or the Persons named (pursuant to clause (1)(A) above) in such certificate the respective amounts stated therein to have been paid by Borrower or to be due to them, as the case may be.

(D) If the Proceeds at the time held by Lender, less the actual costs, fees and expenses, if any, incurred in connection with the adjustment of the loss and Lender's administrative expenses relating to such loss and the disbursement of the Proceeds, shall be, in Lender's reasonable judgment, insufficient to pay the entire cost of the Restoration, Borrower shall deposit with Lender any such deficiency prior to disbursement of any additional portion of the Proceeds. No payment made prior to the final completion of the Restoration shall exceed ninety percent (90%) of the value of the work performed from time to time (provided that, notwithstanding the foregoing, subcontractors who have completed their work may be paid in full), and at all times the undisbursed balance of said Proceeds remaining in the hands of Lender shall be at least sufficient to pay for the cost of completion of the Restoration free and clear of liens. Final payment shall be upon an architect's certificate to completion in accordance with the final plans and specifications and compliance with all zoning, building, subdivision and other governmental laws, ordinances, rules, and regulations, the filing of a notice of completion and the expiration of the period provided under applicable law for the filing of mechanic's and materialmen's liens and delivery to Lender of a certified copy of a final unconditional permanent certificate of occupancy regarding the Restoration. Lender may, at its option, require an endorsement to the Title Policy insuring the continued priority of the lien of the Mortgage as to all sums advanced hereunder, such endorsement to be paid for by Borrower. Upon completion of the Restoration in a good and workmanlike manner in accordance herewith, and provided that Lender has received satisfactory evidence that the Restoration has been paid for in full and the Mortgaged Property is free and clear of all Liens (including signed lien waivers from all contractors and subcontractors conditioned only on payment of amounts specified therein), any balance of the Proceeds at the time held by Lender (after reimbursement to Lender of all costs and expenses of Lender, including administrative expenses, in connection with recovery of the same and disbursement of such Proceeds for the Restoration), if any, shall be applied as follows: (i) to the extent that such balance of the Proceeds is equal to or less than the amount, if any, by which the value of the Mortgaged Property prior to such damage or destruction exceeds the value of the Mortgaged Property after such Restoration (for these purposes, the value of the Mortgaged Property shall be determined by Lender in its discretion), then the portion of the balance of the Proceeds equal to such excess amount shall be applied to the payment or prepayment of the principal balance of the Obligations in such order as Lender may determine, and any amounts so applied shall reduce the Obligations *pro tanto* (without any prepayment premium due in connection therewith); and (ii) to the extent that the balance of the Proceeds exceeds such excess amount, such portion of the balance of the Proceeds shall be paid to Borrower.

(E) Nothing herein contained shall be deemed to excuse Borrower from repairing or maintaining the Mortgaged Property as provided in the Agreement hereof or restoring all damage or destruction to the Mortgaged Property, provided that there are insurance proceeds available which are sufficient in amount, and the application or release by Lender of any Proceeds shall not cure or waive any Default or Event of Default or invalidate any other act done by Lender to exercise its remedies under this Agreement or the other Loan Documents.

## SECTION 9
## DEFAULT, RIGHTS AND REMEDIES

9.1 **Event of Default**. "**Event of Default**" means the occurrence or existence of any one or more of the following:

(A) **Payment**. Failure of Borrower to pay (i) on the Maturity Date, the outstanding principal of, accrued interest in, and other Indebtedness owing to the Lender pursuant to the Agreement, the Note and the other Loan Documents, (ii) within five (5) days after the due date, any installment of interest due under the Note (other than the payment due on the Maturity Date); provided, however, the aforesaid five (5) day grace period may be utilized by Borrower no more than twice in any consecutive twelve (12) Loan Month period, or (iii) within five (5) days after the respective due date, any other amount due to Lender under the other Loan Documents provided, however, the aforesaid five (5) day grace period may be utilized by Borrower no more than twice in any consecutive twelve (12) Loan Month period.

(B) **Breach of Certain Provisions**. Failure of Borrower to perform or comply with any term, agreement, covenant, representation, warranty or condition contained in Sections 5.1(A), 5.4(E), 5.4 or 7.

(C) **Breach of Representation and Warranty**. Any representation, warranty, certification or other statement made by Borrower in any Loan Document or in any statement or certificate at any time given in writing pursuant or in connection with any Loan Document (other than occurrences described in other provisions of this Section 9.1 for which a different grace or cure period is specified or which constitute immediate Events of Default) is false in any material respect on the date made (or deemed made) which remains uncured for five (5) Business Days after notice to Borrower from Lender thereof, but no grace or curative period will apply if the representation, warranty, certification or other statement was known by Borrower to be false when made or deemed made.

(D) **Other Defaults Under Loan Documents**. A default by Borrower shall occur in the performance of or compliance with any term contained in this Agreement or the other Loan Documents and such default is not remedied or waived within thirty (30) days after receipt by Borrower of notice from Lender of such default (other than occurrences described in other provisions of this Section 9.1 for which a different grace or cure period is specified or which constitute immediate Events of Default); provided, however, that (i) if such default cannot be remedied with reasonably diligent effort within a period of thirty (30) days, but is susceptible to cure within a period of one hundred twenty (120) days and (ii) the continued default in performance will not have a Material Adverse Effect, such longer period, not to exceed ninety (90) additional days, as Borrower may need to remedy such default, if Borrower is proceeding with diligent effort to remedy such default throughout said one hundred twenty (120)-day period. The rights to notice and cure periods granted herein shall not be cumulative with any other rights to notice or a cure period in any other Loan Document and the giving of notice or a cure period pursuant to this section shall satisfy any and all obligations of Lender to grant any such notice or cure period pursuant to any of the Loan Documents.

(E) **Involuntary Bankruptcy; Appointment of Receiver, etc.** (1) A court enters a decree or order for relief with respect to Borrower, in an involuntary case under the Bankruptcy Code or any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, which decree or order is not stayed or other similar relief is not granted under any applicable federal or state law; or (2) the continuance of any of the following events for sixty (60) days unless dismissed, bonded or discharged: (a) an involuntary case is commenced against Borrower under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; or (b) a decree or order of a court for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Borrower, or over all or a substantial part of its property, is entered; or (c) an interim receiver, trustee or other custodian is appointed without the consent of Borrower for all or a substantial part of the property of Borrower; or

(F) **Voluntary Bankruptcy; Appointment of Receiver, etc.** (1) An order for relief is entered with respect to Borrower, or Borrower commences a voluntary case under the Bankruptcy Code or any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case or to the conversion of an involuntary case to a voluntary case under any such law or consents to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or (2) Borrower makes any general assignment for the benefit of creditors; or (3) partners, shareholders, or members in Borrower adopt any resolution or otherwise authorizes action to approve any of the actions referred to in this Section 9.1(F); or

(G) **Governmental Liens**. Any lien, levy or assessment attributable to Borrower is filed or recorded with respect to or otherwise imposed upon all or any part of the Mortgaged Property by the United States or any department or instrumentality thereof or by any state, county, municipality or other governmental agency (other than Permitted Encumbrances) and such lien, levy or assessment is not stayed, vacated, paid, discharged or insured or bonded over within thirty (30) days;

(H) **Judgment and Attachments**. Any money judgment, writ or warrant of attachment, or similar process (other than those described in Section 9.1(G)) involving (1) an amount in any individual case in excess of $200,000 or (2) an amount in the aggregate at any time in excess of $500,000 (in either case not adequately covered by insurance as to which the insurance company has acknowledged coverage) is entered or filed against Borrower and remains undischarged, unvacated, unbonded, uninsured or unstayed for a period of thirty (30) days or in any event later than five (5) days prior to the date of any proposed sale thereunder;

(I) **Dissolution**. Any order, judgment or decree is entered against Borrower decreeing the dissolution or split up of Borrower and such order remains undischarged or unstayed for a period in excess of twenty (20) days; or

(J) **Injunction**. Borrower is enjoined, restrained or in any way prevented by the order of any court or any administrative or regulatory agency from conducting all or any material part of its business relating to all of any portion of the Mortgaged Property and such order continues for more than thirty (30) days; or (ii) any order or decree is entered by any court of competent jurisdiction directly or indirectly enjoining or prohibiting Lender or Borrower from

performing any of their obligations under this Agreement or any of the other Loan Documents; or

(K) **Invalidity of Loan Documents**. Any of the Loan Documents for any reason, other than a partial or full release in accordance with the terms of the Loan Documents, ceases to be in full force and effect or is declared to be null and void by a court of competent jurisdiction, or Borrower denies that it has any further liability under any Loan Documents to which it is party, or gives notice to such effect; or

(L) **DSCR**. The DSCR does not equal or exceed the Minimum DSCR as of the final day of two consecutive Loan Quarters, and Borrower has failed to either post cash or a letter of credit to cover such deficiency or alternatively, has failed to substitute or sell a Site in accordance with Section 6 in order to comply with the Minimum DSCR; or

(M) **Ground Lease Default**. A default by Borrower under any Ground Lease, which default continues beyond any applicable grace or cure period provided thereunder; or

(N) **Event of Default**. The occurrence of an Event of Default specified elsewhere in this Agreement or in any of the other Loan Documents; or

(O) **Cross-Acceleration**. The occurrence of (i) the acceleration of any Permitted Indebtedness in the aggregate amount of $2,000,000 or more; or

(P) **Change of Control**. Without Lender's prior written consent, a Change of Control not otherwise permitted hereunder shall occur, and Borrower shall have failed to pay the Obligations in full within 90 days of such Change of Control.

(Q) **Debt Maintenance Test**. Borrower shall have failed to maintain the minimum requirements of the Debt Maintenance Test for two Loan Quarters.

9.2 **Acceleration and Remedies**. Upon the occurrence of any Event of Default specified in Sections 9.1(E) and 9.1(F), payment of all Obligations shall be accelerated without notice, presentment, demand, protest or notice of protest and shall be immediately due and payable and, in addition, Lender may in addition to any other rights and remedies available to Lender at law or in equity or under any other Loan Documents, exercise one of more of the following rights and remedies as it, in its sole discretion, deems necessary or advisable. Upon the occurrence and continuance of any Event of Default (other than Events of Default specified in Sections 9.1(E) and 9.1(F)), Lender, in addition to any other rights or remedies available to Lender at law or in equity, or under any of the other Loan Documents, may exercise any one or more of the following rights and remedies as it, in its sole discretion, deems necessary or desirable:

(A) **Acceleration**. Declare immediately due and payable, without further notice, protest, presentment, notice of protest or demand, all Obligations including all monies advanced under this Agreement, the Note, the Mortgage and/or any of the Loan Documents which are then unpaid, together with all interest then accrued thereon and all other amounts then owing (including any Default Interest, or Yield Maintenance Amount owed as a result of such acceleration). If payment of the Obligations is accelerated, Lender may, in its sole discretion,

exercise all rights and remedies hereunder and under the Note, the Mortgage and/or any of the other Loan Documents at law, in equity or otherwise.

(B) **Possession**. Enter upon and take possession of the Mortgaged Property and proceed in the name of Lender or Borrower as the attorney-in-fact of Borrower (which authority is hereby granted by Borrower, is coupled with an interest, and is irrevocable), as Lender shall elect. If Lender elects to so enter upon and take possession of the Mortgaged Property, Lender (i) may enforce or cancel all contracts entered into by Borrower or make other contracts which are in Lender's sole opinion advisable, and (iii) shall be reimbursed by Borrower upon demand any reasonable amount or amounts expended by Lender for such performance together with any reasonable costs, charges, or expenses incident thereto or otherwise incurred or expended by Lender or its representatives (including an appraisal) on behalf of Borrower in connection with the Mortgaged Property, and the amounts so expended shall be considered part of the Loan evidenced by the Note and secured by the Loan Documents and shall bear interest at the Default Rate.

(C) **No Further Obligations**. Terminate Lender's obligations under this Agreement.

(D) **Injunctive Relief**. Institute appropriate proceedings for injunctive relief (including specific performance of the obligations of Borrower).

9.3 **Remedies Cumulative; Waivers; Reasonable Charges**. All of the remedies given to Lender in the Loan Documents or otherwise available at law or in equity to Lender shall be cumulative and may be exercised separately, successively or concurrently. Failure to exercise any one of the remedies herein provided shall not constitute a waiver thereof by Lender, nor shall the use of any such remedies prevent the subsequent or concurrent resort to any other remedy or remedies vested in Lender by the Loan Documents or at law or in equity. To be effective, any waiver by Lender must be in writing and such waiver shall be limited in its effect to the condition or default specified therein, and no such waiver shall extend to any subsequent condition or default. It is agreed that (i) the actual costs and damages that Lender would suffer by reason of an Event of Default (exclusive of the attorneys' fees and other costs incurred in connection with enforcement of Lender's rights under the Loan Documents) or a prepayment would be difficult and needlessly expensive to calculate and establish, and (ii) the amounts of the Default Rate, the Late Charge, payments to be made pursuant to Section 2.4(C)(ii) and the Yield Maintenance Account are reasonable, taking into consideration the circumstances known to the parties at this time, and (iii) the Default Rate, the Late Charges and Lender's reasonable attorneys' fees and other costs and expenses incurred in connection with enforcement of Lender's rights under the Loan Documents shall be due and payable as provided herein, and (iv) the Default Rate, Late Charges, Yield Maintenance Account, the payments to be made pursuant to Section 2.4(C)(ii) and the obligation to pay Lender's reasonable attorneys' fees and other enforcement costs do not, individually or collectively, constitute a penalty.

## SECTION 10
## SECONDARY MARKET TRANSACTION

10.1 **Secondary Market Transaction**. Borrower agrees that Lender has the absolute right to securitize, syndicate, grant participations in, or otherwise Transfer all or any portion of the Loan

(each such transaction, a "**Securitization**"). Lender may determine to Transfer some or all of the Loan or retain title to some or all of the Loan as part of a Securitization. Borrower further agrees that Lender may, with Borrower's prior written consent (which consent will not be unreasonably withheld) delegate any or all of Lender's rights, powers and privileges to a servicer ("**Servicer**") and Borrower shall, upon notice from Lender, recognize the Servicer as the agent of Lender. In no event shall Borrower be required to pay any servicer fees, Securitization trustee fees or other Securitization administrative expenses except as may be expressly provided in this Agreement. Notwithstanding the foregoing, Borrower shall pay any reasonable fees and expenses of Lender incurred by a Servicer which Borrower would otherwise be obligated to pay Lender pursuant to Section 11.1 or another provision of this Agreement.

## SECTION 11
## MISCELLANEOUS

11.1 **Expenses and Attorneys' Fees**. Whether or not the transactions contemplated hereby shall be consummated, Borrower agrees to promptly pay all fees, costs and expenses (including reasonable attorneys' fees, court costs, cost of appeal and the reasonable fees, costs and expenses of other professionals retained by Lender) incurred by Lender in connection with the following, and all such fees, costs and expenses shall be part of the Obligations, payable on demand: (A) the examination, review, due diligence investigation, documentation and closing of the financing arrangements evidenced by the Loan Documents including fees and costs for the Environmental Report and the Physical Conditions Report; (B) the giving or withholding of any consents, approvals, or permissions, administration of the Loan and disbursements of the Loan and in connection with any amendments, modifications and waivers relating to the Loan Documents requested by Borrower; (C) the review, documentation, negotiation and closing of any subordination or intercreditor agreements, Lease reviews, and subordination, nondisturbance and attornment agreements; (D) Lender's consultants; and (E) enforcement of this Agreement or the other Loan Documents, the collection of any payments due from Borrower under the Loan Documents or any refinancing or restructuring of the credit arrangements provided under the Loan Document, whether in the nature of a "workout" or in connection with any insolvency or bankruptcy proceedings or otherwise.

11.2 **Certain Lender Matters**. Lender may, in accordance with Lender' customary practices, destroy or otherwise dispose of all documents, schedules, invoices or other papers, delivered by Borrower to Lender unless Borrower requests, at the time of delivery, in writing that same be returned. Borrower and Lender intend that the relationships created hereunder and under the other Loan Documents be solely that of borrower and lender. Nothing herein or therein is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Borrower and Lender or to grant Lender any interest in the Mortgaged Property other than that of mortgagee, beneficiary or lender. No provision in this Agreement or in any of the other Loan Documents and no course of dealing between the parties shall be deemed to create any fiduciary duty by Lender to Borrower or any other Person. All attorneys, accountants, appraisers, and other professional Persons and consultants retained by Lender shall have the right to act exclusively in the interest of Lender and shall have no duty of loyalty, duty of care or any other duty to Borrower or any of Borrower's partners, shareholders, members, managers, Affiliates or any other Person. By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to the Loan Documents, Lender shall not

be deemed to have warranted or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or representation with respect hereto or thereto by Lender. Borrower shall rely solely on its own judgment and advisors in entering into the Loan without relying in any manner on any statements, representations or recommendations of Lender or any parent, subsidiary or Affiliate of Lender or their respective attorneys, advisors, accountants, officers, representatives, directors, employees, partners, shareholders, trustees, members or managers. Lender shall not be subject to any limitation whatsoever in the exercise of any rights or remedies available to it under any of the Loan Documents or any other agreements or instruments which govern the Loan by virtue of the ownership by it or any parent, subsidiary or Affiliate of Lender of any equity interest any of them may acquire in Borrower, and Borrower hereby irrevocably waives the right to raise any defense or take any action on the basis of the foregoing with respect to Lender's exercise of any such rights or remedies. Borrower acknowledges that Lender engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of Borrower or its Affiliates. LENDER SHALL HAVE NO LIABILITY HEREUNDER FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower or its creditors or property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire secured Obligations at the date of the institution of such proceedings and for any additional amount which may become due and payable by Borrower after such date. Lender shall have the right from time to time to designate, appoint and replace one or more servicers and to allow servicer to exercise any and all rights of Lender under the Loan Documents. All documents and other matters required by any of the provisions of this Agreement to be submitted or provided to Lender shall be in form and substance reasonably satisfactory to Lender. Borrower shall not be entitled to (and does hereby waive any and all rights to receive) any notices of any nature whatsoever from Lender except with respect to matters for which the Loan Documents expressly provide for the giving of notice by Lender to Borrower. In any action or proceeding brought by Borrower against Lender claiming or based upon an allegation that Lender unreasonably withheld its consent to or approval of a proposed act by Borrower which requires Lender's consent hereunder, Borrower's sole and exclusive remedy in said action or proceeding shall be injunctive relief or specific performance requiring Lender to grant such consent or approval.

**11.3** **Indemnity**. In addition to the payment of expenses pursuant to Section 11.1 and the indemnification obligations set forth in other portions of this Agreement, or the other Loan Documents, Borrower agrees to indemnify, pay, defend and hold Lender, its officers, directors, members, partners, shareholders, participants, beneficiaries, trustees, employees, agents, successors and assigns, any subsequent holder of the Note, any trustee, fiscal agent, servicer, underwriter and placement agent, (collectively, the "**Indemnitees**") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, causes of action, suits, claims, tax liabilities, broker's or finders fees, costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitee shall be designated a party thereto)

that may be imposed on, incurred by, or asserted against that Indemnitee, based upon any third party claims against such Indemnitees in any manner related to or arising out of (A) any breach by Borrower of any representation, warranty, covenant, or other agreement contained in any of the Loan Documents or certificates provided pursuant to the Loan Documents, (B) the actual or threatened presence, release, disposal, spill, escape, leakage, transportation, migration, seepage, discharge, removal, or cleanup of any Hazardous Material located on, about, within, under, affecting, from or onto the Mortgaged Property or any violation of any applicable Environmental Law by Borrower or the Mortgaged Property, or (C) the use or intended use of the proceeds of any of the Loan and any request for a draw or presentment of any Letter of Credit (the foregoing liabilities herein collectively referred to as the "**Indemnified Liabilities**"); provided that Borrower shall have no obligation to an Indemnitee hereunder with respect to Indemnified Liabilities arising from the gross negligence or willful misconduct of that Indemnitee as determined in a final order by a court of competent jurisdiction. Borrower shall be relieved of its obligation under clause (B) of this Section 11.3 with respect to Hazardous Materials first introduced to the Land and Improvements after either (1) the foreclosure of the Mortgage or (2) the delivery by Borrower to, and acceptance by, Lender or its designee of a deed-in-lieu of foreclosure with respect to the Mortgaged Property. To the extent that the undertaking to indemnify, pay, defend and hold harmless set forth in the preceding sentence may be unenforceable because it is violative of any law or public policy, Borrower shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. If any such action or other proceeding shall be brought against Lender, upon written notice from Borrower to Lender (given reasonably promptly following Lender's notice to Borrower of such action or proceeding), Borrower shall be entitled to assume the defense thereof, at Borrower's expense, with counsel reasonably acceptable to Lender; provided, however, Lender may, at its own expense, retain separate counsel to participate in such defense, but such participation shall not be deemed to give Lender a right to control such defense, which right Borrower expressly retains. Notwithstanding the foregoing, each Indemnitee shall, following notice to and consultation with Borrower, have the right to employ separate counsel at Borrower's expense if, in the reasonable opinion of legal counsel, a conflict or potential conflict exists between the Indemnitee and Borrower that would make such separate representation advisable. Borrower shall have no obligation to indemnify an Indemnitee for damage or loss resulting from such Indemnitee's gross negligence or willful misconduct.

**11.4** **Amendments and Waivers**. Except as otherwise provided herein, no amendment, modification, termination or waiver of any provision of this Agreement, the Note or any other Loan Document, or consent to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by Lender (and, with respect to any amendment or modification, unless also signed by Borrower). Each amendment, modification, termination or waiver shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Borrower in any case shall entitle Borrower, or any other Person to any other or further notice or demand in similar or other circumstances. To the fullest extent permitted by law, Borrower, for itself and its successors and assigns, waives all rights to a marshalling of the assets of Borrower, Borrower's partners or members and others with interests in Borrower, and of the Mortgaged Property, or to a sale in inverse order of alienation in the event of foreclosure of all or any of the Mortgage, and agrees not to assert any right under any laws pertaining to the marshalling of assets, the sale in inverse order of alienation, homestead

exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Lender under the Loan Documents to a sale of the Mortgaged Property for the collection of the obligations without any prior or different resort for collection or of the right of Lender to the payment of the obligations owing Lender on account of the Loan Documents out of the net proceeds of the Mortgaged Property in preference to every other claimant whatsoever. In addition, Borrower, for itself and its successors and assigns, waives in the event of foreclosure of the Mortgage, any equitable right otherwise available to Borrower which would require the separate sale of any of any portion of the Mortgaged Property or require Lender to exhaust its remedies against any portion of the Mortgaged Property or any combination of the Mortgaged Property before proceeding against any other portion; and further in the event of such foreclosure, Borrower expressly consents to and authorizes, at the option of Lender, the foreclosure and sale either separately of all or any portion of the Mortgaged Property. No failure or delay on the part of Lender or any holder of any Note in the exercise of any power, right or privilege hereunder or under the Note or any other Loan Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. All rights and remedies existing under this Agreement, the Note and the other Loan Documents are cumulative to, and not exclusive of, any rights or remedies otherwise available. Lender shall not be under any obligation to marshal any assets in favor of any Person or against or in payment of any or all of the Obligations. To the extent that any Person makes a payment or payments to Lender, or Lender enforces its remedies or exercise its rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such recovery, the Obligations or part thereof originally intended to be satisfied, and all Liens, if any, rights and remedies therefore, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred. Borrower agrees (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury or other law wherever enacted, now or at any time hereafter in force, which would prohibit or forgive Borrower from paying all or any portion of the principal of, premium, if any, or interest on Loan contemplated herein or in any of the other Loan Documents or which may affect the covenants or the performance of this Agreement; and Borrower (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the holders, but will suffer and permit the execution of every such power as though no such law had been enacted.

**11.5 Notices**. Unless otherwise specifically provided herein, any notice or other communication required or permitted to be given shall be in writing addressed to the respective party as set forth below and may be personally served, telecopied (with electronic confirmation of such facsimile transmission and the sending on the date of such facsimile transmission of a confirmation copy of such facsimile by nationally recognized overnight courier service or by certified or registered mail, postage prepaid) (with request for confirmation) or sent by overnight courier service or United States registered mail return receipt requested, postage prepaid. Any notice so given shall be deemed effective upon delivery or on refusal or failure of delivery during

normal business hours. Notices shall be addressed to the parties at the addresses specified on **Schedule 11.5** or to such other address as the party addressed shall have previously designated by written notice to the serving party, given in accordance with this Section 11.5.

**11.6 Survival of Warranties and Certain Agreements.** All agreements, representations and warranties made herein shall survive the execution and delivery of this Agreement, the making of the Loan hereunder and the execution and delivery of the Notes. Notwithstanding anything in this Agreement or implied by law to the contrary, the provisions of Sections 2.6, 11.1, 11.2, 11.3, 11.13 and 11.15 shall survive the payment of the Loan and the termination of this Agreement. Subject to this Section 11.6, all other representations, warranties and agreements of Borrower and Lender set forth in this Agreement shall terminate upon indefeasible payment in full of the Loan and the termination of this Agreement.

**11.7 Miscellaneous.** Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect. All covenants and agreements hereunder shall be given in any jurisdiction independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or be otherwise within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists. The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Agreement, the Note or other Loan Documents shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Agreement, the Note or other Loan Documents or of such provision or obligation in any other jurisdiction. This Agreement is made for the sole benefit of Borrower and Lender, and no other Person shall be deemed to have any privity of contract hereunder nor any right to rely hereon to any extent or for any purpose whatsoever, nor shall any other person have any right of action of any kind hereon or be deemed to be a third party beneficiary hereunder. This Agreement, the Note, and the other Loan Documents referred to herein embody the final, entire agreement among the parties hereto and supersede any and all prior commitments, agreements, representations, and understandings, whether written or oral, relating to the subject matter hereof and may not be contradicted or varied by evidence of prior, contemporaneous, or subsequent oral agreements or discussions of the parties hereto. There are no oral agreements among the parties hereto. Borrower and Lender acknowledge that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review this Agreement and the other Loan Documents with its legal counsel and that this Agreement and the other Loan Documents shall be construed as if jointly drafted by Borrower and Lender. If any term, condition or provision of this Agreement shall be inconsistent with any term, condition or provision of any other Loan Document, this Agreement shall control. This Agreement and any amendments, waivers, consents, or supplements may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all of which counterparts together shall constitute but one and the same instrument. This Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto. Upon indefeasible payment and performance in full of the Borrower's Obligations, the Lender shall, at the sole cost and expense of the Borrower, release the Mortgage and the other Liens securing the Borrower's Obligations.

11.8 APPLICABLE LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

11.9 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns except that Borrower may not assign its rights or obligations hereunder or under any of the other Loan Documents without the written consent of Lender. Any assignee of Lender's interest in the Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to the Loan Documents which Borrower may otherwise have against any assignor of the Loan Documents.

11.10 CONSENT TO JURISDICTION AND SERVICE OF PROCESS. BORROWER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS. BORROWER ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS MORTGAGED PROPERTY, GENERALLY AND UNCONDITIONALLY, THE NONEXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF *FORUM NON CONVENIENS,* AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT, THE NOTE, SUCH OTHER LOAN DOCUMENTS OR SUCH OBLIGATION. BORROWER DESIGNATES AND APPOINTS CT CORPORATION SYSTEM AND SUCH OTHER PERSONS AS MAY HEREAFTER BE SELECTED BY BORROWER WITH LENDER'S APPROVAL WHICH IRREVOCABLY AGREE IN WRITING TO SO SERVE AS ITS AGENT TO RECEIVE ON ITS BEHALF SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDINGS IN ANY SUCH COURT, SUCH SERVICE BEING HEREBY ACKNOWLEDGED BY BORROWER TO BE EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT. A COPY OF ANY SUCH PROCESS SO SERVED SHALL BE MAILED BY REGISTERED MAIL TO BORROWER AT ITS ADDRESS PROVIDED IN SUBSECTION 11.5 EXCEPT THAT UNLESS OTHERWISE PROVIDED BY APPLICABLE LAW, ANY FAILURE TO MAIL SUCH COPY SHALL NOT AFFECT THE VALIDITY OF SERVICE OF PROCESS. IF ANY AGENT APPOINTED BY BORROWER AS ITS AGENT FOR SERVICE OF PROCESS REFUSES TO ACCEPT SERVICE OF PROCESS, BORROWER HEREBY AGREES THAT SERVICE UPON IT BY MAIL SHALL CONSTITUTE SUFFICIENT SERVICE. NOTHING HEREIN SHALL AFFECT THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR SHALL LIMIT THE RIGHT OF LENDER TO BRING PROCEEDINGS AGAINST BORROWER IN THE COURTS OF ANY OTHER JURISDICTION.

11.11 WAIVER OF JURY TRIAL. BORROWER AND LENDER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE

**LOAN DOCUMENTS, OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION AND LENDER/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED. BORROWER AND LENDER ALSO WAIVE ANY BOND OR SURETY OR SECURITY UPON SUCH BOND WHICH MIGHT, BUT FOR THIS WAIVER, BE REQUIRED OF BORROWER OR LENDER. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. BORROWER AND LENDER ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THAT EACH WILL CONTINUE TO RELY ON THE WAIVER IN THEIR RELATED FUTURE DEALINGS. BORROWER AND LENDER FURTHER WARRANT AND REPRESENT THAT EACH HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, THE LOAN DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOAN. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.**

**11.12** Publicity. Lender (and Lender's Affiliates) may and Borrower does hereby authorize Lender (and its Affiliates) to, refer, in its sole discretion, to the Loan from time to time, in tombstone and other advertisements, offering memoranda in connection with any Securitization, press releases and other releases of information to members of the public, reports to investors and in other media, which references, may include use of photographs, drawings and other depictions and images of the Land and other components of the Mortgaged Property, a description of the Loan (including the stated principal amount), use of Borrower's name, the address of the Mortgaged Property and any logo of Borrower, and which references may be reproduced and distributed, electronically or otherwise, from time to time. Lender hereby agrees that, without the prior written consent of Borrower, any written information relating to Borrower which is provided to Lender in connection with the making of the Loan which is either confidential, proprietary, or otherwise not generally available to the public (but excluding information Lender has obtained independently from third-party sources without Lender's knowledge that the source has violated any fiduciary or other duty not to disclose such information) (the "**Confidential Information**"), will be kept confidential by Lender, using the same standard of care in safeguarding the Confidential Information as Lender employs in protecting its own proprietary information which Lender desires not to disseminate or publish. Notwithstanding the foregoing, Confidential Information may be disseminated (a) pursuant to the requirements of applicable law, (b) pursuant to judicial process, administrative agency process or order of Governmental Authority having jurisdiction over Lender and specifically requiring such dissemination, (c) in connection with litigation, arbitration proceedings or administrative

proceedings before or by any Governmental Authority or stock exchange, (d) to Lender's attorneys, accountants, advisors and actual or prospective financing sources who will be instructed to comply with this Section 11.12, (e) to actual or prospective trustees, assignees, pledgees, participants, agents, servicers, or securities holders in a Securitization who will be instructed to comply with this Section 11.12, and (g) pursuant to the requirements or rules of a stock exchange or stock trading system on which the Securities of Lender or its Affiliates may be listed or traded. In addition, notwithstanding any other provision, any party (and its employee, representative or other agent) may disclose to any and all persons, without limitation of any kind, any information with respect to the "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 6.6011-4) of the transactions contemplated hereby and all materials of any kind (including opinions or other tax analyses) that are provided to such party relating to such tax treatment and tax structure. For purposes of this Section 11.12, Confidential Information will not be deemed to include the Loan amount or the nature of the Loan, the street address and common name, if any, of the Land and Improvements, the name of Borrower, any logo of Borrower and photographs, images or other depictions of the Mortgaged Property. Borrower agrees that, without the consent of the Borrower, the Lender (and its Affiliates) may, and does hereby authorize Lender (and its Affiliates) to, reproduce and disseminate photographs, drawings, depictions and other images of the Mortgaged Property obtained from (or on behalf of) the Borrower or any other Person. Borrower agrees that Lender's (and Lender's Affiliates') use, reproduction and dissemination of photographs, drawings, depictions and other images of the Mortgaged Property shall not cause any copyright infringements and does hereby authorize the release of such items.

**11.13 Intentionally Omitted.**

**11.14 Performance by Lender/Attorney-in-Fact.** In the event that Borrower shall at any time fail to duly and punctually pay, perform, observe or comply with any of its covenants and agreements hereunder or under the other Loan Documents or if any Event of Default hereunder shall exist, then Lender may (but shall in no event be required to) make any such payment or perform any such term, provision, condition, covenant or agreement or cure any such Event of Default. Lender shall not take action under this Section 11.14 prior to the occurrence of an Event of Default unless in Lender's good faith judgment reasonably exercised, such action is necessary or appropriate in order to preserve the value of the Collateral, to protect Persons or property, or Borrower has abandoned the Mortgaged Property or any portion thereof. Lender shall not be obligated to continue any such action having commenced the same and may cease the same without notice to Borrower. Any amounts expended by Lender in connection with such action shall constitute additional advances hereunder, the payment of which is additional Indebtedness, secured by the Loan Documents and shall become due and payable upon demand by Lender, with interest at the Default Rate from the date of disbursement thereof until fully paid. No further direction or authorization from Borrower shall be necessary for such disbursements. The execution of this Agreement by Borrower shall and hereby does constitute an irrevocable direction and authorization to Lender to so disburse such funds. Borrower hereby irrevocably appoints Lender, as its attorney-in-fact, coupled with an interest, with full authority in the place and stead of Borrower and in the name of Borrower or otherwise (A) during the existence of an Event of Default in the discretion of Lender, to take any action and to execute any instrument which Lender may deem necessary to accomplish the purpose of this Agreement

or any other Loan Document. Lender shall notify Borrower of Lender's taking of any action as attorney-in-fact, or otherwise in Borrower's name, pursuant to the provisions of this Section.

**11.15 Brokerage Claims**. Borrower shall protect, defend, indemnify and hold Lender harmless from and against all loss, cost, liability and expense incurred as a result of any claim for a broker's or finder's fee against Lender or any Person, in connection with the transaction herein contemplated, provided such claim is made by or arises through or under Borrower or is based in whole or in part upon alleged acts or omissions of Borrower. Lender shall protect, defend, indemnify and hold Borrower harmless from and against all loss, cost, liability and expense incurred as a result of any claim for a broker's or finder's fee against Borrower or any other Person in connection with the transaction herein contemplated, provided such claim is made by or arises through or under Lender or is based in whole or in part upon alleged acts or omissions of Lender.

**11.16 AGREEMENT**. THE RIGHTS AND OBLIGATIONS OF BORROWER AND LENDER SHALL BE DETERMINED SOLELY FROM THIS WRITTEN LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS, AND ANY PRIOR ORAL OR WRITTEN AGREEMENTS BETWEEN LENDER AND BORROWER CONCERNING THE SUBJECT MATTER HEREOF AND OF THE OTHER LOAN DOCUMENTS ARE SUPERSEDED BY AND MERGED INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS MAY NOT BE VARIED BY ANY ORAL AGREEMENTS OR DISCUSSIONS THAT OCCUR BEFORE, CONTEMPORANEOUSLY WITH, OR SUBSEQUENT TO THE EXECUTION OF THIS LOAN AGREEMENT OR THE LOAN DOCUMENTS. THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENTS BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

## SECTION 12
## RIGHT OF FIRST REFUSAL

**12.1 Right of First Refusal**. In the event that Borrower or any Affiliate of Borrower (each, a "**Phase II Party**") shall, in good faith, desire to accept a first mortgage, mezzanine, junior or subordinate loan or loans, refinancing of any one or more of the Affiliated Sites or any other real property assets other than GYH and GSP (such first mortgage, mezzanine, junior or subordinate loan or loans collectively referred to herein as the "**Phase II Financing**") for construction, maintenance and/or operation of improvements on, and to be secured by one or more liens on all or any part of such property during the term of the Loan, (the "**Phase II Property**"), Borrower shall (i) present a complete loan request package to Lender, and if Lender, within ten (10) Business Days, advises the Phase II Parties that Lender has an interest in providing the Phase II Financing on terms acceptable to Lender, then (ii) cause the Phase II Parties to provide to Lender, a written summary of terms and conditions of the proposed financing from the proposed lender ("**Proposed Lender**") in the form of a letter of intent or other detailed term sheet which may be conditioned by the Proposed Lender on due diligence and senior officer or loan committee approval, certified by the Phase II Parties ("**Summary**") as approved by the Proposed

Lender. For purposes of this Agreement, the Proposed Lender cannot be an Affiliate of a Phase II Party.

12.2 **Summary Period.** During the period from the receipt by Lender of the Summary and ending ten (10) Business Days thereafter (the **"Summary Period"**), Lender shall have the first right and option to provide the Phase II Financing upon the same or better terms and conditions to the Phase II Parties as are set forth in the Summary. On or before the last day of the Summary Period, Lender shall elect, in a written notice given to the Phase II Parties, to either:

(A) issue a letter of intent upon the same terms and conditions as required in the Summary; or

(B) permit the Phase II Parties to obtain the Phase II Financing with the Proposed Lender, provided, further, in the event Lender fails to give a notice specifying its election on or before the last day of the Summary Period, the Lender shall be deemed to have elected to proceed under this clause (c).

12.3 **Termination.** In the event Lender (i) advises Borrower that it is not interested in providing Phase II Financing after reviewing the proposed loan request package pursuant to Section 12.1(i) above, or (ii) thereafter, elects not (or is deemed to elect not) to provide the Phase II Financing in accordance with the terms of the Summary, then, upon the disbursement of the proceeds of the Phase II Financing to, or, upon the order of, the Phase II Parties, the right of first refusal contained in this Section 12 shall terminate. If such Phase II Financing is not closed in accordance with the terms of the Summary within 120 days after the end of the Summary Period, then the right of first refusal in favor of the Lender under this Agreement shall be fully restored and reinstated. Moreover, and notwithstanding anything herein to the contrary, this Section 12 and the right of first refusal contained herein shall be terminated and have no further force and effect after the Loan has been repaid in full.

12.4 **Lender.** For purposes of this Section 12, "Lender" shall include iStar Financial Inc., a Maryland corporation, and its Affiliates.

## SECTION 13
## LOAN ASSUMPTION

13.1 **Assumption.** Notwithstanding anything to the contrary which may be contained herein, following the date which is six (6) months from the Closing Date, Borrower may transfer of all of the Mortgaged Property in its entirety to, and the related assumption of the Loan by, a Permitted Holder provided that each of the following terms and conditions are satisfied:

(A) No Default or Event of Default has occurred and is continuing;

(B) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer not less than sixty (60) days before the date on which such transfer is scheduled to close and, concurrently therewith, all such information concerning the proposed Permitted Holder as Lender shall reasonably require, and (ii) paid to Lender a non-refundable processing fee in the amount of $10,000;

(C) Borrower shall have paid to Lender, concurrently with the closing of such transfer, (i) a non-refundable assumption fee in an amount equal to one percent (1.0%) of the then outstanding principal balance of the Note in the event that such Permitted Holder is a Successor Fixed Base Operator, and (ii) all out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer;

(D) The Permitted Holder (or its parent) assumes and agrees to pay the Obligations as and when due subject to the provisions contained herein and in the other Loan Documents, and, prior to or concurrently with the closing of such transfer, Permitted Holder and its constituent partners, members or shareholders as Lender may require, shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate said assumption;

(E) Borrower and the Permitted Holder, without any cost to Lender, shall furnish such information as may be required by Lender for the preparation of, and shall authorize Lender to file, new financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(F) Borrower shall have delivered to Lender, without any cost or expense to Lender, such updates or endorsements to Lender's Title Insurance Policy insuring that fee simple and/or leasehold title to the Mortgage Property, as applicable, is vested in the Permitted Holder (subject to Permitted Encumbrances), including a lender's endorsements and such other customary certificates as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(G) The Permitted Holder shall have furnished to Lender, if the Permitted Holder is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing the Permitted Holder's organization and good standing, and the qualification of the signers to execute the assumption of the Loan, which papers shall include certified copies of all documents relating to the organization and formation of the Permitted Holder and of the entities, if any, which are partners or members of the Permitted Holder. The Permitted Holder and such constituent partners, members or shareholders of the Permitted Holder (as the case may be), as Lender shall require, shall comply with the covenants set forth herein;

(H) The Permitted Holder shall assume the obligations of Borrower under the respective Ground Leases and such transfer will not cause a default thereunder;

(I) The Permitted Holder shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that the Permitted Holder's formation documents provide for the matters described in subparagraph (g) above, (B) that the assumption of the Loan has been duly authorized, executed and delivered, and that the Note, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against the Permitted Holder (or parent) in accordance with their terms, (C) that the Permitted Holder and any entity which is a controlling stockholder, member or general partner of the Permitted Holder, have been duly organized, and are in existence and good standing, and (E) with respect to such other matters related thereto as Lender may reasonably request; and

(J) Borrower's obligations under the contract of sale pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this SECTION 13.

A transfer of the Properties in their entirety to a Permitted Holder, and the related assumption of the Loan by, a Permitted Holder pursuant to this SECTION 13 shall not be construed to be a waiver of any rights of Lender to consent to any subsequent transfer of the Mortgaged Property or any part thereof.

Provided the Permitted Holder has assumed all of Borrower's obligations and liabilities, Borrower shall be released from its obligations under the Loan and the Loan Documents from and after the date of sale or transfer.

Witness the due execution hereof by the undersigned as of the date first written above.

**BORROWER:**

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: Neal McGrail
Its: VP Finance

**LENDER:**

**SFT I, INC.,**
a Delaware corporation

By: _____
Name: _____
Its: _____

Loan + Security Agreement

Witness the due execution hereof by the undersigned as of the date first written above.

**BORROWER:**

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: _____
Its: _____

**LENDER:**

**SFT I, INC.,**
a Delaware corporation

By: _____
Name: _____
Its: _____

Roger Cassi
Chief Investment Officer

CHI01_50400342_1_208972_00585 12/7/2006 2:19 PM

## Exhibit A

## Legal Descriptions

### I. GSP Legal Description

PARCEL I:
All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, THE TRUE POINT OF BEGINNING, thence running parallel to and 20 feet right of the centerline of Taxiway "B", N 32°55'08" E 1313.89 feet to a drill hole set in concrete, thence S 57°10'24" E 764.98 feet to an iron pin set 1/2" rebar, thence S 32°49'36" W 295.93 to an iron pin set 1/2" rebar, thence N 57°10'24" W 188.12 feet to a mag nail set, thence N 32°03'54" E 11.85 feet to a fence post, thence N 57°11'18" W 238.71 feet to a fence post, thence S 32°21'57" W 30.08 feet to a point on the face of building wood overhang, thence along the face of building wood overhang S 56°27'23" E 11.92 to the corner of wood overhang, thence S 33°02'29" W 18.83 to the corner of wood overhang, thence N 56°56'20" W 36.64 feet to the corner of wood overhang, thence S 33°04'17" W 48.48 feet to the corner of wood overhang, thence S 56°08'19" E 8.52 feet to the corner of wood overhang, thence S 32°58'08" W 50.29 feet to the corner of wood overhang, thence N 56°55'40" W 2.80 feet to a point on the face of wood overhang, thence leaving the face of wood overhang running S 33°04'20" W 6.86 feet to a fence post, thence N 57°00'51" W 14.56 feet to a fence post, thence S 32°19'51" W 94.72 feet to a fence post, thence S 57°39'57" E 6.50 to a fence post, thence S 33°22'35" W 15.31 feet to a point on face of building, thence running along the face of building S 57°08'03" E 73.32 feet to the building corner, thence leaving building and running S 57°08'03" E 144.52 feet to an iron pin set 1/2" rebar, thence S 32°55'16" W 986.69 feet to an iron pin found 5/8" solid rod, thence N 57°05'00" W 88.00 feet to an iron pin found 5/8" solid rod, thence N 32°55'19" E 221.01 feet to a drill hole set in concrete sidewalk, thence N 57°06'04" W 442.10 feet to the TRUE POINT OF BEGINNING, containing 16.735 acres more or less.

PARCEL II:
All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, thence along a tie line S 27°33'51" E 1406.17 feet to a fence corner, the TRUE POINT OF BEGINNING, thence along a 6' chain link fence S 56°51'54" E 128.73 feet to a fence corner, thence S 17°55'21" E 110.32 feet to a fence corner, thence S 32°14'41" W 160.71 feet to a fence corner, thence N 56°59'25" W 215.93 feet to a fence corner, thence N 32°51'39" E 8.34 feet an iron pin set 1/2" rebar, thence N 57°05'00" W 26.20 feet to an iron pin set 1/2" rebar, thence N 32°55'00" E 200.00 feet to an iron pin set 1/2" rebar, thence S 57°47'54" E 26.01 feet to an iron pin set 1/2" rebar, thence N 32°51'39" E 21.84 feet to the TRUE POINT OF BEGINNING, containing 1.187 acres more or less.

## II. GYH Legal Description

All that certain piece, parcel or tract of land located, lying and being in the County of Greenville, State of South Carolina, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Greenville County in Plat Book 1026 at page 46-47 and having, according to said plat, the following metes and bounds, to-wit:

Beginning at a nail set (Labeled as P.O.B.) on the southerly side of Taxiway B-1, having South Carolina Grid Coordinates (NAD 83) of N. 1,067,218.63, E. 1,587,527.34; said point of beginning is located N 73°19'01" W 2393.23 feet (grid) from NGS Monument 23-046, thence N 40°49'19" E 1635.91 feet to a mag nail set, thence S 49°13'30" E 256.85 feet to an iron pin found 1/2" rebar, located on the northwestern right-of-way of Delaware Street (60' total r/w), thence running along the northwestern right-of-way of Delaware Street, S 40°42'52" W 347.20 feet to an iron pin set 1/2" rebar, thence along a curve to the left, having an arc length of 413.82 feet, a radius of 488.00 feet, a chord bearing and distance of S 16°25'16" W 401.53 feet to an iron pin set 1/2" rebar, thence S 07°52'20" E 446.32 feet to an iron pin set 1/2" rebar, thence running along a curve to the right, having an arc length of 354.31 feet, a radius of 415.00 feet, a chord bearing and distance of S 16°25'18" W 343.64 feet to an iron pin set 1/2" rebar, thence S 40°52'46" W 505.87 feet to an iron pin set 1/2" rebar (leaving the right-of-way of Delaware Street at point located at approximately 472 feet), thence N 48°56'23" W 61.79 feet to a fence corner, thence N 40°39'36" E 23.86 feet to an iron pin set 1/2" rebar, thence N 49°44'48" W 145.27 feet to an iron pin set 1/2" rebar, thence N 17°06'15" W 74.31 feet to a fence corner, thence N 40°23'24" E 34.87 feet to a fence corner, thence running N 49°13'52" W 528.79 feet to a nail set, thence running along a curve to the left, having an arc length of 149.48 feet, a radius of 107.50 feet, a chord bearing and distance of N 06°19'41" W 137.73 feet to the point of beginning, containing 23.550 acres more or less.

**Exhibit B**

**Permitted Encumbrances**

| Lien | Collateral |
|---|---|
| Form UCC-1; No. 22392235; 9/23/2002; City of Greenville (Assignor – Wachovia/First Union National Bank) | In Lieu Filing covering Original Financing Statement No. 971106-124434A, filed 11/6/1997 with the State of South Carolina. Accounts and contract rights under the Lease Agreement dated as of November 1, 1997, among Debtor, Greenville County and Secured Party, as such may be amended or supplemented. |
| Form UCC-1; No. 22392417; 9/23/2002; Greenville County (Assignor – Wachovia/First Union National Bank). | In Lieu Filing covering Original Financing Statement No. 971106-124502B, filed 11/6/1997 with the State of South Carolina. Accounts and contract rights under the Lease Agreement dated as of November 1, 1997, among Debtor, Greenville County and Secured Party, as such may be amended or supplemented. |
| Form UCC-1; No. 004145; 11/6/1997; Wachovia/First Union National Bank. Original Secured Party and Assignor: City of Greenville.<br><br>Continued 9/24/2002 by Filing No. 00043 and collateral restated. | Accounts and contract rights under the Lease Agreement dated as of November 1, 1997, among Debtor, Greenville County and City of Greenville, as such may be amended or supplemented.<br>The project located on approximately 20 acres at 600 Delaware Street in the Donaldson Center Industrial Air Park. |
| Form UCC-1; No. 004146; 11/6/1997; First Union National Bank. Original Secured Party and Assignor: Greenville County.<br><br>Continued 9/24/2002 by Filing No. 000432 and collateral restated. | Accounts and contract rights under the Lease Agreement dated as of November 1, 1997, among Debtor, Greenville County and City of Greenville, as such may be amended or supplemented.<br>The project located on approximately 20 acres at 600 Delaware Street in the Donaldson Center Industrial Air Park. |

**Exhibit C**

**CLOSING CHECKLIST**
**$25,000,000.00** Loan
by
SFT I, INC., a Delaware corporation
to
STEVENS AVIATION, INC.,
a Delaware corporation

1) Donaldson Center Industrial Air Park ("GYH")
Greenville County, South Carolina

2) Greenville-Spartanburg Airport ("GSP")
Greer, South Carolina

**PARTIES:**

| | | |
|---|---|---|
| 1. | Lender: | SFT I, Inc. |
| 2. | Lender's Counsel: | Katten Muchin Rosenman LLP |
| 3. | Borrower: | Stevens Aviation, Inc. |
| 4. | Borrower's Counsel: | Dechert LLP |

**A. LOAN DOCUMENTS**

1. Loan and Security Agreement by and among Lender and Borrower (All capitalized words used but not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement)

   a. Exhibits to Loan Agreement
   b. Schedules to Loan Agreement

2. a. Tranche A Secured Promissory Note from Borrower in favor of Lender
   b. Tranche B Secured Promissory Note from Borrower in favor of Lender

3. South Carolina Leasehold Mortgage, Security Agreement and Assignment of Rents from Borrower for the benefit of Lender ("GYH")

4. Leasehold Mortgage and Security Agreement from Borrower for the benefit of Lender ("GSP")

5. UCC Financing Statements for the benefit of Lender from Borrower to be filed with:

   a. Secretary of State for the State of Delaware
   b. Greenville County, South Carolina
   c. Spartanburg County, South Carolina

6. Assignment of Contracts from Borrower in favor of Lender

7. Assignment of Licenses, Permits and Approvals from Borrower in favor of Lender

8. Consent Agreement from Greenville-Spartanburg Airport District in favor of Lender

9. Consent Agreement from Greenville County and City of Greenville in favor of Lender

10. Officer's Certificate Per Loan and Security Agreement Section 3.1(D)

11. Borrower's Certificate

12. Form of Letter of Credit Required

13. New Letter of Credit

**B. <u>DOCUMENTS, DELIVERIES AND SHOWINGS</u>**

1. Commitment for Leasehold Mortgage Title Insurance Policy (ALTA Form B1992) for each of GYH and GSP together with legible underlying documents, with respect to the Mortgaged Property with endorsements to Title Policy as agreed to with Title Company.

2. Additional Title-Related Documentation

   a. Moneylender's Escrow Instructions between Lender and Title Company
   b. Title Company Invoice
   c. Wire Transfer Instructions
   d. Mortgagor's Affidavit and Undertaking(s) if required by Title Insurer
   e. Specimen Policy (to be attached to Moneylenders Escrow Instructions)
   f. Request for Release of Funds

3. Final Title Insurance Policy

4. ALTA/ACSM Survey for the Mortgaged Property certified to Lender, Borrower and Title Company meeting Lender's requirements and with Lender's form of Surveyor's Certification

5. Other Searches

   a. UCC, Tax Lien, Judgment and Bankruptcy searches against Borrower

(1) Jurisdiction of Formation
(2) Jurisdiction of Location of Property
(3) Jurisdiction of Principal Place of Business/Chief Executive Office
(4) County of Principal Place of Business/Chief Executive Office
(5) County of Location of Property

6. Organizational Documents for:

a. For Borrower:

(1) Certified Copy of Articles of Incorporation from Secretary of State of the State of Incorporation
(2) Certificate of Good Standing from Secretary of State of Incorporation (long-form)
(3) Certificate of Incumbency (to be included as part of the Officer's Certificate from such general partner or managing member)
(4) Certificate of Qualification to do business as a Foreign Corporation from Secretary of State for each State where such qualification is required (long-form)
(5) Certified copy of Bylaws (to be included as part of the Officer's Certificate from such general partner or managing member)
(6) Corporate Resolutions Authorizing Execution of Documents (to be included as part of the Officer's Certificate from such general partner or managing member)
(7) Incumbency Certification (with specimen signatures) (to be included as part of the Officer's Certificate)

b. Organizational Chart of Borrower
c. Evidence of appointment of Corporation Service Company as agent for service of process

7. Legal Opinions from the Borrower's counsel: organization, good standing, existence, power and authority, due authorization, execution and delivery, no conflicts/contravention, no litigation, enforceability, creation and perfection of security interests, usury, etc. for New York, Delaware and South Carolina, as applicable

8. Financial Statements Per Loan and Security Agreement Section 3.1(H)

9. Certified Copies of Airport Leases and Ground Leases

10. Current and Projected Budgets:

a. Current capital plan and capital improvements budget for the Mortgaged Property
b. Current Operating Budget for the Mortgaged Property

11. Evidence of Insurance acceptable to Lender

12. Environmental Insurance Policies for the Mortgaged Property

13. Certified copies of licenses, permits, authorizations, approvals, service agreements, employment agreements, collective bargaining agreements, equipment leases, utility provider agreements, collective bargaining agreements, employment agreements, pension plan documentation, other Material Contracts (as defined in the Loan and Security Agreement), evidence of Proprietary Rights (as defined in Loan and Security Agreement), and certificates of occupancy for the Mortgaged Property

14. Evidence of Zoning and Legal Compliance, including letters from the appropriate municipalities for the Mortgaged Property, if required by Lender

15. Phase I Environmental Report (including asbestos and, if required by Lender, biological survey) and, if required, a Phase II Environmental Report (including asbestos and, if required by Lender, biological survey), together with Reliance Letter for the Mortgaged Property

16. Property Condition, Physical Inspection, Engineering Report, including, Americans With Disabilities Act survey and soils report (compaction) and seismic study) together with a Reliance Letter if required by Lender

17. Real Estate (and Special Assessment, if applicable) Tax Bills (current and last 5 years)

18. Personal Property Tax Bills (current and last 5 years)

19. Logo Permission (if applicable)

20. Incident Reports and litigation schedules

21. Tax Returns

22. Report of Lender's Representative

23. Reproducible Photographs of Property

C. **FEES/EXPENSES AND CLOSING DISBURSEMENT**

1. Payment of Expenses of Lender

2. Payment of Legal Expenses (at closing)

3. Payment of Recording Fees, Title Fees, Taxes and All Other Fees

4. Closing/Disbursement Statement

5. Payoff Letters and Release Documents

6. Broker Invoice

## Schedule 1

## Debt Maintenance Test

### Debt Maintenance Test

Quarter Ending _____

(Note: EBITDAR Figures TTM September 2006; Debt Figures pro forma.)

| | | | | | |
|---|---|---|---|---|---|
| Steven's Lease-Adjusted Debt | | | | | |
| 1 | Outstanding under Wachovia Line of Credit | | | $0 | |
| 2 | Capital Leases and Other Debt | | | $834,000 | |
| 3 | Capitalization of Operating Leases | | | | |
| | Annual Rent Expense | | $1,893,705 | | |
| | Multiple | * | 8.0 | $15,149,640 | |
| 4 | Total SFT I Debt (including Letter of Credit outstanding) | | | $25,000,000 | |
| 5 | minus non-restricted Cash and Cash Equivalents on Balance Sheet | | | $0 | |
| **Total Lease-Adjusted Debt** | | | | | **$40,983,640** |
| **Total Stevens Facility Level EBITDA** | | | | | |
| | Sales | | $96,730,795 | | |

| | | | | |
|---|---|---|---|---|
| | Margin | | $32,739,299 | |
| - | Overhead | | $21,399,382 | |
| | **Facility Level EBITDA** | | | **$11,339,917** |
| | Corporate Overhead to be Allocated | | | |
| | 52010.80.900 | Rent | $65,000 | |
| | 53100.80.900 | Insurance General | $2,100,000 | |
| | 56100.80.900 | Professional Legal | $90,000 | |
| | 56200.80.900 | Professional Audit | $100,000 | |
| | 59100.80.900 | Past Due Reserve | $84,000 | |
| | | **Total** | **$2,439,000** | |
| | Total Stevens EBITDA | | | **$8,900,917** |
| + | Annual Rent Expense | | | $1,893,705 |
| **Total Adjusted EBITDAR** | | | | **$10,794,622** |

**Debt Maintenance Test** **3.80**

If Debt Maintenance Test is less 5.75 — in compliance
If Debt Maintenance Test is greater than or equal to 5.75 — not in compliance

*excludes all floor plan debt, subordinated shareholder debt ($3.25 million Foley note, $2 million Comerica Note)

## Schedule 2

## Debt Service Coverage Ratio

### Debt Service Coverage Ratio

Quarter Ending _____

(Note: Figures below show pro forma TTM ending September 2006.)

| | | | |
|---|---|---|---|
| **GYH/Donaldson** | | | |
| | Sales | $42,921,849 | |
| | Margin | $15,602,663 | |
| - | Overhead | $10,300,649 | |
| | **Facility Level EBITDA** | | **$5,302,014** |
| **GSP/Greer** | | | |
| | Sales | $7,623,501 | |
| | Margin | $4,068,224 | |
| - | Overhead | $2,743,809 | |
| | **Facility Level EBITDA** | | **$1,324,415** |
| **Combined Facility Level EBITDA** | | | **$6,626,429** |

| | | |
|---|---|---|
| Corporate Overhead to be Allocated | | |
| 52010.80.900 | Rent | $65,000 |
| 53100.80.900 | Insurance General | $2,100,000 |
| 56100.80.900 | Professional Legal | $90,000 |

| | | | |
|---|---|---|---|
| 56200.80.900 | Professional Audit | $100,000 | |
| 59100.80.900 | Past Due Reserve | $84,000 | |
| | **Total** | **$2,439,000** | |
| Total Stevens Sales | | $96,730,795 | |
| | GYH Contribution to Sales | 44.4% | |
| | GSP Contribution to Sales | 7.9% | |
| | Total Contribution to Sales | 52.3% | |
| **Corporate Overhead Allocation** | | | $1,274,466 |
| **Total GYH/GSP Adjusted EBITDA** | | | $5,351,963 |

**Next Twelve Months Debt Service (assuming Component B of Tranche A is advanced in cash)** $3,104,890

**Debt Service Coverage Ratio** **1.72**

If DSCR is greater than or equal to 1.5 — in compliance
If DSCR is less than 1.5 — not in compliance

**Schedule 1.1(A)**

**Existing Indebtedness**

| Lender | Aggregate Principal Amount | Approximate Accrued Interest as of December 12, 2006 |
|---|---|---|
| *Thomas C. Foley, pursuant to Secured Promissory Note of Stevens Yachting LLC to Thomas C. Foley, dated as of December 24, 2003 | *$3,250,000 | $609,000 |
| Comerica | $1,742,703 | $12,572 |
| Industrial Revenue Bonds | $8,500,000 | $40,000 |
| Thomas C. Foley, pursuant to Note to Thomas C. Foley, dated as of October 31, 1997 | $1,220,000 | $124,767 |
| Thomas C. Foley, in connection with payments to Electra on behalf of Borrower by Thomas C. Foley | $496,232.08 | $16,871.89 |
| The NTC Group, Inc. | $1,825,340 | |
| AFCO, in connection with financing of insurance | $336,147 | $726 |
| Air BP | $171,000 | $470 |
| Floor Plan Financing - National City | $4,088,190 | $26,540 |
| Floor Plan Financing - Raytheon | $4,590,602 | $34,337 |
| Certain accounts payable outstanding more than 90 days from the invoice date | $224,034.94 | Aged payables report delivered to Lender under separate cover |

*Mr. Foley has assigned $650,000, $150,000 and $700,000 principal amount of such Note to Harvard University, Phillips Andover Academy and Kent School, respectively.

| Capital Leases | | | |
|---|---|---|---|
| **Lessor** | **Description** | **Amount** | **Contract Duration** |
| Donaldson Center Dev. Commission | Baydoors & Hangar Mod | $834,000 | 10/02-10/17 |
| Keystone Capital | Corridor Enterprise Software | $423,926 | 05/06-05/11 |
| Key Equipment Finance | Corridor Enterprise Software | $94,252 | 06/06-05/11 |
| Wells Fargo Financial leasing | Corridor Enterprise Software | $93,430 | 06/06-05/11 |
| Fidelity Capital | Corridor Enterprise Software | $101,620 | 06/06-05/11 |
| Fidelity Capital | Corridor Enterprise Software | $105,294 | 08/06-02/10 |
| IFC Credit Corp | Corridor Enterprise Software | $71,424 | 09/06-03/10 |
| Key Equipment Finance | Great Plains Software | $95,193 | 06/06-05/11 |
| Madison Capital | Trade Show Booth | $81,734 | 09/06-09/10 |

**Schedule 1.1(B)**

**Environmental Reports**

| Provider | Date | Subject |
|---|---|---|
| Clayton Group Services, Inc. | 11/15/2006 | Follow Up to the Phase 1 Environmental Site Assessment Update of 2100 GSP Drive in Greer, South Carolina and 350 and 600 Delaware Street in Greenville, South Carolina; and the Phase 1 Environmental Site Assessment of 37B Freedom Court in Greenville, South Carolina |
| Clayton Group Services, Inc. | 8/4/2006 | Phase 1 Environmental Site Assessment Update of 2100 GSP Drive in Greer, South Carolina |
| Clayton Group Services, Inc. | 8/4/2006 | Phase 1 Environmental Site Assessment Update of 600 and 350 Delaware Street Greenville, South Carolina |
| Clayton Group Services, Inc. | 8/10/2006 | Phase 1 Environmental Site Assessment of 37B Freedom Court Greenville, South Carolina |

**Schedule 1.1(C)**

**Physical Condition Reports**

| Provider | Date | Subject |
|---|---|---|
| Walker Restoration Consultants | August 31, 2006 | Stevens Aviation Donaldson Air Park, Greenville, South Carolina, Project No. 31-6625.000 Due Diligence Survey |
| Walker Restoration Consultants | August 31, 2006 | Stevens Aviation GSP, Greer, South Carolina, Project No. 31-6625.000 |

# Schedule 2.3(A)

Schedule of Payments for Tranche A Promissory Note

| | | | | |
|---|---|---|---|---|
| **Tranche A** | | | | |
| **Amt** | **$21,300,000** | 30 day Periods | | |
| **Starting Rate** | **11.26%** | Amortization | 369 | |
| | | Letter of Credit | $8,925,000 | * included in Balance |
| | | Applicable Int. | 3.50% | outstanding for Term |
| | | Maturity | 1-Dec-2016 | |

| Date | | Total Pmts assuming full LOC Outstanding | Total Pmts assuming no LOC Outstanding | Base Interest & Amort Pmts | Interest Component | Monthly Amortization | Principal Balance* | Added Interest or Amort | Reduction for LOC Interest |
|---|---|---|---|---|---|---|---|---|---|
| 12-Dec-2006 | | | | | | | $21,300,000 | | |
| 1-Jan-2007 | Paid at Closing | $94,763 | $133,238 | $133,238 | $133,238 | $0 | $21,300,000 | $0 | ($38,474) |
| 1-Feb-2007 | | $148,724 | $206,435 | $206,435 | $199,857 | $6,579 | $21,293,421 | $0 | ($57,712) |
| 1-Mar-2007 | | $148,724 | $206,435 | $206,435 | $199,795 | $6,640 | $21,286,781 | $0 | ($57,712) |
| 1-Apr-2007 | | $148,724 | $206,435 | $206,435 | $199,733 | $6,703 | $21,280,078 | $0 | ($57,712) |
| 1-May-2007 | | $148,724 | $206,435 | $206,435 | $199,670 | $6,766 | $21,273,313 | $0 | ($57,712) |
| 1-Jun-2007 | | $148,724 | $206,435 | $206,435 | $199,606 | $6,829 | $21,266,484 | $0 | ($57,712) |
| 1-Jul-2007 | | $148,724 | $206,435 | $206,435 | $199,542 | $6,893 | $21,259,591 | $0 | ($57,712) |
| 1-Aug-2007 | | $148,724 | $206,435 | $206,435 | $199,478 | $6,958 | $21,252,633 | $0 | ($57,712) |
| 1-Sep-2007 | | $148,724 | $206,435 | $206,435 | $199,412 | $7,023 | $21,245,610 | $0 | ($57,712) |
| 1-Oct-2007 | | $148,724 | $206,435 | $206,435 | $199,346 | $7,089 | $21,238,521 | $0 | ($57,712) |
| 1-Nov-2007 | | $148,724 | $206,435 | $206,435 | $199,280 | $7,155 | $21,231,366 | $0 | ($57,712) |
| 1-Dec-2007 | | $148,724 | $206,435 | $206,435 | $199,213 | $7,223 | $21,224,143 | $0 | ($57,712) |
| 1-Jan-2008 | | $148,724 | $206,435 | $206,435 | $199,145 | $7,290 | $21,216,853 | $0 | ($57,712) |
| 1-Feb-2008 | | $148,724 | $206,435 | $206,435 | $199,077 | $7,359 | $21,209,494 | $0 | ($57,712) |
| 1-Mar-2008 | | $148,724 | $206,435 | $206,435 | $199,008 | $7,428 | $21,202,066 | $0 | ($57,712) |
| 1-Apr-2008 | | $148,724 | $206,435 | $206,435 | $198,938 | $7,498 | $21,194,569 | $0 | ($57,712) |
| 1-May-2008 | | $148,724 | $206,435 | $206,435 | $198,868 | $7,568 | $21,187,001 | $0 | ($57,712) |
| 1-Jun-2008 | | $148,724 | $206,435 | $206,435 | $198,797 | $7,639 | $21,179,362 | $0 | ($57,712) |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1-Jul-2008 | $148,724 | $206,435 | $206,435 | $198,725 | $7,711 | $21,171,651 | $0 | ($57,712) |
| 1-Aug-2008 | $148,724 | $206,435 | $206,435 | $198,652 | $7,783 | $21,163,868 | $0 | ($57,712) |
| 1-Sep-2008 | $148,724 | $206,435 | $206,435 | $198,579 | $7,856 | $21,156,012 | $0 | ($57,712) |
| 1-Oct-2008 | $148,724 | $206,435 | $206,435 | $198,506 | $7,930 | $21,148,083 | $0 | ($57,712) |
| 1-Nov-2008 | $148,724 | $206,435 | $206,435 | $198,431 | $8,004 | $21,140,079 | $0 | ($57,712) |
| 1-Dec-2008 | $148,724 | $206,435 | $206,435 | $198,356 | $8,079 | $21,132,000 | $0 | ($57,712) |
| 1-Jan-2009 | $148,724 | $206,435 | $206,435 | $198,280 | $8,155 | $21,123,845 | $0 | ($57,712) |
| 1-Feb-2009 | $148,724 | $206,435 | $206,435 | $198,204 | $8,231 | $21,115,613 | $0 | ($57,712) |
| 1-Mar-2009 | $148,724 | $206,435 | $206,435 | $198,127 | $8,309 | $21,107,305 | $0 | ($57,712) |
| 1-Apr-2009 | $148,724 | $206,435 | $206,435 | $198,049 | $8,387 | $21,098,918 | $0 | ($57,712) |
| 1-May-2009 | $148,724 | $206,435 | $206,435 | $197,970 | $8,465 | $21,090,453 | $0 | ($57,712) |
| 1-Jun-2009 | $148,724 | $206,435 | $206,435 | $197,891 | $8,545 | $21,081,908 | $0 | ($57,712) |
| 1-Jul-2009 | $148,724 | $206,435 | $206,435 | $197,810 | $8,625 | $21,073,283 | $0 | ($57,712) |
| 1-Aug-2009 | $148,724 | $206,435 | $206,435 | $197,729 | $8,706 | $21,064,577 | $0 | ($57,712) |
| 1-Sep-2009 | $148,724 | $206,435 | $206,435 | $197,648 | $8,788 | $21,055,789 | $0 | ($57,712) |
| 1-Oct-2009 | $148,724 | $206,435 | $206,435 | $197,565 | $8,870 | $21,046,919 | $0 | ($57,712) |
| 1-Nov-2009 | $148,724 | $206,435 | $206,435 | $197,482 | $8,953 | $21,037,966 | $0 | ($57,712) |
| 1-Dec-2009 | $148,724 | $206,435 | $206,435 | $197,398 | $9,037 | $21,028,929 | $0 | ($57,712) |
| 1-Jan-2010 | $148,724 | $206,435 | $206,435 | $197,313 | $9,122 | $21,019,807 | $0 | ($57,712) |
| 1-Feb-2010 | $148,724 | $206,435 | $206,435 | $197,228 | $9,208 | $21,010,599 | $0 | ($57,712) |
| 1-Mar-2010 | $148,724 | $206,435 | $206,435 | $197,141 | $9,294 | $21,001,305 | $0 | ($57,712) |
| 1-Apr-2010 | $148,724 | $206,435 | $206,435 | $197,054 | $9,381 | $20,991,924 | $0 | ($57,712) |
| 1-May-2010 | $148,724 | $206,435 | $206,435 | $196,966 | $9,469 | $20,982,455 | $0 | ($57,712) |
| 1-Jun-2010 | $148,724 | $206,435 | $206,435 | $196,877 | $9,558 | $20,972,897 | $0 | ($57,712) |
| 1-Jul-2010 | $148,724 | $206,435 | $206,435 | $196,788 | $9,648 | $20,963,249 | $0 | ($57,712) |
| 1-Aug-2010 | $148,724 | $206,435 | $206,435 | $196,697 | $9,738 | $20,953,510 | $0 | ($57,712) |
| 1-Sep-2010 | $148,724 | $206,435 | $206,435 | $196,606 | $9,830 | $20,943,681 | $0 | ($57,712) |
| 1-Oct-2010 | $148,724 | $206,435 | $206,435 | $196,513 | $9,922 | $20,933,759 | $0 | ($57,712) |
| 1-Nov-2010 | $148,724 | $206,435 | $206,435 | $196,420 | $10,015 | $20,923,744 | $0 | ($57,712) |
| 1-Dec-2010 | $148,724 | $206,435 | $206,435 | $196,326 | $10,109 | $20,913,635 | $0 | ($57,712) |
| 1-Jan-2011 | $148,724 | $206,435 | $206,435 | $196,232 | $10,204 | $20,903,431 | $0 | ($57,712) |
| 1-Feb-2011 | $148,724 | $206,435 | $206,435 | $196,136 | $10,300 | $20,893,131 | $0 | ($57,712) |
| 1-Mar-2011 | $148,724 | $206,435 | $206,435 | $196,039 | $10,396 | $20,882,735 | $0 | ($57,712) |
| 1-Apr-2011 | $148,724 | $206,435 | $206,435 | $195,942 | $10,494 | $20,872,241 | $0 | ($57,712) |
| 1-May-2011 | $148,724 | $206,435 | $206,435 | $195,843 | $10,592 | $20,861,649 | $0 | ($57,712) |
| 1-Jun-2011 | $148,724 | $206,435 | $206,435 | $195,744 | $10,692 | $20,850,957 | $0 | ($57,712) |
| 1-Jul-2011 | $148,724 | $206,435 | $206,435 | $195,643 | $10,792 | $20,840,166 | $0 | ($57,712) |
| 1-Aug-2011 | $148,724 | $206,435 | $206,435 | $195,542 | $10,893 | $20,829,272 | $0 | ($57,712) |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1-Sep-2011 | $148,724 | $206,435 | $206,435 | $195,440 | $10,995 | $20,818,277 | $0 | ($57,712) |
| 1-Oct-2011 | $148,724 | $206,435 | $206,435 | $195,337 | $11,099 | $20,807,178 | $0 | ($57,712) |
| 1-Nov-2011 | $148,724 | $206,435 | $206,435 | $195,233 | $11,203 | $20,795,976 | $0 | ($57,712) |
| 1-Dec-2011 | $148,724 | $206,435 | $206,435 | $195,128 | $11,308 | $20,784,668 | $0 | ($57,712) |
| 1-Jan-2012 | $148,724 | $206,435 | $206,435 | $195,021 | $11,414 | $20,773,254 | $0 | ($57,712) |
| 1-Feb-2012 | $159,046 | $216,757 | $206,435 | $194,914 | $11,521 | $20,761,733 | $10,322 | ($57,712) |
| 1-Mar-2012 | $159,046 | $216,757 | $206,435 | $194,806 | $11,629 | $20,750,104 | $10,322 | ($57,712) |
| 1-Apr-2012 | $159,046 | $216,757 | $206,435 | $194,697 | $11,738 | $20,738,365 | $10,322 | ($57,712) |
| 1-May-2012 | $159,046 | $216,757 | $206,435 | $194,587 | $11,848 | $20,726,517 | $10,322 | ($57,712) |
| 1-Jun-2012 | $159,046 | $216,757 | $206,435 | $194,476 | $11,960 | $20,714,557 | $10,322 | ($57,712) |
| 1-Jul-2012 | $159,046 | $216,757 | $206,435 | $194,364 | $12,072 | $20,702,486 | $10,322 | ($57,712) |
| 1-Aug-2012 | $159,046 | $216,757 | $206,435 | $194,250 | $12,185 | $20,690,301 | $10,322 | ($57,712) |
| 1-Sep-2012 | $159,046 | $216,757 | $206,435 | $194,136 | $12,299 | $20,678,001 | $10,322 | ($57,712) |
| 1-Oct-2012 | $159,046 | $216,757 | $206,435 | $194,021 | $12,415 | $20,665,586 | $10,322 | ($57,712) |
| 1-Nov-2012 | $159,046 | $216,757 | $206,435 | $193,904 | $12,531 | $20,653,055 | $10,322 | ($57,712) |
| 1-Dec-2012 | $159,046 | $216,757 | $206,435 | $193,787 | $12,649 | $20,640,406 | $10,322 | ($57,712) |
| 1-Jan-2013 | $159,046 | $216,757 | $206,435 | $193,668 | $12,768 | $20,627,639 | $10,322 | ($57,712) |
| 1-Feb-2013 | $159,046 | $216,757 | $206,435 | $193,548 | $12,887 | $20,614,751 | $10,322 | ($57,712) |
| 1-Mar-2013 | $159,046 | $216,757 | $206,435 | $193,427 | $13,008 | $20,601,743 | $10,322 | ($57,712) |
| 1-Apr-2013 | $159,046 | $216,757 | $206,435 | $193,305 | $13,130 | $20,588,613 | $10,322 | ($57,712) |
| 1-May-2013 | $159,046 | $216,757 | $206,435 | $193,182 | $13,254 | $20,575,359 | $10,322 | ($57,712) |
| 1-Jun-2013 | $159,046 | $216,757 | $206,435 | $193,058 | $13,378 | $20,561,982 | $10,322 | ($57,712) |
| 1-Jul-2013 | $159,046 | $216,757 | $206,435 | $192,932 | $13,503 | $20,548,478 | $10,322 | ($57,712) |
| 1-Aug-2013 | $159,046 | $216,757 | $206,435 | $192,805 | $13,630 | $20,534,848 | $10,322 | ($57,712) |
| 1-Sep-2013 | $159,046 | $216,757 | $206,435 | $192,677 | $13,758 | $20,521,090 | $10,322 | ($57,712) |
| 1-Oct-2013 | $159,046 | $216,757 | $206,435 | $192,548 | $13,887 | $20,507,203 | $10,322 | ($57,712) |
| 1-Nov-2013 | $159,046 | $216,757 | $206,435 | $192,418 | $14,017 | $20,493,186 | $10,322 | ($57,712) |
| 1-Dec-2013 | $159,046 | $216,757 | $206,435 | $192,286 | $14,149 | $20,479,037 | $10,322 | ($57,712) |
| 1-Jan-2014 | $159,046 | $216,757 | $206,435 | $192,154 | $14,282 | $20,464,755 | $10,322 | ($57,712) |
| 1-Feb-2014 | $159,046 | $216,757 | $206,435 | $192,020 | $14,416 | $20,450,339 | $10,322 | ($57,712) |
| 1-Mar-2014 | $159,046 | $216,757 | $206,435 | $191,884 | $14,551 | $20,435,788 | $10,322 | ($57,712) |
| 1-Apr-2014 | $159,046 | $216,757 | $206,435 | $191,748 | $14,687 | $20,421,101 | $10,322 | ($57,712) |
| 1-May-2014 | $159,046 | $216,757 | $206,435 | $191,610 | $14,825 | $20,406,276 | $10,322 | ($57,712) |
| 1-Jun-2014 | $159,046 | $216,757 | $206,435 | $191,471 | $14,964 | $20,391,311 | $10,322 | ($57,712) |
| 1-Jul-2014 | $159,046 | $216,757 | $206,435 | $191,331 | $15,105 | $20,376,207 | $10,322 | ($57,712) |
| 1-Aug-2014 | $159,046 | $216,757 | $206,435 | $191,189 | $15,247 | $20,360,960 | $10,322 | ($57,712) |
| 1-Sep-2014 | $159,046 | $216,757 | $206,435 | $191,046 | $15,390 | $20,345,570 | $10,322 | ($57,712) |
| 1-Oct-2014 | $159,046 | $216,757 | $206,435 | $190,901 | $15,534 | $20,330,037 | $10,322 | ($57,712) |
| 1-Nov-2014 | $159,046 | $216,757 | $206,435 | $190,756 | $15,680 | $20,314,357 | $10,322 | ($57,712) |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1-Dec-2014 | $159,046 | $216,757 | $206,435 | $190,609 | $15,827 | $20,298,530 | $10,322 | ($57,712) |
| 1-Jan-2015 | $159,046 | $216,757 | $206,435 | $190,460 | $15,975 | $20,282,555 | $10,322 | ($57,712) |
| 1-Feb-2015 | $159,046 | $216,757 | $206,435 | $190,310 | $16,125 | $20,266,429 | $10,322 | ($57,712) |
| 1-Mar-2015 | $159,046 | $216,757 | $206,435 | $190,159 | $16,277 | $20,250,153 | $10,322 | ($57,712) |
| 1-Apr-2015 | $159,046 | $216,757 | $206,435 | $190,006 | $16,429 | $20,233,724 | $10,322 | ($57,712) |
| 1-May-2015 | $159,046 | $216,757 | $206,435 | $189,852 | $16,583 | $20,217,140 | $10,322 | ($57,712) |
| 1-Jun-2015 | $159,046 | $216,757 | $206,435 | $189,696 | $16,739 | $20,200,401 | $10,322 | ($57,712) |
| 1-Jul-2015 | $159,046 | $216,757 | $206,435 | $189,539 | $16,896 | $20,183,505 | $10,322 | ($57,712) |
| 1-Aug-2015 | $159,046 | $216,757 | $206,435 | $189,381 | $17,055 | $20,166,450 | $10,322 | ($57,712) |
| 1-Sep-2015 | $159,046 | $216,757 | $206,435 | $189,221 | $17,215 | $20,149,236 | $10,322 | ($57,712) |
| 1-Oct-2015 | $159,046 | $216,757 | $206,435 | $189,059 | $17,376 | $20,131,860 | $10,322 | ($57,712) |
| 1-Nov-2015 | $159,046 | $216,757 | $206,435 | $188,896 | $17,539 | $20,114,320 | $10,322 | ($57,712) |
| 1-Dec-2015 | $159,046 | $216,757 | $206,435 | $188,732 | $17,704 | $20,096,617 | $10,322 | ($57,712) |
| 1-Jan-2016 | $159,046 | $216,757 | $206,435 | $188,565 | $17,870 | $20,078,747 | $10,322 | ($57,712) |
| 1-Feb-2016 | $159,046 | $216,757 | $206,435 | $188,398 | $18,038 | $20,060,709 | $10,322 | ($57,712) |
| 1-Mar-2016 | $159,046 | $216,757 | $206,435 | $188,229 | $18,207 | $20,042,502 | $10,322 | ($57,712) |
| 1-Apr-2016 | $159,046 | $216,757 | $206,435 | $188,058 | $18,378 | $20,024,125 | $10,322 | ($57,712) |
| 1-May-2016 | $159,046 | $216,757 | $206,435 | $187,885 | $18,550 | $20,005,575 | $10,322 | ($57,712) |
| 1-Jun-2016 | $159,046 | $216,757 | $206,435 | $187,711 | $18,724 | $19,986,851 | $10,322 | ($57,712) |
| 1-Jul-2016 | $159,046 | $216,757 | $206,435 | $187,536 | $18,900 | $19,967,951 | $10,322 | ($57,712) |
| 1-Aug-2016 | $159,046 | $216,757 | $206,435 | $187,358 | $19,077 | $19,948,874 | $10,322 | ($57,712) |
| 1-Sep-2016 | $159,046 | $216,757 | $206,435 | $187,179 | $19,256 | $19,929,617 | $10,322 | ($57,712) |
| 1-Oct-2016 | $159,046 | $216,757 | $206,435 | $186,999 | $19,437 | $19,910,181 | $10,322 | ($57,712) |
| 1-Nov-2016 | $159,046 | $216,757 | $206,435 | $186,816 | $19,619 | $19,890,561 | $10,322 | ($57,712) |
| 1-Dec-2016 | $159,046 | $216,757 | $206,435 | $186,632 | $19,803 | $19,870,758 | $10,322 | ($57,712) |

# Schedule 2.3(B)

Schedule of Payments for Tranche B Promissory Note

| | | | |
|---|---|---|---|
| **Loan Advance** | **$3,700,000** | 30 day Periods | |
| **Starting Rate** | **11.52%** | # of Pmts | 119 |
| | | Letter of Credit | |
| | | Applicable Int. | |

| Date | | Total Pmts | Base Interest & Amort Pmts | Interest Component | Monthly Amortization | Principal Balance | Added Interest or Amort |
|---|---|---|---|---|---|---|---|
| 12-Dec-2006 | | | | | | $3,700,000 | |
| 1-Jan-2007 | Paid at Closing | $23,689 | $23,689 | $23,689 | $0 | $3,700,000 | $0 |
| 1-Feb-2007 | | $52,305 | $52,305 | $35,533 | $16,772 | $3,683,228 | $0 |
| 1-Mar-2007 | | $52,305 | $52,305 | $35,372 | $16,933 | $3,666,294 | $0 |
| 1-Apr-2007 | | $52,305 | $52,305 | $35,209 | $17,096 | $3,649,198 | $0 |
| 1-May-2007 | | $52,305 | $52,305 | $35,045 | $17,260 | $3,631,938 | $0 |
| 1-Jun-2007 | | $52,305 | $52,305 | $34,879 | $17,426 | $3,614,512 | $0 |
| 1-Jul-2007 | | $52,305 | $52,305 | $34,712 | $17,593 | $3,596,919 | $0 |
| 1-Aug-2007 | | $52,305 | $52,305 | $34,543 | $17,762 | $3,579,156 | $0 |
| 1-Sep-2007 | | $52,305 | $52,305 | $34,373 | $17,933 | $3,561,223 | $0 |
| 1-Oct-2007 | | $52,305 | $52,305 | $34,200 | $18,105 | $3,543,118 | $0 |
| 1-Nov-2007 | | $52,305 | $52,305 | $34,027 | $18,279 | $3,524,839 | $0 |
| 1-Dec-2007 | | $52,305 | $52,305 | $33,851 | $18,455 | $3,506,385 | $0 |
| 1-Jan-2008 | | $52,305 | $52,305 | $33,674 | $18,632 | $3,487,753 | $0 |
| 1-Feb-2008 | | $52,305 | $52,305 | $33,495 | $18,811 | $3,468,942 | $0 |
| 1-Mar-2008 | | $52,305 | $52,305 | $33,314 | $18,991 | $3,449,951 | $0 |
| 1-Apr-2008 | | $52,305 | $52,305 | $33,132 | $19,174 | $3,430,777 | $0 |
| 1-May-2008 | | $52,305 | $52,305 | $32,948 | $19,358 | $3,411,420 | $0 |
| 1-Jun-2008 | | $52,305 | $52,305 | $32,762 | $19,544 | $3,391,876 | $0 |
| 1-Jul-2008 | | $52,305 | $52,305 | $32,574 | $19,731 | $3,372,144 | $0 |
| 1-Aug-2008 | | $52,305 | $52,305 | $32,385 | $19,921 | $3,352,224 | $0 |
| 1-Sep-2008 | | $52,305 | $52,305 | $32,193 | $20,112 | $3,332,111 | $0 |
| 1-Oct-2008 | | $52,305 | $52,305 | $32,000 | $20,305 | $3,311,806 | $0 |
| 1-Nov-2008 | | $52,305 | $52,305 | $31,805 | $20,500 | $3,291,306 | $0 |
| 1-Dec-2008 | | $52,305 | $52,305 | $31,608 | $20,697 | $3,270,608 | $0 |
| 1-Jan-2009 | | $52,305 | $52,305 | $31,409 | $20,896 | $3,249,712 | $0 |
| 1-Feb-2009 | | $52,305 | $52,305 | $31,209 | $21,097 | $3,228,616 | $0 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 1-Mar-2009 | $52,305 | $52,305 | $31,006 | $21,299 | $3,207,316 | $0 |
| 1-Apr-2009 | $52,305 | $52,305 | $30,802 | $21,504 | $3,185,812 | $0 |
| 1-May-2009 | $52,305 | $52,305 | $30,595 | $21,710 | $3,164,102 | $0 |
| 1-Jun-2009 | $52,305 | $52,305 | $30,387 | $21,919 | $3,142,183 | $0 |
| 1-Jul-2009 | $52,305 | $52,305 | $30,176 | $22,129 | $3,120,054 | $0 |
| 1-Aug-2009 | $52,305 | $52,305 | $29,964 | $22,342 | $3,097,712 | $0 |
| 1-Sep-2009 | $52,305 | $52,305 | $29,749 | $22,556 | $3,075,155 | $0 |
| 1-Oct-2009 | $52,305 | $52,305 | $29,532 | $22,773 | $3,052,382 | $0 |
| 1-Nov-2009 | $52,305 | $52,305 | $29,314 | $22,992 | $3,029,391 | $0 |
| 1-Dec-2009 | $52,305 | $52,305 | $29,093 | $23,213 | $3,006,178 | $0 |
| 1-Jan-2010 | $52,305 | $52,305 | $28,870 | $23,436 | $2,982,742 | $0 |
| 1-Feb-2010 | $52,305 | $52,305 | $28,645 | $23,661 | $2,959,082 | $0 |
| 1-Mar-2010 | $52,305 | $52,305 | $28,418 | $23,888 | $2,935,194 | $0 |
| 1-Apr-2010 | $52,305 | $52,305 | $28,188 | $24,117 | $2,911,077 | $0 |
| 1-May-2010 | $52,305 | $52,305 | $27,957 | $24,349 | $2,886,728 | $0 |
| 1-Jun-2010 | $52,305 | $52,305 | $27,723 | $24,583 | $2,862,145 | $0 |
| 1-Jul-2010 | $52,305 | $52,305 | $27,487 | $24,819 | $2,837,327 | $0 |
| 1-Aug-2010 | $52,305 | $52,305 | $27,248 | $25,057 | $2,812,270 | $0 |
| 1-Sep-2010 | $52,305 | $52,305 | $27,008 | $25,298 | $2,786,972 | $0 |
| 1-Oct-2010 | $52,305 | $52,305 | $26,765 | $25,541 | $2,761,431 | $0 |
| 1-Nov-2010 | $52,305 | $52,305 | $26,520 | $25,786 | $2,735,645 | $0 |
| 1-Dec-2010 | $52,305 | $52,305 | $26,272 | $26,034 | $2,709,612 | $0 |
| 1-Jan-2011 | $52,305 | $52,305 | $26,022 | $26,284 | $2,683,328 | $0 |
| 1-Feb-2011 | $52,305 | $52,305 | $25,769 | $26,536 | $2,656,792 | $0 |
| 1-Mar-2011 | $52,305 | $52,305 | $25,515 | $26,791 | $2,630,001 | $0 |
| 1-Apr-2011 | $52,305 | $52,305 | $25,257 | $27,048 | $2,602,953 | $0 |
| 1-May-2011 | $52,305 | $52,305 | $24,998 | $27,308 | $2,575,645 | $0 |
| 1-Jun-2011 | $52,305 | $52,305 | $24,735 | $27,570 | $2,548,075 | $0 |
| 1-Jul-2011 | $52,305 | $52,305 | $24,471 | $27,835 | $2,520,240 | $0 |
| 1-Aug-2011 | $52,305 | $52,305 | $24,203 | $28,102 | $2,492,138 | $0 |
| 1-Sep-2011 | $52,305 | $52,305 | $23,933 | $28,372 | $2,463,766 | $0 |
| 1-Oct-2011 | $52,305 | $52,305 | $23,661 | $28,645 | $2,435,121 | $0 |
| 1-Nov-2011 | $52,305 | $52,305 | $23,386 | $28,920 | $2,406,202 | $0 |
| 1-Dec-2011 | $52,305 | $52,305 | $23,108 | $29,197 | $2,377,004 | $0 |
| 1-Jan-2012 | $52,305 | $52,305 | $22,828 | $29,478 | $2,347,526 | $0 |
| 1-Feb-2012 | $54,921 | $52,305 | $22,545 | $29,761 | $2,317,766 | $2,615 |
| 1-Mar-2012 | $54,921 | $52,305 | $22,259 | $30,047 | $2,287,719 | $2,615 |
| 1-Apr-2012 | $54,921 | $52,305 | $21,970 | $30,335 | $2,257,384 | $2,615 |
| 1-May-2012 | $54,921 | $52,305 | $21,679 | $30,627 | $2,226,757 | $2,615 |
| 1-Jun-2012 | $54,921 | $52,305 | $21,385 | $30,921 | $2,195,836 | $2,615 |
| 1-Jul-2012 | $54,921 | $52,305 | $21,088 | $31,218 | $2,164,619 | $2,615 |
| 1-Aug-2012 | $54,921 | $52,305 | $20,788 | $31,517 | $2,133,101 | $2,615 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 1-Sep-2012 | $54,921 | $52,305 | $20,485 | $31,820 | $2,101,281 | $2,615 |
| 1-Oct-2012 | $54,921 | $52,305 | $20,180 | $32,126 | $2,069,155 | $2,615 |
| 1-Nov-2012 | $54,921 | $52,305 | $19,871 | $32,434 | $2,036,721 | $2,615 |
| 1-Dec-2012 | $54,921 | $52,305 | $19,560 | $32,746 | $2,003,975 | $2,615 |
| 1-Jan-2013 | $54,921 | $52,305 | $19,245 | $33,060 | $1,970,915 | $2,615 |
| 1-Feb-2013 | $54,921 | $52,305 | $18,928 | $33,378 | $1,937,538 | $2,615 |
| 1-Mar-2013 | $54,921 | $52,305 | $18,607 | $33,698 | $1,903,839 | $2,615 |
| 1-Apr-2013 | $54,921 | $52,305 | $18,284 | $34,022 | $1,869,817 | $2,615 |
| 1-May-2013 | $54,921 | $52,305 | $17,957 | $34,349 | $1,835,469 | $2,615 |
| 1-Jun-2013 | $54,921 | $52,305 | $17,627 | $34,678 | $1,800,790 | $2,615 |
| 1-Jul-2013 | $54,921 | $52,305 | $17,294 | $35,011 | $1,765,779 | $2,615 |
| 1-Aug-2013 | $54,921 | $52,305 | $16,958 | $35,348 | $1,730,431 | $2,615 |
| 1-Sep-2013 | $54,921 | $52,305 | $16,618 | $35,687 | $1,694,744 | $2,615 |
| 1-Oct-2013 | $54,921 | $52,305 | $16,276 | $36,030 | $1,658,714 | $2,615 |
| 1-Nov-2013 | $54,921 | $52,305 | $15,930 | $36,376 | $1,622,338 | $2,615 |
| 1-Dec-2013 | $54,921 | $52,305 | $15,580 | $36,725 | $1,585,613 | $2,615 |
| 1-Jan-2014 | $54,921 | $52,305 | $15,228 | $37,078 | $1,548,535 | $2,615 |
| 1-Feb-2014 | $54,921 | $52,305 | $14,871 | $37,434 | $1,511,101 | $2,615 |
| 1-Mar-2014 | $54,921 | $52,305 | $14,512 | $37,794 | $1,473,307 | $2,615 |
| 1-Apr-2014 | $54,921 | $52,305 | $14,149 | $38,156 | $1,435,151 | $2,615 |
| 1-May-2014 | $54,921 | $52,305 | $13,783 | $38,523 | $1,396,628 | $2,615 |
| 1-Jun-2014 | $54,921 | $52,305 | $13,413 | $38,893 | $1,357,735 | $2,615 |
| 1-Jul-2014 | $54,921 | $52,305 | $13,039 | $39,266 | $1,318,469 | $2,615 |
| 1-Aug-2014 | $54,921 | $52,305 | $12,662 | $39,643 | $1,278,825 | $2,615 |
| 1-Sep-2014 | $54,921 | $52,305 | $12,281 | $40,024 | $1,238,801 | $2,615 |
| 1-Oct-2014 | $54,921 | $52,305 | $11,897 | $40,409 | $1,198,392 | $2,615 |
| 1-Nov-2014 | $54,921 | $52,305 | $11,509 | $40,797 | $1,157,596 | $2,615 |
| 1-Dec-2014 | $54,921 | $52,305 | $11,117 | $41,188 | $1,116,407 | $2,615 |
| 1-Jan-2015 | $54,921 | $52,305 | $10,721 | $41,584 | $1,074,823 | $2,615 |
| 1-Feb-2015 | $54,921 | $52,305 | $10,322 | $41,983 | $1,032,840 | $2,615 |
| 1-Mar-2015 | $54,921 | $52,305 | $9,919 | $42,387 | $990,453 | $2,615 |
| 1-Apr-2015 | $54,921 | $52,305 | $9,512 | $42,794 | $947,660 | $2,615 |
| 1-May-2015 | $54,921 | $52,305 | $9,101 | $43,205 | $904,455 | $2,615 |
| 1-Jun-2015 | $54,921 | $52,305 | $8,686 | $43,619 | $860,836 | $2,615 |
| 1-Jul-2015 | $54,921 | $52,305 | $8,267 | $44,038 | $816,797 | $2,615 |
| 1-Aug-2015 | $54,921 | $52,305 | $7,844 | $44,461 | $772,336 | $2,615 |
| 1-Sep-2015 | $54,921 | $52,305 | $7,417 | $44,888 | $727,448 | $2,615 |
| 1-Oct-2015 | $54,921 | $52,305 | $6,986 | $45,319 | $682,128 | $2,615 |
| 1-Nov-2015 | $54,921 | $52,305 | $6,551 | $45,755 | $636,373 | $2,615 |
| 1-Dec-2015 | $54,921 | $52,305 | $6,111 | $46,194 | $590,179 | $2,615 |
| 1-Jan-2016 | $54,921 | $52,305 | $5,668 | $46,638 | $543,542 | $2,615 |
| 1-Feb-2016 | $54,921 | $52,305 | $5,220 | $47,086 | $496,456 | $2,615 |
| 1-Mar-2016 | $54,921 | $52,305 | $4,768 | $47,538 | $448,919 | $2,615 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 1-Apr-2016 | **$54,921** | $52,305 | $4,311 | $47,994 | $400,924 | $2,615 |
| 1-May-2016 | **$54,921** | $52,305 | $3,850 | $48,455 | $352,469 | $2,615 |
| 1-Jun-2016 | **$54,921** | $52,305 | $3,385 | $48,921 | $303,549 | $2,615 |
| 1-Jul-2016 | **$54,921** | $52,305 | $2,915 | $49,390 | $254,158 | $2,615 |
| 1-Aug-2016 | **$54,921** | $52,305 | $2,441 | $49,865 | $204,294 | $2,615 |
| 1-Sep-2016 | **$54,921** | $52,305 | $1,962 | $50,344 | $153,950 | $2,615 |
| 1-Oct-2016 | **$54,921** | $52,305 | $1,478 | $50,827 | $103,123 | $2,615 |
| 1-Nov-2016 | **$54,921** | $52,305 | $990 | $51,315 | $51,808 | $2,615 |
| 1-Dec-2016 | **$54,921** | $52,305 | $498 | $51,808 | $0 | $2,615 |

**Schedule 2.4(A)**

**Wiring Instructions**

JPMorgan Chase

ABA: 021-000-021

A/C : iStar Financial SF Account

A/C # : [redacted]

Ref: StevePort

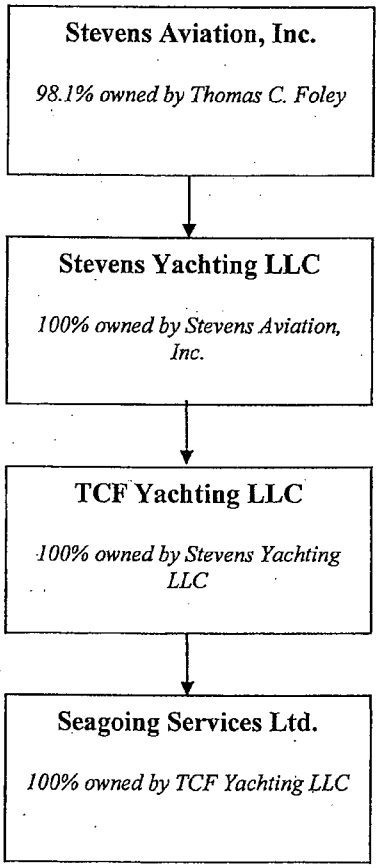
**Schedule 4.1(A)-1**

**Borrower U.S. Taxpayer Identification Number**

| | |
|---|---|
| Stevens Aviation, Inc. | [redacted] |

**Schedule 4.1(A)-2**

**Organizational Chart**



**Schedule 4.1(A)-3**

**Location of Principal Place of Business and Chief Executive Office**

Stevens Aviation, Inc.
Donaldson Center Industrial Air Park
600 Delaware St.
Greenville, SC 29605

**Schedule 4.6(C)**
**Other Material Contracts**

None.

**Schedule 4.6(D)**

**Flood Plain Status**

As indicated in ALTA Surveys prepared by Bock and Clark for each of GSP and GYH in December, 2006.

**Schedule 4.6(E)**

**Ground Lease Qualifications**

| | GSP | GYH |
|---|---|---|
| 4.6(E)(2)(1) | The Memorandum of Lease, dated as of December 12, 2006, recorded in the Office of the Register of Deeds for Spartanburg County in Book 87-J at page 951 on December 12, 2006. Except as otherwise provided for in the Ground Lease or consent agreement, the consent agreement permits the interest of the lessee to be encumbered by the Mortgage. (Consent Agreement) | A memorandum of Project Lease Agreement dated October 10, 1997 related to the Ground Lease was recorded on November 6, 1997 in the Office of the Register of Deeds for Greenville County in Book 1725 at page 758, as amended by First Amendment to Lease and Memorandum Thereof dated December 12, 2006 and recorded in Book 2241 at page 1112 on December 12, 2006. Except as otherwise provided for in the Ground Lease or consent agreement, the consent agreement permits the interest of the lessee to be encumbered by the Mortgage. (Consent Agreement) |
| 4.6(E)(2)(2) | Except as otherwise set forth in the Ground Lease or title policy, the lessee's interest in the Ground Lease are not subject to any Liens or encumbrances superior to, or of equal priority with, the Mortgage other than the ground lessor's related fee interest and Permitted Encumbrances. | Except as otherwise set forth in the Ground Lease or title policy, the lessee's interest in the Ground Lease are not subject to any Liens or encumbrances superior to, or of equal priority with, the Mortgage other than the ground lessor's related fee interest and Permitted Encumbrances. |
| 4.6(E)(2)(3) | Except as otherwise set forth in the Ground Lease or consent agreement, Borrower's interests in the Ground Lease is assignable to Lender and its successors and assigns upon notice and consent of lessee. (GSP Consent Agreement) | Except as otherwise set forth in the Ground Lease or consent agreement, Borrower's interests in the Ground Lease may not be assigned to Lender and its successors and assigns without consent of lessee. (Section 20) |
| 4.6(E)(2)(4) | Except as otherwise set forth in the Ground Lease, such Ground Lease is in full force and effect, and Borrower has not received any notice that an event of default has occurred thereunder. | Except as otherwise set forth in the Ground Lease, such Ground Lease is in full force and effect, and Borrower has not received any notice that an event of default has occurred thereunder. |
| 4.6(E)(2)(5) | Except as otherwise set forth in the Ground Lease or consent agreement, the lessor is required to give notice of | Except as otherwise set forth in the Ground Lease or consent agreement, the lessor is required to give notice of |

| | | |
|---|---|---|
| | any default by the lessee to Lender, its successors and assigns. (GSP Consent Agreement) The Ground Lease does not explicitly require delivery of a notice of termination to Lender for such a notice to be effective. | any default by the lessee to Lender, its successors and assigns. (GYH Consent Agreement) The Ground Lease does not explicitly require delivery of a notice of termination to Lender for such a notice to be effective. |
| 4.6(E)(2)(6) | Except as otherwise set forth in the Ground Lease and consent agreement, Lender is entitled to notice of a default and is permitted 15 days to effect a cure of such default. (GSP Consent Agreement) | Except as otherwise set forth in the Ground Lease and consent agreement, Lender is entitled to notice of a default and is permitted 30 days to effect a cure of such default. (GYH Consent Agreement) |
| 4.6(E)(2)(7) | Except as otherwise set forth in the Ground Lease and Loan Documents, under the terms of the Ground Lease and Loan Documents taken together, any related insurance proceeds will be applied either to the repair or restoration of all or part of the Property. (Section 5.6 of Loan Agreement) Except as otherwise set forth in the Ground Lease, such Ground Lease is silent with respect to the rights of a mortgagees/beneficiary of a deed of trust to hold and disburse such proceeds. | Except as otherwise set forth in the Ground Lease and Loan Documents, under the terms of the Ground Lease and Loan Documents taken together, any related insurance proceeds will be applied either to the repair or restoration of all or part of the Property. (Section 5.6 of Loan Agreement) Except as otherwise set forth in the Ground Lease, such Ground Lease is silent with respect to the rights of a mortgagees/beneficiary of a deed of trust to hold and disburse such proceeds. |
| 4.6(E)(2)(8) | Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not impose any restrictions on subletting of the areas identified as hangars which would be viewed as commercially unreasonable. (Section XIV (B)). Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not contain a covenant of quiet enjoyment. | Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not impose any restrictions on subletting which would be viewed as commercially unreasonable. (Section 20). Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease contains a covenant of quiet enjoyment. (Section 5) |
| 4.6(E)(2)(9) | Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not require lessor to enter into a new lease with lender in the event of a termination by reason of a default by Borrower. | Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not require lessor to enter into a new lease with lender in the event of a termination by reason of a default by Borrower. |

**Schedule 4.7**

**Litigation**

1. Case No. 05CP234410
   Caron Elaine Wilson
   Filed 12/14/2005

2. Case No. 06CP234410
   Plaintiff John Moldovan
   Filed 7/12/2006

3. Case No. 06CP234498
   Plaintiff AOP Supply Company
   Filed 7/14/2006

**Schedule 4.8**

**Taxes**

1. The Borrower's federal tax returns were audited in 2006. The IRS has proposed an income adjustment for 2004 of +$4,500,000, arising from the forgiveness of debt to Electra. In 2003, Electra forgave $7.5 million in debt owed to it by Borrower. The forgiven debt was $3,000,000 in principal and $4,500,000 in accumulated unpaid interest. Borrower did not pay taxes on the income that resulted from the debt forgiveness. Borrower believes that it met the standards required in order to not pay taxes on the debt forgiveness, which the IRS has not disputed. The IRS claims, however, that Borrower deducted the $4,500,000 in interest in the years when the interest accrued, therefore since the interest was forgiven and never paid, Borrower should not be allowed to deduct the interest in prior years. Borrower is disputing the finding and KPMG has responded on its behalf.

2. Borrower's Industrial Revenue Bonds were audited in 2006. There has been no official response from the IRS. However, the agent did indicate that he would find that Borrower violated the bond agreement by depreciating the assets purchased with the bond proceeds. The Borrower believes that the bond document clearly states that assets purchased with the bond proceeds can not be depreciated. KPMG has responded on behalf of the Borrower.

**Schedule 4.10(A) – (B)**

**Employee Benefit Plans, Collective Bargaining Agreements and Employment Agreements**

**(A) Employment Agreements and Collective Bargaining Agreements to which Borrower is a party:**

Employment Agreement, dated as of March 8, 2006, between Stevens Aviation, Inc. and Glenn Brown.

**(B) Material "Employee Benefit Plans" maintained by or contributed to by the Borrower (or with respect to which the Borrower is liable) for the last five years:**

| | |
|---|---|
| Stevens Aviation 401K Savings and Retirement Plan | Borrower contributes 50% of employee contribution up to 6% of an employee's pay |
| Stevens Aviation Healthcare Reimbursement Plan | Self-insured up to $70,000 per participant; $1,000,000 Lifetime limit |

**Schedule 4.11**

**Proprietary Rights**

| Registration Number | Mark |
|---|---|
| 1899205 | Stevens Aviation® |
| 76/289554 | "S" logo |

**Schedule 4.16**

**Insurance**

| Insurer | Type of Coverage | Policy Number | Coverage Period | Amount of Coverage |
|---|---|---|---|---|
| USAIG | Aircraft Hull & Liability | SIHL1-812F | 5/01/06-5/01/07 | See Section 5.4 of the Agreement. |
| USAIG | Airport Liability Policy | ALO-31776 | 5/01/06-5/01/07 | |
| Travelers Indemnity of Connecticut | Boiler & Machinery | BAJ-BMC-871X9084-TCT-06 | 5/20/06-5/20/07 | |
| Travelers Property Casualty Company of America | Commercial Auto | P810-8171B019-TIL-06 | 9/01/06-5/01/07 | |
| Federal Insurance Company | Employers Practices Liability, Fiduciary Liability and Crime | 6804-4426 | 5/01/06-5/01/07 | |
| St. Paul Travelers | Excess Liability | QI06801165 | 5/01/06-5/01/07 | |
| AIG Environmental | Pollution | PLS 1243252 | 3/01/04-3/10/09 | |
| The Travelers Indemnity Company | Commercial Property | KTK-630-5531C148-IND-06 | 9/01/06-5/01/07 | |
| Liberty Mutual Insurance Company | Worker's Compensation | WC1-A21-968454-016 | 5/01/06-5/01/07 | |

**Schedule 4.17**

**Budget**

Delivered to Lender under separate cover.

**Schedule 4.21**

**Leases**

| Lease | Term | Leased Property | Rent |
|---|---|---|---|
| Michelin North America | October 15, 2006 - October 14, 2016 | Hangar Four - 16,340 | $7,604.24/month |
| * Miliken & Company | * October 16, 2006 – December 31, 2016 | * Hangar One - 12,230 sq ft | * $6,355.00/month |
| ** Air BP | ** Until a date in 2016 | ** Land occupied by BP fuel farm | ** $1,145.00/month |

* The Borrower anticipates entering into a Lease with the indicated terms following the date of the Closing Date to replace a lease with Miliken & Company that has expired by its terms.

** The Borrower anticipates entering into a Lease with the indicated terms following the date of the Closing Date to replace an agreement with Air BP that has expired by its terms.

**Schedule 7.7**

**Management Fees**

Management Services Agreement, dated as of April 1, 1989, between The NTC Group, Inc. and Stevens Aviation, Inc.

Schedule 11.5

Addresses for Notice

If to Borrower:

Stevens Aviation, Inc.
Donaldson Center Air Park
600 Delaware Street
Greenville, South Carolina 29605
Attn: Thomas Sullivan
Telephone: 864-678-6222
Facsimile: 864-678-6041

With a copy to:

Dechert LLP
1775 I Street, N.W.
Washington, D.C. 20006-2401
Attn: David E. Schulman, Esq.
Telephone: 202-261-3440
Facsimile: 202-261-3334

If to Lender:

SFT I, Inc.
c/o iStar Financial Inc.
1114 Avenue of the Americas, 27th Floor
New York, New York 10036
Attn: Chief Operating Officer
Reference : Loan No. 1380:01
Telephone: 212-930-9400
Facsimile: 212-930-9494

With a copy to:

iStar Financial Inc.
1114 Avenue of the Americas, 27th Floor
New York, New York 10036
Attn: Nina B. Matis, Esq./General Counsel
Reference : Loan No. 1380:01
Telephone: 212-930-9406
Facsimile: 212-930-9492

With a copy to:

iStar Asset Services Inc.
180 Glastonbury Blvd., Suite 201
Glastonbury, Connecticut 06033
Attn: President
Reference : Loan No. 1380:01
Telephone: 860-815-5900
Facsimile: 860-815-5901

With a copy to:

Katten Muchin Rosenman LLP
525 West Monroe Street
Chicago, Illinois 60661-3693
Attn: Kenneth M. Jacobson, Esq.
Reference: Loan No. 1380:01
Katten Reference: 208972/00585
Telephone: 312-902-5445
Facsimile: 312-902-1061

# EXHIBIT 2

Loan No. 1380:01

## SECURED PROMISSORY NOTE

## TRANCHE A

**$21,300,000.00** December 12, 2006

**FOR VALUE RECEIVED, STEVENS AVIATION, INC.**, a Delaware corporation ("**Borrower**"), promises to pay to **SFT I, INC.**, a Delaware corporation ("**Holder**"), or order, at 1114 Avenue of the Americas, 27th Floor, New York, New York 10036, or at such other place as Holder may from time to time in writing designate, in lawful money of the United States of America, the principal sum of TWENTY-ONE MILLION THREE HUNDRED THOUSAND AND NO/100THS DOLLARS ($21,300,000.00) or such other sum as may be the total amount outstanding pursuant to this Note (the "**Loan**"), payable at such rates and at such times as are provided in the "**Loan Agreement**" (as hereinafter defined).

Payments of both principal and interest are to be made in lawful money of the United States of America.

This Promissory Note (this "**Note**") evidences Indebtedness incurred under, and is subject to the terms and provisions of, that certain Loan and Security Agreement of even date herewith, by and among the Borrower and the Holder (herein, as the same may be further amended, modified or supplemented from time to time, called the "**Loan Agreement**"). The Loan Agreement, to which reference is hereby made, sets forth said terms and provisions, including those under which both Component A and Component B of this Note may or must be paid prior to its due date or may have its due date accelerated or extended. The Loan Agreement also contains provisions for the payment of late charges and interest at the Default Rate, all as more specifically set forth therein. Repayment of the Obligations evidenced by this Note is secured by the Mortgage and the other Loan Documents referred to in the Loan Agreement, and reference is made thereto for a statement of terms and provisions.

Terms used but not otherwise defined herein are used herein as defined in the Loan Agreement.

This Note may only be prepaid in whole or in part in accordance with the terms of Section 2.4 of the Loan Agreement (or as otherwise expressly provided elsewhere in the Loan Agreement or the other Loan Documents). Any payments of the outstanding principal balance of the Loan evidenced by this Note, whether voluntary or involuntary, shall be accompanied by interest accrued to the date of prepayment and the Yield Maintenance Charge, to the extent, if any, provided in Section 2.4 of the Loan Agreement (except to the extent any other provision of the Loan Agreement expressly provides otherwise).

EXCEPT AS OTHERWISE EXPRESSLY PERMITTED IN THIS NOTE OR THE OTHER LOAN DOCUMENTS, BORROWER HEREBY EXPRESSLY (i) WAIVES ANY RIGHTS IT MAY HAVE UNDER LAW TO PREPAY THIS NOTE, IN WHOLE OR IN PART, WITHOUT PENALTY, UPON ACCELERATION OF THE MATURITY DATE, AND (ii) AGREES THAT IF, FOR ANY REASON, A PREPAYMENT OF ALL OR ANY PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE IS MADE, INCLUDING, WITHOUT LIMITATION, UPON OR FOLLOWING ANY ACCELERATION OF THE

MATURITY DATE BY HOLDER ON ACCOUNT OF ANY DEFAULT BY BORROWER, INCLUDING, WITHOUT LIMITATION, ANY TRANSFER, DISPOSITION, OR FURTHER ENCUMBRANCE PROHIBITED OR RESTRICTED BY THE LOAN AGREEMENT, THEN BORROWER SHALL BE OBLIGATED TO PAY CONCURRENTLY WITH SUCH PREPAYMENT THE YIELD MAINTENANCE CHARGE TO THE EXTENT REQUIRED UNDER SECTION 2.4 OF THE LOAN AGREEMENT. BY INITIALING THIS PROVISION IN THE SPACE PROVIDED BELOW, BORROWER HEREBY DECLARES THAT (1) EACH OF THE MATTERS SET FORTH IN THIS PARAGRAPH IS TRUE AND CORRECT, (2) HOLDER'S AGREEMENT TO MAKE THE LOAN EVIDENCED BY THIS NOTE AT THE INTEREST RATES AND FEES APPLICABLE TO COMPONENT A AND COMPONENT B OF THIS NOTE, ALL AS SET FORTH IN THE LOAN AGREEMENT AND FOR THE TERM SET FORTH IN THIS NOTE CONSTITUTES ADEQUATE CONSIDERATION FOR THIS WAIVER AND AGREEMENT, AND HAS BEEN GIVEN INDIVIDUAL WEIGHT BY BORROWER AND HOLDER, (3) BORROWER HAS RETAINED COMPETENT AND INDEPENDENT LEGAL COUNSEL, AND (4) BORROWER FULLY UNDERSTANDS THE EFFECT OF THIS WAIVER AND AGREEMENT.

_____
On behalf of the Borrower

The remedies of Holder, as provided in this Note, the Loan Agreement and the other Loan Documents, shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of Holder, and may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof. In any action, sale of collateral, or other proceedings to enforce this Note, the Loan Agreement or any other Loan Document, Holder need not file or produce the original of this Note, but only need file or produce a photocopy of this Note certified by Holder to be a true and correct copy of this Note.

In the event of any dispute, action or lawsuit regarding the terms hereof, subject to the provisions of the Loan Agreement, the prevailing party will have the right to recover from the other party all court costs and reasonable attorneys' fees and disbursements incurred with respect thereto, in addition to all other applicable damages and costs.

BORROWER AND ANY GUARANTOR OF THIS NOTE WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, DILIGENCE, PRESENTMENT FOR PAYMENT, DEMAND, NOTICE OF DEMAND, NOTICE OF PROTEST, NOTICE OF NONPAYMENT OR DISHONOR, NOTICE OF INTENTION TO ACCELERATE, NOTICE OF ACCELERATION, PROTEST AND NOTICE OF PROTEST OF THIS NOTE, AND ALL OTHER NOTICES (OTHER THAN AS EXPRESSLY PROVIDED IN THE LOAN AGREEMENT OR OTHER LOAN DOCUMENTS) IN CONNECTION WITH THE DELIVERY, ACCEPTANCE, PERFORMANCE, DEFAULT OR ENFORCEMENT OF THE PAYMENT OF THIS NOTE. BORROWER FURTHER WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL VALUATION AND APPRAISEMENT PRIVILEGES, CLAIMS OF LACK OF DILIGENCE OR DELAYS IN COLLECTION OR ENFORCEMENT OF THIS NOTE, THE RELEASE OF ANY PARTY LIABLE, THE

RELEASE OF ANY SECURITY FOR THE DEBT, THE TAKING OF ANY ADDITIONAL SECURITY AND ANY OTHER INDULGENCE OF FORBEARANCE.

Holder shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Holder, and then only to the extent specifically set forth in the writing. The acceptance by Holder of any payment hereunder which is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time or nullify any prior exercise of any such option without the express consent of Holder, except as and to the extent otherwise provided by law. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

PURSUANT TO SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BORROWER AND ANY GUARANTOR OF THIS NOTE AGREE THAT THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES OF AMERICA AND THE LAWS OF THE STATE OF NEW YORK. IN ACCORDANCE WITH SECTION 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BORROWER AND ANY GUARANTOR HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS NOTE OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS.

Whenever used, the singular number shall include the plural, the plural shall include the singular, and the words "Holder" and "Borrower" shall be deemed to include their respective heirs, executors, successors and assigns.

All notices which Holder or Borrower may be required or permitted to give hereunder shall be made in the same manner as set forth in Section 11.5 of the Loan Agreement.

In the event any one or more of the provisions hereof shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions hereof shall be in no way affected, prejudiced or disturbed thereby.

Borrower acknowledges that Holder may, in its sole discretion, sell all or any part of its interest in the Loan evidenced by this Note, including, without limitation, for purposes of effecting a Securitization.

Notwithstanding anything to the contrary contained in this Note or any other Loan Documents, to the fullest extent permitted by applicable law, the Holder's rights hereunder shall be reinstated and revived, and the enforceability of this Note and the other Loan Documents shall continue, with respect to any amount at any time paid on account of the Loan which thereafter shall be required to be restored by Holder pursuant to a court order or judgment (whether or not final or non-appealable), as though such amount had not been paid. The rights of Holder created

or granted herein and the enforceability of the Loan Documents at all times shall, to the fullest extent permitted by applicable law, remain effective to cover the full amount of the Loan even though the Loan, including any part thereof or any other security or guaranty therefor, may be or hereafter may become invalid or otherwise unenforceable as against any other party and whether or not any other party shall have any personal liability with respect thereto.

Borrower and Holder, by acceptance of this Note, hereby agree that the Loan Documents supersede any prior oral or written agreements of the parties; without limiting the generality of the foregoing, in the event of conflict between the terms of this Note and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

Time is of the essence for the performance of each and every covenant of the parties hereunder or under the other Loan Documents. No excuse, delay, act of God, or other reason, whether or not within the control of Borrower or Holder (as the case may be), shall operate to defer, reduce or waive Borrower's or Holder's (as the case may be) performance of any such covenant or obligation.

(END OF PAGE)

**IN WITNESS WHEREOF**, Borrower, intending to be legally bound hereby, has duly executed this Note the day and year first above written.

**BORROWER**:

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: Neal McGrail
Its: VP Finance

Secured Promissory Note Tranche A

Loan No. 1380:01

**SECURED PROMISSORY NOTE**

**TRANCHE B**

**$3,700,000.00** December 12, 2006

**FOR VALUE RECEIVED, STEVENS AVIATION, INC.,** a Delaware corporation ("**Borrower**"), promises to pay to **SFT I, INC.,** a Delaware corporation ("**Holder**"), or order, at 1114 Avenue of the Americas, 27th Floor, New York, New York 10036, or at such other place as Holder may from time to time in writing designate, in lawful money of the United States of America, the principal sum of THREE MILLION SEVEN HUNDRED THOUSAND AND NO/100$^{THS}$ DOLLARS ($3,700,000.00) or such other sum as may be the total amount outstanding pursuant to this Note (the "**Loan**"), payable at such rates and at such times as are provided in the "**Loan Agreement**" (as hereinafter defined).

Payments of both principal and interest are to be made in lawful money of the United States of America.

This Promissory Note (this "**Note**") evidences Indebtedness incurred under, and is subject to the terms and provisions of, that certain Loan and Security Agreement of even date herewith, by and among the Borrower and the Holder (herein, as the same may be further amended, modified or supplemented from time to time, called the "**Loan Agreement**"). The Loan Agreement, to which reference is hereby made, sets forth said terms and provisions, including those under which this Note may or must be paid prior to its due date or may have its due date accelerated or extended. The Loan Agreement also contains provisions for the payment of late charges and interest at the Default Rate, all as more specifically set forth therein. Repayment of the Obligations evidenced by this Note is secured by the Mortgage and the other Loan Documents referred to in the Loan Agreement, and reference is made thereto for a statement of terms and provisions.

Terms used but not otherwise defined herein are used herein as defined in the Loan Agreement.

This Note may only be prepaid in whole or in part in accordance with the terms of Section 2.4 of the Loan Agreement (or as otherwise expressly provided elsewhere in the Loan Agreement or the other Loan Documents). Any payments of the outstanding principal balance of the Loan evidenced by this Note, whether voluntary or involuntary, shall be accompanied by interest accrued to the date of prepayment and the Yield Maintenance Charge, to the extent, if any, provided in Section 2.4 of the Loan Agreement (except to the extent any other provision of the Loan Agreement expressly provides otherwise).

EXCEPT AS OTHERWISE EXPRESSLY PERMITTED IN THIS NOTE OR THE OTHER LOAN DOCUMENTS, BORROWER HEREBY EXPRESSLY (i) WAIVES ANY RIGHTS IT MAY HAVE UNDER LAW TO PREPAY THIS NOTE, IN WHOLE OR IN PART, WITHOUT PENALTY, UPON ACCELERATION OF THE MATURITY DATE, AND (ii) AGREES THAT IF, FOR ANY REASON, A PREPAYMENT OF ALL OR ANY PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE IS MADE, INCLUDING, WITHOUT LIMITATION, UPON OR FOLLOWING ANY ACCELERATION OF THE

MATURITY DATE BY HOLDER ON ACCOUNT OF ANY DEFAULT BY BORROWER, INCLUDING, WITHOUT LIMITATION, ANY TRANSFER, DISPOSITION, OR FURTHER ENCUMBRANCE PROHIBITED OR RESTRICTED BY THE LOAN AGREEMENT, THEN BORROWER SHALL BE OBLIGATED TO PAY CONCURRENTLY WITH SUCH PREPAYMENT THE YIELD MAINTENANCE CHARGE TO THE EXTENT REQUIRED UNDER SECTION 2.4 OF THE LOAN AGREEMENT. BY INITIALING THIS PROVISION IN THE SPACE PROVIDED BELOW, BORROWER HEREBY DECLARES THAT (1) EACH OF THE MATTERS SET FORTH IN THIS PARAGRAPH IS TRUE AND CORRECT, (2) HOLDER'S AGREEMENT TO MAKE THE LOAN EVIDENCED BY THIS NOTE AT THE INTEREST RATES SET FORTH IN THE LOAN AGREEMENT AND FOR THE TERM SET FORTH IN THIS NOTE CONSTITUTES ADEQUATE CONSIDERATION FOR THIS WAIVER AND AGREEMENT, AND HAS BEEN GIVEN INDIVIDUAL WEIGHT BY BORROWER AND HOLDER, (3) BORROWER HAS RETAINED COMPETENT AND INDEPENDENT LEGAL COUNSEL, AND (4) BORROWER FULLY UNDERSTANDS THE EFFECT OF THIS WAIVER AND AGREEMENT.

On behalf of the Borrower

The remedies of Holder, as provided in this Note, the Loan Agreement and the other Loan Documents, shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of Holder, and may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof. In any action, sale of collateral, or other proceedings to enforce this Note, the Loan Agreement or any other Loan Document, Holder need not file or produce the original of this Note, but only need file or produce a photocopy of this Note certified by Holder to be a true and correct copy of this Note.

In the event of any dispute, action or lawsuit regarding the terms hereof, subject to the provisions of the Loan Agreement, the prevailing party will have the right to recover from the other party all court costs and reasonable attorneys' fees and disbursements incurred with respect thereto, in addition to all other applicable damages and costs.

BORROWER AND ANY GUARANTOR OF THIS NOTE WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, DILIGENCE, PRESENTMENT FOR PAYMENT, DEMAND, NOTICE OF DEMAND, NOTICE OF PROTEST, NOTICE OF NONPAYMENT OR DISHONOR, NOTICE OF INTENTION TO ACCELERATE, NOTICE OF ACCELERATION, PROTEST AND NOTICE OF PROTEST OF THIS NOTE, AND ALL OTHER NOTICES (OTHER THAN AS EXPRESSLY PROVIDED IN THE LOAN AGREEMENT OR OTHER LOAN DOCUMENTS) IN CONNECTION WITH THE DELIVERY, ACCEPTANCE, PERFORMANCE, DEFAULT OR ENFORCEMENT OF THE PAYMENT OF THIS NOTE. BORROWER FURTHER WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL VALUATION AND APPRAISEMENT PRIVILEGES, CLAIMS OF LACK OF DILIGENCE OR DELAYS IN COLLECTION OR ENFORCEMENT OF THIS NOTE, THE RELEASE OF ANY PARTY LIABLE, THE RELEASE OF ANY SECURITY FOR THE DEBT, THE TAKING OF ANY ADDITIONAL SECURITY AND ANY OTHER INDULGENCE OF FORBEARANCE.

Holder shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Holder, and then only to the extent specifically set forth in the writing. The acceptance by Holder of any payment hereunder which is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time or nullify any prior exercise of any such option without the express consent of Holder, except as and to the extent otherwise provided by law. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

PURSUANT TO SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BORROWER AND ANY GUARANTOR OF THIS NOTE AGREE THAT THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES OF AMERICA AND THE LAWS OF THE STATE OF NEW YORK. IN ACCORDANCE WITH SECTION 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BORROWER AND ANY GUARANTOR HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS NOTE OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS.

Whenever used, the singular number shall include the plural, the plural shall include the singular, and the words "Holder" and "Borrower" shall be deemed to include their respective heirs, executors, successors and assigns.

All notices which Holder or Borrower may be required or permitted to give hereunder shall be made in the same manner as set forth in Section 11.5 of the Loan Agreement.

In the event any one or more of the provisions hereof shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions hereof shall be in no way affected, prejudiced or disturbed thereby.

Borrower acknowledges that Holder may, in its sole discretion, sell all or any part of its interest in the Loan evidenced by this Note, including, without limitation, for purposes of effecting a Securitization.

Notwithstanding anything to the contrary contained in this Note or any other Loan Documents, to the fullest extent permitted by applicable law, the Holder's rights hereunder shall be reinstated and revived, and the enforceability of this Note and the other Loan Documents shall continue, with respect to any amount at any time paid on account of the Loan which thereafter shall be required to be restored by Holder pursuant to a court order or judgment (whether or not final or non-appealable), as though such amount had not been paid. The rights of Holder created or granted herein and the enforceability of the Loan Documents at all times shall, to the fullest extent permitted by applicable law, remain effective to cover the full amount of the Loan even though the Loan, including any part thereof or any other security or guaranty therefor, may be or

hereafter may become invalid or otherwise unenforceable as against any other party and whether or not any other party shall have any personal liability with respect thereto.

Borrower and Holder, by acceptance of this Note, hereby agree that the Loan Documents supersede any prior oral or written agreements of the parties; without limiting the generality of the foregoing, in the event of conflict between the terms of this Note and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

Time is of the essence for the performance of each and every covenant of the parties hereunder or under the other Loan Documents. No excuse, delay, act of God, or other reason, whether or not within the control of Borrower or Holder (as the case may be), shall operate to defer, reduce or waive Borrower's or Holder's (as the case may be) performance of any such covenant or obligation.

(END OF PAGE)

**IN WITNESS WHEREOF**, Borrower, intending to be legally bound hereby, has duly executed this Note the day and year first above written.

**BORROWER**:

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: Neal McGrail
Its: VP Finance

Secured Promissory Note Tranche B

**EXHIBIT "B"**

**DESCRIPTION OF LEASES**

1. General Aviation Lease and Facilities Agreement dated as of September 11, 2006, between Greenville-Spartanburg Airport District, a political subdivision of the State of South Carolina ("Lessor"), and Stevens Aviation, Inc., a South Carolina corporation ("Lessee").

2. Memorandum of Lease, dated as of December 12, 2006, recorded in the Office of the Register of Deeds for Spartanburg County in Book 87-J at page 951 on December 12, 2006.

Lessor is the record owner of the Land.

**EXHIBIT "C"**

**PERMITTED LIENS**

1. Ad valorem taxes for 2007 and subsequent years which are a lien but not yet due and payable.

2. Rights-of-way given to Duke Power Company, recorded in the Office of the Register of Deeds for Spartanburg County in Book 27-T at page 515, Book 40-E at page 357 and in Book 62-B at page 356.

3. Notice of Agreement by and between Lang Ligon & Company, Inc. and Greenville-Spartanburg Airport District for the installation of a sewer line, recorded in the Office of the Register of Deeds for Spartanburg County in Book 64-K at page 531.

4. Ten (10) foot drainage easement as shown on plat prepared for Heller Financial, Inc. and Stevens Aviation, Inc., prepared by International Land Surveying, Inc., dated February 26, 1994, last revised November 17, 1994.

5. The following matters as shown on plat entitled ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network:

   (a) underground telephone lines;
   (b) underground power lines;
   (c) sanitary sewer lines;
   (d) storm drain; and
   (e) encroachment by asphalt onto adjoining property.

**EXHIBIT "D"**

**DESCRIPTION OF "DEBTOR" AND "SECURED PARTY"**

A. Debtor:

1. Name and Identity or Corporate Structure:

Stevens Aviation, Inc.

2. Debtor's chief executive office is located the following address:

2100 GSP Drive
Greer, South Carolina 29651

B. Secured Party:

SFT I, Financial, Inc., a Delaware corporation

C. Debtor has been operating under the name listed at A(1) since April 17, 1989.

# EXHIBIT 3

# SOUTH CAROLINA LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS

from

**STEVENS AVIATION, INC.**, as Mortgagor

to

**SFT I, INC.**, as Lender

Dated: As of December 12, 2006

Greenville County, South Carolina

Prepared by and when recorded
return to:
Katten Muchin Rosenman LLP
525 West Monroe Street
Suite 1900
Chicago, Illinois 60661
Attention: Ann Marie Sink, Esq.

THIS INSTRUMENT IS TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS AS A FIXTURE FILING IN ACCORDANCE WITH SECTIONS 36-9-313 AND 36-9-402 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED AND CROSS-INDEXED IN THE REAL ESTATE RECORDS. THE NAMES OF THE DEBTOR AND THE SECURED PARTY, THE MAILING ADDRESS OF THE SECURED PARTY FROM WHICH INFORMATION CONCERNING THE SECURITY INTERESTS MAY BE OBTAINED, THE MAILING ADDRESS OF THE DEBTOR AND A STATEMENT INDICATING THE TYPES OR DESCRIBING THE ITEMS OF COLLATERAL, ARE AS DESCRIBED IN ARTICLE I, SECTION 5 HEREOF.

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**SOUTH CAROLINA LEASEHOLD MORTGAGE,**
**SECURITY AGREEMENT AND ASSIGNMENT OF RENTS**
(DONALDSON CENTER AIR INDUSTRIAL PARK,
GREENVILLE, SOUTH CAROLINA)

THIS MORTGAGE SECURES, AMONG OTHER OBLIGATIONS, REVOLVING LOANS MADE PURSUANT TO THE TERMS AND CONDITIONS OF A LOAN AND SECURITY AGREEMENT DATED AS OF THE DATE HEREOF, UNDER THE TERMS OF WHICH CERTAIN FUNDS MAY BE ADVANCED, PAID BACK, AND READVANCED IN ACCORDANCE WITH THE TERMS OF THE LOAN AGREEMENT, AS DEFINED BELOW; PROVIDED, HOWEVER, THAT THE MAXIMUM PRINCIPAL AMOUNT SECURED BY THIS MORTGAGE SHALL NOT AT ANY ONE TIME EXCEED $25,000,000.00

THIS LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS (hereinafter referred to as this "Mortgage") is granted as of December 12, 2006, from **STEVENS AVIATION, INC.**, a Delaware corporation with its chief executive offices at 2100 GSP Drive, Greer, South Carolina 29651 (hereinafter referred to as the "Mortgagor"), to **SFT I, INC.**, a Delaware corporation having its principal place of business at 1114 Avenue of the Americas, 27th Floor, New York, New York 10036 ("Lender").

WHEREAS, Mortgagor is the lessee under a certain lease or certain leases (collectively, and as more particularly defined in Article I, Section 1, the "Lease") a memorandum of which Lease has been duly recorded in the real estate records of Greenville County, South Carolina, at the book and page numbers set forth on Exhibit B attached hereto, pursuant to which Lease Mortgagor leases from Lessor (as such term is defined herein) certain real property located in the County of Greenville, State of South Carolina and more particularly described in Exhibit A attached hereto (the "Land") and all or part of the buildings, structures and improvements situate, lying and being on the Land.

WHEREAS, Lender and Mortgagor are parties to a certain Loan and Security Agreement (hereinafter, together with all amendments, modifications, renewals and extensions thereof, the "Loan Agreement"), dated as of the date hereof, pursuant to which Lender has agreed, in accordance with the terms thereof, to make, or has made a loan to Mortgagor (the "Loan"), (i) which includes a revolving component up to a maximum principal amount outstanding at any time of $21,300,000, evidenced by the Tranche A Secured Promissory Note (as defined in the Loan Agreement), and (ii) a tranche in the original principal amount of $3,700,000, evidenced by the Tranche B Secured Promissory Note (as defined in the Loan Agreement); and

WHEREAS, this Mortgage is given and made by Mortgagor to Lender as security for the payment and performance of all of Mortgagor's indebtedness and obligations owing under the Loan Agreement Note and the performance of Mortgagor's other obligations to Lender, whether now existing or hereafter arising.

NOW, THEREFORE, in order to induce Lender to continue to make the Loan (as defined in the Loan Agreement) to Mortgagor under and pursuant to the Loan Agreement and the other Loan Documents (as defined in the Loan Agreement), and to secure the performance and

observance by Mortgagor of all covenants and conditions in the Loan Agreement, this Mortgage and in all other Loan Documents, and in order to charge the properties, interests and rights hereunder with such payment, performance and observance, and for and in consideration of good and valuable consideration as herein described, the receipt and sufficiency of which are hereby acknowledged, Mortgagor does hereby grant, bargain, sell, assign, convey, pledge, transfer, mortgage and warrant to Lender, its successors, successors-in-title and assigns, with right of entry and possession, all of the following property, whether now owned or hereafter acquired, and Mortgagor's entire right, title and interest therein:

All of Mortgagor's leasehold estate under and pursuant to the Lease and all of its rights in the Lease;

All of Mortgagor's rights in the Leased Premises (as hereinafter defined);

All further or additional title, estate, interest, or right in and to the Land and improvements thereon (including the fee simple thereof) which Mortgagor may acquire at any time prior to Mortgagor's payment in full of the amount secured hereby and Mortgagor's complete performance of every term, covenant, condition and provision of this Mortgage;

All of Mortgagor's rights in and to all additions, alterations, replacements and renewals made to the Leased Premises;

TOGETHER with all and singular the tenements, hereditaments, rights-of-way, easements, exclusive and non-exclusive rights of ingress and egress and exclusive and non-exclusive rights to use areas and facilities as described in the Lease, riparian rights and appurtenances thereunto belonging, or in anywise appertaining,

TOGETHER with any and all awards, damages, payment and other compensation, and any and all claims therefor and rights thereto, which may result from taking or injury by virtue of the exercise of the power of eminent domain, or any damage, improvements, injury or destruction in any manner caused to the Leased Premises or thereon, or any part thereof;

TOGETHER with all proceeds of the foregoing, including, without limitation, the fullest extent of Mortgagor's right, title and interest in the insurance policies required to be maintained by Mortgagor pursuant to the Loan Agreement and any and all proceeds of insurance of every kind whatsoever (and all unearned premiums thereon) now or hereafter payable by reason of any damage or destruction to the Leased Premises, whether payable under such insurance policies or otherwise, and all interest thereon; and

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of Mortgagor, at law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances (hereinafter the Leased Premises and all the rights, interests and benefits that go with it as described above shall be collectively referred to as the "Mortgage Premises"). This Mortgage shall be enforceable as a Mortgage, assignment of leases and rents and security agreement.

TO HAVE AND TO HOLD said Mortgage Premises unto Lender, its successors and assigns forever, subject, however, to the terms and conditions herein and subject to the matters

set forth in Exhibit attached hereto and hereby made a part hereof (the "Permitted Liens") and Permitted Encumbrances (as such term is defined in the Loan Agreement).

This Mortgage is made and intended to secure the payment of the following described indebtedness of Mortgagor (the "Obligations"):

(a) The Loan and other indebtedness now or at any time or times hereafter owing to Lender by Mortgagor under the Loan Agreement;

(b) Any and all indebtedness evidenced by the Note;

(c) Any and all additional advances made by Lender to protect or preserve the Mortgage Premises or the security interest or lien created hereby on the Mortgage Premises, or for taxes, assessments or insurance premiums as provided herein or in the Loan Agreement or for performance of any of Mortgagor's obligations hereunder or for any other purpose provided herein (whether or not the original Mortgagor remains the owner of the Mortgage Premises at the time of such advances); and

(d) Any and all other indebtedness now owing or which may hereafter be owing by Mortgagor to Lender, however and whenever incurred or evidenced, whether expressed or implied, direct or indirect, absolute or contingent, or due or to become due, and all renewals, modifications, consolidations, replacements and extensions thereof.

Pursuant to § 29-3-50, Code of Laws of South Carolina 1976, as amended, this Mortgage shall also secure all future advances and readvances made by Lender under the Loan Agreement pursuant to which Lender may make revolving loans up to an amount equal to the total amount of existing indebtedness and future advances outstanding at any one time of $25,000,000, plus interest thereon, attorneys' fees and court costs and advances made for taxes, lien assessments, insurance premiums or costs and other sums due under the Loan Agreement.

PROVIDED THAT if Mortgagor shall well and truly pay or there shall otherwise be paid to Lender the Obligations at the time and in the manner provided in the Loan Agreement and the other Loan Documents and shall well and truly abide by and comply with each and every covenant and condition set forth herein, in the Loan Agreement and the other Loan Documents then these presents and the lien and interest hereby transferred and assigned shall become of no further force and effect and Lender shall release the Mortgage Premises and renounce any other rights granted to it herein, and Lender shall execute such instruments to that effect as are deemed necessary or desirable.

## ARTICLE I

MORTGAGOR REPRESENTS, WARRANTS, COVENANTS AND AGREES WITH LENDER AS FOLLOWS:

**Section 1. Definitions.** In addition to terms previously defined herein, for purposes of this Mortgage, the following terms shall have the following meanings:

"Base Rate" shall have the meaning ascribed to it in the Loan Agreement.

"Business Day" shall have the meaning ascribed to it in the Loan Agreement.

"Consent" means that certain consent heretofore or concurrently herewith executed by Lessor, Mortgagor and Lender.

"Default Rate" shall have the meaning ascribed to it in the Loan Agreement.

"Event of Default" shall have the meaning ascribed to it in Article II hereof.

"Lease" means:

(i) the leases described in Exhibit B, and the leasehold estate created thereby, and Mortgagor's entire right, title and interest therein;

(ii) all modifications, extensions, renewals, amendments, rights to renew or extend, and other options, privileges, and rights of Mortgagor under or with respect to the foregoing;

(iii) all credits or deposits of Mortgagor under the foregoing; and

(iv) all easements, rights, appurtenances, hereditaments, and other rights and privileges of every kind whatsoever of, affecting or benefiting, the foregoing.

"Lease Payments" means all monthly and annual rent, additional rent, and other payments and charges whatsoever due and payable by Mortgagor as lessee under the Lease (including, without limitation, all payments required for taxes, operating expenses, utility charges and other kinds of escalations or reimbursements).

"Leased Premises" means the leasehold estate created by the Lease in the Land described on Exhibit A attached hereto and incorporated herein by this reference and all improvements thereon and fixtures attached thereto, whether owned or leased by Mortgagor.

"Lessor" means the grantor of the leasehold estate created by the Lease and its successors and assigns.

"Loan" shall have the meaning ascribed to it earlier in this Mortgage.

"Loan Agreement" shall have the meaning ascribed to it earlier in this Mortgage.

"Note" means, collectively, the Tranche A Secured Promissory Note and the Tranche B Secured Promissory Note, together with any and all amendments, modifications, supplements, increases and restatements thereof, substitutions therefor and renewals or extensions thereof.

"Obligations" shall have the meaning ascribed to such term earlier in this Mortgage.

"Rents" means all rents, issues and profits relating to or arising out of the Mortgage Premises or the operations of Mortgagor thereon, including, without limitation, all rents and tenant reimbursements payable or to be payable under any Sublease.

"Sublease" shall mean any sublease or assignment of Mortgagor's interest in the Lease.

**Section 2. Lender**. Nothing herein expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity other than Mortgagor and Lender any right, remedy or claim under or by reason hereof. All covenants, stipulations and agreements herein contained by and on behalf of Mortgagor shall be for the sole and exclusive benefit of Lender.

**Section 3. Waiver**. The acceptance by Lender of any payments hereunder after the date due, or the failure of Lender, in any one or more instances to insist upon strict performance by Mortgagor of any terms and covenants of this Mortgage or to exercise any option or election herein conferred, shall not be deemed to be a waiver or relinquishment for the future of any such terms, covenants, elections or options.

**Section 4. Mortgage as Security Agreement**. This Mortgage constitutes a "security agreement" as that term is defined in the Uniform Commercial Code as enacted in the State of South Carolina, with respect to the Lease, the Subleases and the Rents ,and Mortgagor hereby grants a continuing security interest in favor of Lender in the Equipment, the Lease, the Subleases and the Rents, as security for the payment and performance of the Obligations. Mortgagor, as debtor, shall execute, deliver, file and refile any financing statements, continuation statements, or other security agreements that Lender, as secured party, may require from time to time to confirm the lien of this Mortgage with respect to such property. Without limiting the foregoing, Mortgagor hereby irrevocably appoints Lender attorney-in-fact for Mortgagor to execute, deliver and file such instruments for and on behalf of Mortgagor. Notwithstanding any release of any or all of that property included in the Mortgage Premises which is deemed "real property", and proceedings to foreclose this Mortgage or its satisfaction of record, the 'terms hereof shall survive as a security agreement with respect to the security interest created hereby and referred to above until the repayment or satisfaction in full of the Obligations.

**Section 5. Mortgage as Fixture Filing**. The parties agree that the recordation of the Mortgage creates a fixture filing pursuant to the Uniform Commercial Code of the State of South Carolina. Mortgagor agrees that Lender may file this Mortgage, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any property specified above which constitute fixtures. Any reproduction of this Mortgage shall be sufficient as a financing statement. The information contained in this Section 5 is provided in order that the Mortgage shall comply with the requirements of the Uniform Commercial Code of the State of South Carolina to perfect the security interests with respect to fixtures for instruments to be filed as financing statements. The names of the "Debtor" and the "Secured Party," the identity or corporate structure and residence or principal place of business of the "Debtor," and the time period for which the "Debtor" has been using or operating under said name and identity or corporate structure without change, are as set forth in Exhibit D attached hereto and by this reference made a part hereof; the mailing address of the "Secured Party" from which information concerning the security interests granted by this Mortgage may be obtained, and the mailing address of "Debtor" is as set forth on the first page of this Mortgage, a statement indicating the types, or describing the items, of collateral is set forth hereinabove; the description of the Land is set forth on Exhibit A hereof; and, to Mortgagor's actual knowledge and belief, the record title owner of the Land is Lessor.

**Section 6.** **Expenses**. Mortgagor will pay or reimburse Lender, **on demand** therefor, for all reasonable attorneys' fees, costs and expenses incurred by Lender in any suit, action, legal proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, affecting the Obligations secured hereby, this Mortgage or the security interests created herein or the Mortgage Premises, including, but not limited to, the sale of the Mortgage Premises by virtue of or under this Mortgage, any condemnation action involving the Mortgage Premises or any portion thereof or any action to protect the security hereof; and any such amounts paid by Lender shall be added to the Obligations secured by the lien of the Mortgage and shall bear interest until paid at a rate equal to the Default Rate.

**Section 7.** **Assignment of Rents**. Mortgagor hereby assigns and conveys all of Mortgagor's right, title and interest in and to the Lease, all Subleases and all Rents to Lender as further security for the payment of the Obligations, and Mortgagor grants to Lender the right to enter upon, take possession of and operate the Mortgage Premises for the purpose of collecting same and to sublet the Mortgage Premises or any part thereof, and, subject to the provisions of the Lease, to apply the Rents, after payment of all charges and expenses incurred by Lender in the collection thereof, to the Obligations in such manner as Lender in its sole discretion determines. This assignment and grant shall continue in effect until this Mortgage is paid in full and discharged of record. For so long as no Event of Default exists, Lender hereby waives the right to enter upon, take possession of and operate the Mortgage Premises for the purpose of collecting the Rents, and Mortgagor shall have the right during such period to collect the same; provided, however, that Mortgagor shall not, without the written consent of Lender, receive or collect Rent from any tenant of the Mortgage Premises or any part thereof for a period of more than one month in advance (excluding any security deposits as provided in Subleases expressly approved by Lender).

**Section 8.** **Advances**. In the event Mortgagor fails or refuses to pay any Obligation when due or to do or perform any act which Mortgagor is obligated to do or perform hereunder and upon the lapse of any applicable grace period set forth herein or therein, then Lender, at Lender's option, may make such payment or do or perform such act on behalf of Mortgagor. All such payments made by Lender, including, but not limited to, attorneys' fees and all costs and expenses incurred by Lender in doing or performing all such acts, shall become part of the Obligations secured hereby, shall bear interest at a rate equal to the Default Rate from the date paid or incurred by Lender to the date of reimbursement by Mortgagor, and shall be secured by this Mortgage. Lender shall be the sole judge of the necessity for any action so taken by Lender and the amount necessary to be paid or incurred by Lender to remedy any such failure on the part of Mortgagor. Lender is hereby empowered to enter upon or to authorize others to enter upon the Mortgage Premises, or any part thereof, for the purpose of performing or observing any such covenant or obligation, without thereby becoming liable to Mortgagor or any person or entity in possession holding under Mortgagor, except in the event of Lender's gross negligence or willful misconduct.

**Section 9.** **No Waiver of Existing or Future Rights**. No other security previously or hereafter granted for the benefit of Lender by Mortgagor to secure payment of the Obligations secured by this Mortgage shall be impaired or affected by this Mortgage; and no security subsequently taken by Lender to secure payment of the Obligations secured by this Mortgage shall affect or impair the lien of this Mortgage, but all such additional security shall be deemed

cumulative. Upon or after the occurrence of an Event of Default, and subject to the terms of the Leases, Lender may seek recourse against and realize upon any other collateral securing the Obligations, including the Mortgage Premises, in such order and manner as Lender, in its sole discretion, may elect.

**Section 10.** No Merger. Mortgagor will not, without the prior written consent of Lender, permit the fee title to the Land and the improvements thereon, or any part thereof, to merge with the leasehold estate created by the Lease but shall always keep such estates separate and distinct notwithstanding the union of such estates whether in the Lessor or in Mortgagor or in a third party, by purchase or otherwise; and in case Mortgagor acquires the fee title or any other additional estate, title or interest in the Land the improvements thereon, this Mortgage shall attach to and cover and constitute a mortgage to the fee title or such other estate and shall, without further assignment, mortgage or conveyance, become and be subject to the lien and mortgage of and covered by this Mortgage. Mortgagor shall notify Lender of any such acquisition by Mortgagor, and, on written request by Lender, shall cause to be executed and recorded all such other and further assurances or other instruments in writing as may in the opinion of Lender be necessary to carry out the intent and meaning hereof.

**Section 11.** After Acquired Property. All property of every kind acquired by Mortgagor after the date hereof which is attached to and used in connection with the Mortgage Premises shall, immediately upon the acquisition thereof by Mortgagor, and without any further mortgage, conveyance, assignment or transfer, become subject to the lien of this Mortgage, subject, however, to the contrary provisions of the Lease. Nevertheless, Mortgagor will do, execute, acknowledge and deliver all and every such further acts, conveyances, mortgages, and assurances as Lender shall reasonably require for accomplishing the purposes of this Mortgage, and to the extent Mortgagor fails to so do hereby appoints Lender its attorney so to do.

**Section 12.** Revolving Credit. It is contemplated that the principal amount of the Loan may be reduced from time to time and additional disbursements may be made in the future so that the total aggregate principal amount of loans disbursed over the term of the Loan Agreement may exceed TWENTY-FIVE MILLION AND NO/100 DOLLARS ($25,000,000); provided, however, that the maximum principal amount of the Loan secured by this Mortgage shall not at any one time exceed TWENTY-FIVE MILLION AND NO/100 DOLLARS ($25,000,000) at any time. IT IS EXPRESSLY AGREED THAT THE OUTSTANDING PRINCIPAL BALANCE OF THE OBLIGATIONS MAY, FROM TIME TO TIME AFTER PAYMENT IN FULL OF THE NOTE, BE REDUCED TO A ZERO BALANCE WITHOUT SUCH REPAYMENT OPERATING TO EXTINGUISH AND RELEASE THE LIEN AND SECURITY INTERESTS CREATED BY THIS MORTGAGE. THIS MORTGAGE SHALL REMAIN IN FULL FORCE AND EFFECT AS TO ANY SUBSEQUENT FUTURE ADVANCES MADE AFTER THE ZERO BALANCE WITHOUT LOSS OF PRIORITY UNTIL THE OBLIGATIONS ARE PAID IN FULL AND SATISFIED AND THE LOAN AGREEMENT AND ALL OTHER AGREEMENTS BETWEEN LENDER AND MORTGAGOR FOR FURTHER ADVANCES HAVE BEEN TERMINATED AND THIS MORTGAGE RELEASED OF RECORD. MORTGAGOR WAIVES THE OPERATION OF ANY APPLICABLE STATUTE, LAW OR REGULATION HAVING A CONTRARY EFFECT. ANYTHING HEREIN TO THE CONTRARY NOTWITHSTANDING, IN THE EVENT THAT THE OUTSTANDING BALANCE UNDER THE LOAN AGREEMENT IS

REDUCED BELOW $10,000, LENDER SHALL HAVE THE RIGHT TO REFUSE TO FUND ADDITIONAL AMOUNTS THEREUNDER UNTIL LENDER HAS BEEN PROVIDED WITH UPDATED ENDORSEMENTS TO THE MORTGAGEE POLICY OF TITLE INSURANCE ISSUED IN FAVOR OF LENDER WITH RESPECT TO THE LOAN EVIDENCED BY THE LOAN AGREEMENT, INSURING THAT ANY SUCH SUBSEQUENT ADVANCES SHALL HAVE THE SAME PRIORITY AS THE INITIAL ADVANCES MADE UNDER THE LOAN AGREEMENT.

## ARTICLE II

ANY OF THE FOLLOWING EVENTS SHALL CONSTITUTE AN EVENT OF DEFAULT HEREUNDER:

**Section 1.** **Event of Default Under the Loan Agreement**. An Event of Default under the Loan Agreement shall have occurred.

**Section 2.** **Other Foreclosures**. Proceedings for foreclosure or collection of any other mortgage, encumbrance, judgment or lien prior, equal to or subordinate to the lien of this Mortgage, affecting the Mortgage Premises shall have been instituted.

**Section 3.** **Transfer of Mortgage Premises**. Except as may be permitted by the Loan Agreement, Mortgagor shall have transferred or caused to have been transferred, title to or possession of any interest in the Mortgage Premises, or any part thereof, to any party without the express prior written consent of Lender and, except as to matters shown on Exhibit C attached hereto and property taxes that are not delinquent, Mortgagor shall have failed to keep the Mortgage Premises free and clear of all liens.

**Section 4.** **Breach of Covenants**. Mortgagor shall fail or neglect to perform, keep or observe (i) any covenant contained in Sections 4 and 10 of Article I of this Mortgage, or (ii) any other covenant contained in this Mortgage or the Loan Agreement (other than a covenant the default in the performance or observance of which is dealt with specifically elsewhere in this Article II) and the breach of such other covenant is not cured to Lender's satisfaction within the time frames set forth in the Loan Agreement.

## ARTICLE III

DURING THE CONTINUANCE OF AN EVENT OF DEFAULT, LENDER MAY TAKE ANY OR ALL OF THE FOLLOWING ACTIONS, AT THE SAME OR AT DIFFERENT TIMES:

**Section 1.** **Possession**. Subject to applicable federal and state laws and regulations, the holder of this Mortgage shall have the right forthwith (a) to enter upon, take possession of and operate the Mortgage Premises, (b) to transfer, assign, sublease or sublet the Mortgage Premises, and (c) to receive all the Rents which are overdue, due or to become due, and apply the same, after payment of all necessary charges and expenses to be paid by the lessee under the Lease and all costs and expenses incurred by Lender in collection of the Rents, on account of the amounts hereby secured, and the holder of this Mortgage is given and granted full power and authority to do any act or thing which Mortgagor or the successors or assigns of Mortgagor who

may then own the Mortgage Premises might or could do in connection with the management and operation of the Mortgage Premises. This remedy shall be effective either with or without any action brought to foreclose the lien of this Mortgage and without applying at any time for a receiver of such rents. Should said rents or any part thereof be assigned without the consent of the holder of this Mortgage, then the Obligations shall at the option of the holder hereof become due and payable immediately, anything herein contained to the contrary notwithstanding.

**Section 2.** **Acceleration**. Lender may, at its option, declare the Obligations to be due and payable immediately, without any presentment, demand, protest or notice, all of which are hereby waived by Mortgagor, anything in the Loan Agreement or in this Mortgage to the contrary notwithstanding.

**Section 3.** **Foreclosure**.

(a) Lender may, at its option, or by its agent or attorneys proceed by suit or suits in law or in equity or by any other appropriate proceeding or remedy granted or conferred by applicable statutes to foreclose this Mortgage and, after complying with the statutory notice requirements applicable to such sales, to sell, as an entirety or in separate lots or parcels the Mortgage Premises under the judgment or decree of a court or courts of competent jurisdiction. In any suit to foreclose the lien created by this Mortgage, there shall be allowed and included as part of the Obligations in the decree of sale, to the extent permitted by law, all expenditures and expenses that may be paid or incurred by or on behalf of Lender, or the holder of the Loan Agreement, for attorneys' fees, court costs, appraisers fees, sheriff's fees, documentary and expert evidence, stenographers' charges, publication costs and such other costs and expenses as Lender or the holder of the Loan Agreement may deem reasonably necessary to prosecute such suit or to evidence to bidders at any sale that may be had pursuant to such decree the true condition of the title to or the value of the Mortgage Premises. To the extent permitted by law, all such expenditures and expenses shall become part of the Obligations secured hereby and shall be due and payable **on demand** with interest thereon from the date of expenditure at a rate equal to the Default Rate and in addition shall include expenditures and expenses incurred by Lender in connection with (a) a foreclosure proceeding; (b) any proceeding to which Lender shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any of the Obligations; (c) preparations for the commencement of any suit for foreclosure hereby after accrual of such right to foreclosure, whether or not actually commenced; or (d) preparation for the defense of or investigation of any threatened suit, claim or proceeding that might affect the Mortgage Premises, whether or not actually commenced.

(b) Lender may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law, Lender, without further notice or publication may make such sale at the time and place to which the same shall be adjourned.

(c) Upon completion of any sale made by Lender under or by virtue of this Mortgage, Lender, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the

Mortgage Premises and rights sold. The recitals in such instruments shall be conclusive proof of the truthfulness thereof. Any person or entity may bid at the sale. Mortgagor hereby agrees to surrender immediately and without demand, possession of such Mortgage Premises to such purchaser. Lender is hereby irrevocably appointed the true and lawful attorney-in-fact of Mortgagor in its name and stead to make all necessary conveyances, assignments, transfers and deliveries of the Mortgage Premises and rights so sold and for that purpose Lender may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons or entities with like power, Mortgagor hereby ratifying and confirming all that its said attorney-in-fact or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Mortgagor shall ratify and confirm any such sale by executing and delivering to Lender or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Lender, if so requested by Lender, for the purpose, and as may be designated in such request. Any such sale made under or by virtue of this article, whether made under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the Mortgage Premises and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against any and all persons and entities claiming or who may claim the same, or any part thereof from, through or under Mortgagor.

(d) In the event of any sale made under or by virtue of this Article (whether made under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale), the entire principal of, and interest on, the Obligations, if not previously due and payable, and all other sums required to be paid by Mortgagor pursuant to this Mortgage and the other Loan Documents, immediately thereupon shall, anything in the Obligations, this Mortgage or the other Loan Documents to the contrary notwithstanding, become due and payable.

**Section 4.** **Appointment of Receiver**. Lender may have a receiver of the rents, issues and profits of the Mortgage Premises appointed without the necessity of proving either the depreciation or the inadequacy of the value of the security or the insolvency of Mortgagor or any person or entity which may be legally or equitably liable to pay moneys secured hereby, and Mortgagor and each such person or entity waive such proof and consent to the appointment of a receiver. Mortgagor will pay to Lender upon demand all expenses, including receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to the provisions of this Section, and all such expenses shall be secured by this Mortgage.

**Section 5.** **Other Remedies**. In addition to the foregoing remedies, Lender, at Lender's option, may, at its option, personally or by its agents or attorneys do any one or more of the following:

(i) Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of the State of New York or the State of South Carolina, as applicable;

(ii) Exercise any or all of the remedies available to it under this Mortgage, the Loan Agreement and the other Loan Documents; and

(iii) Take such steps to protect and enforce its rights whether by auction, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement herein, or in the Loan Agreement or in any of the other Loan Documents or in aid of the execution of any power herein granted or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Lender shall elect.

In the event Lender shall have proceeded to enforce any right or remedy under this Mortgage, and such proceedings are discontinued or abandoned for any reason, then Mortgagor and Lender shall immediately be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceeding had taken place.

In no event shall Lender in the exercise of the remedies provided in this Mortgage be deemed a "mortgagee in possession," and Lender shall not in any way be liable for any act, either of commission or omission, in connection with the exercise of such remedies.

**Section 6.** **Application of Proceeds**. (a) The purchase money, proceeds or avails of any sale made under or by virtue of this article, together with any other sums which then may be held by Lender under this Mortgage, whether under the provisions of this paragraph or otherwise, shall be applied as follows:

FIRST: To the payment of costs and expenses of such sale, including compensation to Lender, its agents and attorneys, and of any judicial proceeding in respect of such sale, and of all expenses, liabilities and advances made or incurred by Lender under this Mortgage, including, but not limited to, the cost of any evidence of title procured in connection with such sale, together with interest at a rate equal to the Default Rate on all advances made by Lender and all taxes, levies or assessments, except any taxes, levies, assessments or other charges subject to which the Mortgage Premises shall have been sold.

SECOND: To the payment of any other sums required to be paid by Lender pursuant to any provision of the Loan Documents including all expenses, liabilities and advances made or incurred by Lender under this Mortgage or in connection with the enforcement thereof, together with interest at a rate equal to the Default Rate on all such advances from the date of occurrence.

THIRD: To the payment of all amounts then secured by this Mortgage, including the outstanding principal amount on the Obligations, together with interest accrued and unpaid thereon.

FOURTH: To the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

Except as may be otherwise provided by applicable law, no purchaser of all or any part of the Mortgage Premises shall be required to see to the proper application of the purchase money, proceeds or avails of such sale.

(a) Upon any sale made under or by virtue of this Article, whether under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Lender may bid for and acquire the Mortgage Premises or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the amount of the Obligations outstanding the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Lender is authorized to deduct under this Mortgage.

**Section 7.** **Multiple Sales**. In any judicial proceedings to foreclose this Mortgage or any other private or public sale, the Mortgage Premises, at the option of Lender, may be sold in whole or in part, and in the event of such multiple sales, the lien of this Mortgage shall not be merged into any estate acquired by Lender pursuant to a foreclosure sale or foreclosure judgment so long as any of the Obligations remain outstanding.

**Section 8.** **Waiver of Appraisement, Valuation, Etc.** **MORTGAGOR UNDERSTANDS THAT UPON AND AFTER THE OCCURRENCE OF AN EVENT OF DEFAULT, AMONG OTHER REMEDIES SET OUT HEREIN AND IN THE LOAN AGREEMENT, LENDER MAY FORECLOSE UPON THE PREMISES AND ASK FOR A DEFICIENCY JUDGMENT PURSUANT TO SECTION 29-3-660, SOUTH CAROLINA CODE OF LAWS (1976), AS AMENDED, MORTGAGOR HEREBY WAIVES, TO THE FULL EXTENT IT MAY LAWFULLY DO SO, THE BENEFIT OF ALL RIGHTS AND EQUITIES OF APPRAISEMENT, PURSUANT TO SOUTH CAROLINA CODE OF LAWS SECTION 29-3-680 ET SEQ., AS AMENDED, OR OTHERWISE, VALUATION, STAY, EXTENSION, MORATORIUM, HOMESTEAD RIGHTS, EXEMPTION AND REDEMPTION, WHETHER AT LAW OR IN EQUITY, NOW OR HEREAFTER IN FORCE WITH RESPECT TO ANY AMOUNT SECURED HEREBY, ALL RIGHTS OF MARSHALLING IN THE EVENT OF ANY SALE OF THE PREMISES OR ANY PART THEREOF OR ANY INTEREST THEREIN UPON FORECLOSURE AS PROVIDED IN THIS MORTGAGE, AND ANY RIGHT MORTGAGOR MAY HAVE TO REQUIRE LENDER TO OBTAIN ANY BOND OR MAKE ANY OATH.**

## ARTICLE IV

## MISCELLANEOUS

**Section 1.** **Cumulative Rights**. The rights and remedies herein expressed to be vested in of conferred upon Lender shall be cumulative and shall be in addition to and not in substitution for or in derogation of the rights and remedies conferred in equity or by any applicable law, the Loan Agreement or any other agreement between Mortgagor and Lender. The failure, at any one or more times, of Lender to assert the right to declare the principal indebtedness due or the granting of any extension or extensions of time of payment of the Obligations either to Mortgagor or to any other person or entity, or taking of other or additional security for the payment thereof, or releasing any security, or changing any of the terms of this Mortgage, the Loan Agreement, the Note or other obligation accompanying this Mortgage, or waiver of or failure to exercise any right under any covenant or stipulation herein contained shall not in any way affect this Mortgage nor the rights of Lender hereunder nor operate as a release

from any personal liability upon the Obligations, nor under any covenant or stipulation therein contained, nor under any agreement assuming the payment of Obligations.

**Section 2.** **Notices.** Any notice or other communication required or permitted to be given hereunder shall be in writing and addressed to the respective party as set forth below and may be personally served, telecopied, telexed or sent by overnight courier service or United States Mail and shall be deemed to have been given: (a) if delivered in person, when delivered; (b) if delivered by telecopier or telex, on the date of transmission if transmitted on a Business Day before 4:00 p.m. (Chicago time) or, if not, on the next succeeding Business Day; (c) if delivered by overnight courier, two days after delivery to such courier properly addressed; or (d) if by U.S. Mail, four Business Days after depositing in the United States mail, with postage prepaid and properly addressed.

Notices should be addressed as follows:

If to Mortgagor:

Stevens Aviation, Inc.
Donaldson Center Air Park
600 Delaware Street
Greenville, South Carolina 29605
Attn: Thomas Sullivan
Telephone: 864-678-6222
Facsimile: 864-678-6041

With a copy to:

Dechert LLP
1775 I Street, N.W.
Washington, D.C. 20006-2401
Attn: David E. Schulman, Esq.
Telephone: 202-261-3440
Facsimile: 202-261-3334

If to Lender:

SFT I, Inc.
1114 Avenue of the Americas, 27th Floor
New York, New York 10036
Attn: Chief Operating Officer
Reference : Loan No. 1380:01
Telephone: 212-930-9400
Facsimile: 212-930-9494

With a copy to:

iStar Financial Inc.
1114 Avenue of the Americas, 27th Floor
New York, New York 10036
Attn: Nina B. Matis, Esq./General Counsel
Reference : Loan No. 1380:01
Telephone: 212-930-9406
Facsimile: 212-930-9492

With a copy to:

iStar Asset Services Inc.
180 Glastonbury Blvd., Suite 201
Glastonbury, Connecticut 06033
Attn: President
Reference : Loan No. 1380:01
Telephone: 860-815-5900
Facsimile: 860-815-5901

With a copy to:

Katten Muchin Rosenman LLP
525 West Monroe Street
Chicago, Illinois 60661-3693
Attn: Kenneth M. Jacobson, Esq.
Reference: Loan No. 1380:01
KMZR Reference: 208972/00585
Telephone: 312-902-5445
Facsimile: 312-902-1061

or to such other address as the party shall have previously designated by written notice to the serving party, given in accordance with this Section. A notice not given as provided herein shall, if it is in writing, be deemed given if and when actually received by the party to whom given.

**Section 3.** **Successors and Assigns**. All of the terms, covenants, provisions and conditions herein contained shall be for the benefit of, apply to, and bind the successors and assigns of Mortgagor and Lender, and are intended and shall be held to be real covenants running with the Land, and the term "Mortgagor" shall also include any and all subsequent owners and successors in title of the Mortgage Premises.

**Section 4.** **Gender**. When such interpretation is appropriate, any word denoting gender used herein shall include all persons, natural or artificial, and words used in the singular shall include the plural.

**Section 5.** **Reference to the Loan Agreement**. This Mortgage is one of the Mortgages referred to in the Loan Agreement, dated the date hereof, executed by and between Mortgagor and Lender is subject to all the terms and provisions of said Loan Agreement. Should any provisions of the Loan Agreement be inconsistent or contrary to the provisions of this Mortgage, the provisions of the Loan Agreement shall govern and control.

**Section 6.** **Severability**. If any court determines that any provision of this Mortgage is void or unenforceable, the Mortgage shall remain in effect in accordance with its terms excluding the provision declared void or unenforceable, unless Lender (in Lender's exclusive discretion) determines that the entire Mortgage should be terminated.

**Section 7.** **Amendment**. This Mortgage may not be changed or terminated, or any term or provision thereof waived or discharged, except in writing signed by the party against whom such change, termination, waiver or discharge is sought. This Mortgage and all its terms, covenants, conditions, and provisions shall run with the Land and shall bind Mortgagor and Mortgagor's successors, assigns, and any and all subsequent owners, encumbrancers, and tenants of the Mortgage Premises and shall inure to the benefit of Lender and Lender's successors, permitted assigns, and legal representative and all subsequent holders of this Mortgage. If Mortgagor is more than one person, the obligations and liabilities of each such person shall be joint and several. Exhibits A through D are made a part of this Mortgage as through fully set forth herein.

Section 8. Governing Law. This Mortgage shall be governed by and construed in accordance with the internal laws (and not the laws of conflicts) of the State of New York, in all respects, including, without limitation, in respect of any interest payable by Mortgagor on the amount of any advances or other payments made by Lender hereunder, except that the provisions hereof relating to the creation, validity, perfection, perfection, priority and enforceability of the lien and security interest created by this Mortgage, the warranties of title contained herein with respect to the Mortgage Premises and the exercises of remedies granted by this Mortgage, shall be governed by and construed in accordance with the internal laws of the State of South Carolina, without regard to principles of conflict of laws. The Loan Agreement and the Note shall be governed by and construed in accordance with the internal laws of the State of New York without regard to principles of conflict of laws.

Section 9. Allocation. Mortgagor acknowledges that this Mortgage and certain other mortgages and other instruments included within the definition of Mortgage in the Loan Agreement secure the indebtedness evidenced by the Note and the Loan Agreement. Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Lender and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Lender of any security for or guarantors upon any of the indebtedness hereby secured, or by any failure, neglect or omission on the part of Lender to realize upon or protect any of the indebtedness hereby secured or any collateral security therefor, including any of the other Loan Documents. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, exchange, modification or disposition of any of the Obligations hereby secured or of any of the collateral guarantee thereof, including the other Loan Documents or of any security therefor, and Lender may in its discretion foreclose, exercise any power of sale, or exercise any other remedy available to them under any of or all the other Loan Documents without first exercising or enforcing any of their rights, and remedies hereunder. Such exercise of Lender's rights and remedies under any of or all the other Loan Documents shall not in any manner impair the Obligations or the lien of this Mortgage and any exercise of the rights or remedies of Lender hereunder shall not impair the lien of any of the other Loan Documents or of Lender's rights and remedies thereunder. Mortgagor specifically consents and agrees that Lender may exercise its rights and remedies hereunder and under the other Loan Documents separately or concurrently and in any order that Lender may deem appropriate.

Section 10. Waiver of Certain Rights. **MORTGAGOR HEREBY WAIVES ANY RIGHT MORTGAGOR MAY HAVE UNDER THE CONSTITUTION OF THE STATE OF SOUTH CAROLINA OR THE CONSTITUTION OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED TO LENDER BY THIS MORTGAGE, AND MORTGAGOR WAIVES ITS RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE UNDER POWER DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS MORTGAGE ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT PRIOR NOTICE OR JUDICIAL HEARING. THE WAIVERS MADE BY MORTGAGOR IN THIS PARAGRAPH AND ELSEWHERE IN THIS MORTGAGE HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY ON BEHALF OF MORTGAGOR BY ITS**

DULY AUTHORIZED OFFICERS AFTER THEY HAVE READ AND UNDERSTOOD THIS MORTGAGE AND HAVE BEEN AFFORDED AN OPPORTUNITY TO BE INFORMED BY COUNSEL OF MORTGAGOR'S POSSIBLE ALTERNATIVE RIGHTS, AND BY EXECUTING THIS MORTGAGE, THE DULY AUTHORIZED OFFICERS OF MORTGAGOR ACKNOWLEDGE SO MAKING SUCH WAIVERS ON BEHALF OF MORTGAGOR. MORTGAGOR FURTHER DECLARES THAT MORTGAGOR HAS RECEIVED A COMPLETELY FILLED IN COPY OF THIS MORTGAGE AND HAS SIGNED THIS MORTGAGE AS OF THE DATE AT THE TOP OF THE FIRST PAGE.

The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.**

IN WITNESS WHEREOF, Mortgagor has duly caused this Mortgage to be duly executed and delivered, and its corporate seal to be hereunto affixed and attested by its duly authorized officer as of the day and year first above written.

Witnesses:

STEVENS AVIATION, INC.

By: _____
Name: Glenn Brown
Its: President

Attest: _____
Name: Neal McCraw
Its: Secretary

[CORPORATE SEAL]

644 Leasehold mortgage

**PROBATE**

STATE OF CAROLINA §
§
COUNTY OF GREENVILLE §

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named STEVENS AVIATION, INC. by its duly authorized President, sign, seal and as the act of said corporation deliver the within written instrument and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Sworn to before me, this 12th day of December, 2006.

James W Williams Jr

Sarah F Koner

Notary Public for S.C

My Commission Expires: 7-9-2013

[NOTARIAL SEAL]

GYH Leasehold mortgage

## EXHIBIT A

## LEGAL DESCRIPTION

All that certain piece, parcel or tract of land located, lying and being in the County of Greenville, State of South Carolina, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Greenville County in Plat Book 1026 at page 46-47 and having, according to said plat, the following metes and bounds, to-wit:

Beginning at a nail set (Labeled as P.O.B.) on the southerly side of Taxiway B-1, having South Carolina Grid Coordinates (NAD 83) of N. 1,067,218.63, E. 1,587,527.34; said point of beginning is located N 73°19'01" W 2393.23 feet (grid) from NGS Monument 23-046, thence N 40°49'19" E 1635.91 feet to a mag nail set, thence S 49°13'30" E 256.85 feet to an iron pin found 1/2" rebar, located on the northwestern right-of-way of Delaware Street (60' total r/w), thence running along the northwestern right-of-way of Delaware Street, S 40°42'52" W 347.20 feet to an iron pin set 1/2" rebar, thence along a curve to the left, having an arc length of 413.82 feet, a radius of 488.00 feet, a chord bearing and distance of S 16°25'16" W 401.53 feet to an iron pin set 1/2" rebar, thence S 07°52'20" E 446.32 feet to an iron pin set 1/2" rebar, thence running along a curve to the right, having an arc length of 354.31 feet, a radius of 415.00 feet, a chord bearing and distance of S 16°25'18" W 343.64 feet to an iron pin set 1/2" rebar, thence S 40°52'46" W 505.87 feet to an iron pin set 1/2" rebar (leaving the right-of-way of Delaware Street at point located at approximately 472 feet), thence N 48°56'23" W 61.79 feet to a fence corner, thence N 40°39'36" E 23.86 feet to an iron pin set 1/2" rebar, thence N 49°44'48" W 145.27 feet to an iron pin set 1/2" rebar, thence N 17°06'15" W 74.31 feet to a fence corner, thence N 40°23'24" E 34.87 feet to a fence corner, thence running N 49°13'52" W 528.79 feet to a nail set, thence running along a curve to the left, having an arc length of 149.48 feet, a radius of 107.50 feet, a chord bearing and distance of N 06°19'41" W 137.73 feet to the point of beginning, containing 23.550 acres more or less.

This being the same property leased to the Mortgagor herein pursuant to the terms of a Project Lease Agreement dated October 10, 1997, a Memorandum of which is recorded in the Office of the Register of Deeds for Greenville County in Book 1725 at page 758 on November 6, 1997, as amended by First Amendment to Lease and Memorandum Thereof dated December 12, 2006 and recorded in Book 2241 at page 1112 on December 12, 2006.

**EXHIBIT B**

**DESCRIPTION OF LEASES**

1. That certain Project Lease Agreement dated as of October 10, 1997, between Lessor and Mortgagor and the leasehold estate created thereby, and Mortgagor's entire right, title and interest therein;

2. That certain Lease Agreement dated as of November 1, 1997, among Greenville County, South Carolina and City of Greenville, South Carolina (jointly, the "Bond Lessor"), and Mortgagor and the leasehold estate created thereby, and Mortgagor's entire right, title and interest therein;

3. Memorandum of Lease, dated as of November 6, 1997, with respect to the lease described in item 1 above, County of Greenville and City of Greenville and Stevens Aviation, Inc., recorded in the Office of the Register of Deeds for Greenville County in Book 1725 at page 758 on November 6, 2006, as amended by First Amendment to Lease and Memorandum Thereof dated December 12, 2006, recorded in Book 2241 at page 1112 on December 12, 2006.

Lessor is the record owner of the Land.

## EXHIBIT C

## PERMITTED EXCEPTIONS

1. Taxes and assessments for the year 2007, and subsequent years, which are a lien but are not yet due and payable.

2. Rights-of-way given to Duke Power Company, recorded in the Office of the Register of Deeds for Greenville County in Book 213 at page 70 and in Book 206, page 29.

3. Easements given to Southern Public Utilities Company, recorded in the Office of the Register of Deeds for Greenville County in Book 165 at page 77, Deed Book 159 at page 46 and in Deed Book 159 at page 76.

4. Conveyance of water distribution system and easements contained therein, to City of Greenville, South Carolina, recorded in the Office of the Register of Deeds for Greenville County in Book 875 at page 17.

5. Conditions, Covenants, Restrictions and Reservations Affecting Property Located in the Industrial and Warehouse District, Donaldson Center, Greenville County, South Carolina, recorded in the Office of the Register of Deeds for Greenville County in Deed Book 875 at page 117.

6. Easements given to Western Carolina Regional Sewer Authority, recorded in the Office of the Register of Deeds for Greenville County in Deed Book 1577 at page 712 and in Deed Book 1909 at page 1063.

7. Easement given to the Commissioners of Public Works of the City of Greenville, South Carolina, recorded in the Office of the Register of Deeds for Greenville County in Deed Bok 1771 at page 640.

8. The following matters as shown on plat entitled ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Bock & Clark's National Surveyors Network:

   (a) sanitary sewer lines;
   (b) storm drain; and
   (c) zoning setback lines of fifty (50), twenty-five (25) and ten (10) feet.

**EXHIBIT D**

**DESCRIPTION OF "DEBTOR" AND "SECURED PARTY"**

A. Debtor:

1. Name and Identity or Corporate Structure:

   Stevens Aviation, Inc.

2. Debtor's chief executive office is located the following address:

   2100 GSP Drive
   Greer, South Carolina 29651

B. Secured Party:

   SFT I, Inc., a Delaware corporation

C. Debtor has been operating under the name listed at A(1) since April 17, 1989.

FILED FOR RECORD IN GREENVILLE COUNTY,SC ROD
2006120501 Book:MO 4692 Page:258-281
December 12, 2006 02:40:20 PM
Timothy L Hannay

# EXHIBIT 4

REM 3800 PAGE 969

MTG-2006-67072
Recorded 24 Pages on 12/12/2006 2:33:11 PM
Recording Fee: $30.00 Documentary Stamps: $0.00
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register

# LEASEHOLD MORTGAGE AND SECURITY AGREEMENT

from

**STEVENS AVIATION, INC.**, as Mortgagor

to

**SFT I, INC.**, as Lender

Dated: As of December 12, 2006

Spartanburg County, South Carolina

---

Prepared by and when recorded return to:

Katten Muchin Rosenman LLP
525 West Monroe Street
Suite 1900
Chicago, Illinois 60661
Attention: Ann Marie Sink, Esq.

THIS INSTRUMENT IS TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS AS A FIXTURE FILING IN ACCORDANCE WITH SECTIONS 36-9-313 AND 36-9-402 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED AND CROSS-INDEXED IN THE REAL ESTATE RECORDS. THE NAMES OF THE DEBTOR AND THE SECURED PARTY, THE MAILING ADDRESS OF THE SECURED PARTY FROM WHICH INFORMATION CONCERNING THE SECURITY INTERESTS MAY BE OBTAINED, THE MAILING ADDRESS OF THE DEBTOR AND A STATEMENT INDICATING THE TYPES OR DESCRIBING THE ITEMS OF COLLATERAL, ARE AS DESCRIBED IN ARTICLE I, SECTION 5 HEREOF.

**SOUTH CAROLINA LEASEHOLD MORTGAGE SECURITY AGREEMENT AND ASSIGNMENT OF RENTS**

THIS MORTGAGE SECURES, AMONG OTHER OBLIGATIONS, REVOLVING LOANS MADE PURSUANT TO THE TERMS AND CONDITIONS OF A LOAN AND SECURITY AGREEMENT DATED AS OF THE DATE HEREOF, UNDER THE TERMS OF WHICH CERTAIN FUNDS MAY BE ADVANCED, PAID BACK, AND READVANCED; PROVIDED, HOWEVER, THAT THE MAXIMUM PRINCIPAL AMOUNT SECURED BY THIS MORTGAGE SHALL NOT AT ANY ONE TIME EXCEED $25,000,000.

THIS LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS (hereinafter referred to as the "**Mortgage**") is granted as of December 12, 2006, from **STEVENS AVIATION, INC.**, a Delaware corporation with its chief executive offices at 2100 GSP Drive, Greer, South Carolina 29651 (hereinafter referred to as the "**Mortgagor**"), to **SFT I, INC.**, a Delaware corporation having its principal place of business at 1114 Avenue of the Americas, 27th Floor, New York, New York 10036 ("**Lender**"),

WHEREAS, Mortgagor is the lessee under a certain lease and other agreements (collectively, and as more particularly defined in Article 1, Section 1 of this Mortgage, the "Lease"), a memorandum of which Lease has been recorded at Deed Book 61-C, Page 152, Office of the Register of Mesne Conveyance of Spartanburg County, pursuant to which Lease Mortgagor leases from Lessor (as such term is hereinafter defined) certain real property located in the County of Spartanburg, State of South Carolina and more particularly described in Exhibit A attached hereto (the "Land") and all of the buildings, structures and improvements situate, lying and being on the Land;

WHEREAS, Lender and Mortgagor are parties to a certain Loan and Security Agreement (hereinafter, together with all amendments, modifications, renewals and extensions thereof, the "**Loan Agreement**"), dated as of the date hereof, pursuant to which Lender has agreed; in accordance with the terms thereof, to make a loan which includes a revolving component loan to Mortgagor (the "**Tranche A**") up to a maximum principal amount outstanding at any time of $21,300,000, evidenced by the Tranche A Secured Promissory Note (as defined in the Loan Agreement), and (ii) a loan in the original principal amount of $3,700,000, which loan is evidenced by Tranche B Secured Promissory Note (as defined in the Loan Agreement) (collectively, the "**Loan**"); and

WHEREAS, this Mortgage is given and made by Mortgagor to Lender as security for the payment and performance of all of Mortgagor's indebtedness and obligations owing under the Loan Agreement and the Term Note and the performance of Mortgagor's other obligations to Lender, whether now existing or hereafter arising.

NOW, THEREFORE, in order to induce Lender to enter into the Loan Agreement and all the other Loan Documents (as defined therein), to secure the performance and observance by Mortgagor of all covenants and conditions in the Loan Agreement, the Real Estate Agreement (as hereinafter defined), this Mortgage and in all other Loan Documents, and in order to charge the properties, interests and rights hereunder with such payment, performance and observance,

and for and in consideration of good and valuable consideration as herein described, the receipt and sufficiency of which are hereby acknowledged, Mortgagor does hereby grant, bargain, sell, assign, convey, pledge, transfer, mortgage and warrant to Lender, its successors, successors-in-title and assigns, with right of entry and possession, all of the following property, whether now owned or hereafter acquired, and Mortgagor's entire right, title and interest therein:

All of Mortgagor's leasehold estate under and pursuant to the Lease and all of its rights in the Lease;

All of Mortgagor's rights in the Leased Premises (as hereinafter defined);

All further or additional title, estate, interest, or right in and to the Land and improvements thereon (including the fee simple thereof) which Mortgagor may acquire at any time prior to Mortgagor's payment in full of the amount secured hereby and Mortgagor's complete performance of every term, covenant, condition and provision of this Mortgage;

All of Mortgagor's rights in and to all additions, alterations, replacements and renewals made to the Leased Premises;

TOGETHER with all and singular the tenements, hereditaments, rights-of-way, easements, exclusive and non-exclusive rights of ingress and egress and exclusive and non-exclusive rights to use areas and facilities as described in the Lease, riparian rights and appurtenances thereunto belonging, or in anywise appertaining;

TOGETHER with any and all awards, damages, payment and other compensation, and any and all claims therefor and rights thereto, which may result from taking or injury by virtue of the exercise of the power of eminent domain, or any damage, improvements, injury or destruction in any manner caused to the Leased Premises or thereon, or any part thereof;

TOGETHER with all proceeds of the foregoing, including, without limitation, the fullest extent of Mortgagor's right, title and interest in the insurance policies required to be maintained by Mortgagor pursuant to the Loan Agreement and the Real Estate Agreement and any and all proceeds of insurance of every kind whatsoever (and all unearned premiums thereon) now or hereafter payable by reason of any damage or destruction to the Leased Premises, whether payable under such insurance policies or otherwise, and all interest thereon; and

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of Mortgagor, at law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances (hereinafter the Leased Premises and all the rights, interests and benefits that go with it as described above shall be collectively referred to as the "**Mortgage Premises**"). This Mortgage shall be enforceable as a Mortgage, assignment of leases and rents and security agreement.

TO HAVE AND TO HOLD said Mortgage Premises unto Lender, its successors and assigns forever, subject, however, to the terms and conditions herein and subject to the matters set forth in Exhibit C attached hereto and hereby made a part hereof (the "**Permitted Liens**") and Permitted Encumbrances (as such term is defined in the Loan Agreement).

This Mortgage is made and intended to secure the payment of the following described indebtedness of Mortgagor (the "**Obligations**"):

(a) The Loan and other indebtedness now or at any time or times hereafter owing to Lender by Mortgagor under the Loan Agreement;

(b) Any and all indebtedness evidenced by the Note;

(c) Any and all additional advances made by Lender to protect or preserve the Mortgage Premises or the security interest or lien created hereby on the Mortgage Premises, or for taxes, assessments or insurance premiums as provided herein or for performance of any of Mortgagor's obligations hereunder or for any other purpose provided herein (whether or not the original Mortgagor remains the owner of the Mortgage Premises at the time of such advances); and

(d) Any and all other indebtedness now owing or which may hereafter be owing by Mortgagor to Lender, however and whenever incurred or evidenced, whether expressed or implied; direct or indirect, absolute or contingent, or due or to become due, and all renewals, modifications, consolidations, replacements and extensions thereof.

Pursuant to § 29-3-50, Code of Laws of South Carolina 1976, as amended, this Mortgage shall also secure all future advances and readvances made by Lender under the Loan Agreement pursuant to which Lender may make revolving loans up to an amount equal to the total amount of existing indebtedness and future advances outstanding at any one time of $25,000,000, plus interest thereon, attorneys' fees and court costs and advances made for taxes, lien assessments, insurance premiums or costs and other sums due under the Loan Agreement.

PROVIDED THAT if Mortgagor shall well and truly pay or there shall otherwise be paid to Lender the Obligations at the time and in the manner provided in the Loan Agreement and the other Loan Documents and shall well and truly abide by and comply with each and every covenant and condition set forth herein, in the Loan Agreement and the other Loan Documents then these presents and the lien and interest hereby transferred and assigned shall become of no further force and effect and Lender shall release the Mortgage Premises and renounce any other rights granted to it herein, and Lender shall execute such instruments to that effect as are deemed necessary or desirable.

## ARTICLE I

MORTGAGOR REPRESENTS, WARRANTS, COVENANTS AND AGREES WITH LENDER AS FOLLOWS:

**Section 1. Definitions.** In addition to terms previously defined herein, for purposes of this Mortgage, the following terms shall have the following meanings:

(a) "**Base Rate**" shall have the meaning ascribed to it in the Loan Agreement.

(b) "**Business Day**" shall have the meaning ascribed to it in the Loan Agreement.

(c) "**Consent**" means that certain consent heretofore or concurrently herewith executed by the Lessor, Mortgagor and Lender.

(d) "**Default Rate**" shall have the meaning ascribed to it in the Loan Agreement.

(e) "**Event of Default**" shall have the meaning ascribed to it in Article II hereof.

(f) "**Lease**" means:

(i) the leases described in Exhibit B and the leasehold estate created thereby, and Mortgagor's entire right, title and interest therein;

(ii) all modifications, extensions, renewals, amendments, rights to renew or extend, and other options, privileges, and rights of Mortgagor under or with respect to the foregoing;

(iii) all credits or deposits of Mortgagor under the foregoing; and

(iv) all easements, rights, appurtenances, hereditaments, and other rights and privileges of every kind whatsoever of, affecting or benefiting, the foregoing.

(g) "**Lease Payments**" means all monthly and annual rent, additional rent, and other payments and charges whatsoever due and payable by Mortgagor as lessee under the Lease (including, without limitation, all payments required for taxes, operating expenses, utility charges and other kinds of escalations or reimbursements).

(h) "**Leased Premises**" means the leasehold estate created by the Lease in the Land described on Exhibit A attached hereto and incorporated herein by this reference and all improvements thereon and fixtures attached thereto, whether owned or leased by Mortgagor.

(i) "**Lessor**" means the grantor of the leasehold estate created by the Lease and its successors and assigns.

(j) "**Loan**" shall have the meaning ascribed to it earlier in this Mortgage.

(k) "**Loan Agreement**" shall have the meaning ascribed to it earlier in this Mortgage.

(l) "**Note**" means collectively, (i) that certain Tranche A Secured Promissory Note dated as of the date hereof, and (ii) that certain Tranche B Secured Promissory Note dated as of the date hereof, together with any and all amendments, modifications, supplements, increases and restatements thereof, substitutions therefor and renewals or extensions thereof.

(m) **"Obligations"** shall have the meaning ascribed to such term earlier in this Mortgage.

(n) **"Rents"** means all rents, issues and profits relating to or arising out of the Mortgage Premises or the operations of Mortgagor thereon, including, without limitation, all rents and tenant reimbursements payable or to be payable under any Sublease.

(o) **"Sublease"** shall mean any sublease or assignment of Mortgagor's interest in the Lease.

**Section 2. Lender.** Nothing herein expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity other than Mortgagor and Lender any right, remedy or claim under or by reason hereof. All covenants, stipulations and agreements herein contained by and on behalf of Mortgagor shall be for the sole and exclusive benefit of Lender.

**Section 3. Waiver.** The acceptance by Lender of any payments hereunder, after the date due, or the failure of Lender, in any one or more instances to insist upon strict performance by Mortgagor of any terms and covenants of this Mortgage or to exercise any option or election herein conferred, shall not be deemed to be a waiver or relinquishment for the future of any such terms, covenants, elections or options.

**Section 4. Mortgage as Security Agreement.** This Mortgage constitutes a "security agreement" as that term is defined in the Uniform Commercial Code as enacted in the State of South Carolina, with respect to the Lease, Subleases and Rents and Mortgagor hereby grants a continuing security interest in favor of Lender in the Equipment, Lease, Subleases and Rents as security for payment and performance of the Obligations. Mortgagor, as debtor, shall execute, deliver, file and refile any financing statements, continuation statements, or other security agreements that Lender, as secured party, may require from time to time to confirm the lien of this Mortgage with respect to such property. Without limiting the foregoing, Mortgagor hereby irrevocably appoints Lender attorney-in-fact for Mortgagor to execute, deliver and file such instruments for and on behalf of Mortgagor. Notwithstanding any release of any or all of that property included in the Mortgage Premises which is deemed "real property", and proceedings to foreclose this Mortgage or its satisfaction of record, the terms hereof shall survive as a security agreement with respect to the security interest created hereby and referred to above until the repayment or satisfaction in full of the Obligations.

**Section 5. Mortgage as Fixture Filing.** The parties agree that the recordation of the Mortgage creates a fixture filing pursuant to the Uniform Commercial Code of the State of South Carolina. Mortgagor agrees that Lender may file this Mortgage, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any property specified above which constitute fixtures. Any reproduction of this Mortgage shall be sufficient as a financing statement. The information contained in this Section 5 is provided in order that the Mortgage shall comply with the requirements of the Uniform Commercial Code of the State of South Carolina to perfect the security interests with respect to fixtures for instruments to be filed as financing statements. The names of the "Debtor" and the "Secured Party," the identity or corporate structure and residence or principal place of business of the "Debtor," and the time

period for which the "Debtor" has been using or operating under said name and identity or corporate structure without change, are as set forth in Exhibit D attached hereto and by this reference made a part hereof; the mailing address of the "Secured Party" from which information concerning the security interests granted by this Mortgage may be obtained, and the mailing address of "Debtor" is as set forth on the first page of this Mortgage, a statement indicating the types, or describing the items, of collateral is set forth hereinabove; the description of the Land is set forth on Exhibit A hereof; and, to Mortgagor's actual knowledge and belief, the record title owner of the Land is as set forth on Exhibit B hereof.

**Section 6. Section Expenses**. Mortgagor will pay or reimburse Lender on demand therefor, for all reasonable attorneys' fees, costs and expenses incurred by Lender in any suit, action, legal proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, affecting the Obligations secured hereby, this Mortgage or the security interests created herein or the Mortgage Premises, including, but not limited to, the sale of the Mortgage Premises by virtue of or under this Mortgage, any condemnation action involving the Mortgage Premises or any portion thereof or any action to protect the security hereof; and any such amounts paid by Lender shall be added to the Obligations secured by the lien of the Mortgage and shall bear interest until paid at a rate equal to the Default Rate.

**Section 7. Assignment of Rents**. Mortgagor hereby assigns to Lender, and grants to Lender a continuing security interest in, the Lease, all Subleases and all Rents as further security for the payment and performance of the Obligations, and Mortgagor grants to Lender the right to enter upon, take possession of and operate the Mortgage Premises for the purpose of collecting same and to sublet the Mortgage Premises or any part thereof, and, subject to the provisions of the Lease, to apply the Rents, after payment of all charges and expenses incurred by Lender in the collection thereof, to the Obligations in such manner as Lender in its sole discretion determines. This assignment and grant shall continue in effect until this Mortgage is paid in full and discharged of record. For so long as no Event of Default exists, Lender hereby waives the right to enter upon, take possession of and operate the Mortgage Premises for the purpose of collecting the Rents, and Mortgagor shall have the right during such period to collect the same; provided, however, that Mortgagor shall not, without the written consent of Lender, receive or collect Rent from any tenant of the Mortgage Premises or any part thereof for a period of more than one month in advance (excluding any security deposits as provided in Subleases expressly approved by Lender).

**Section 8. Advances**. In the event Mortgagor fails or refuses to pay any Obligation when due or to do or perform any act which Mortgagor is obligated to do or perform hereunder and upon the elapse of any applicable grace period set forth herein or therein, then Lender, at Lender's option, may make such payment or do or perform such act on behalf of Mortgagor. All such payments made by Lender, including, but not limited to, attorneys' fees and all costs and expenses incurred by Lender in doing or performing all such acts, shall become part of the Obligations secured hereby, shall bear interest at a rate equal to the Default Rate from the date paid or incurred by Lender to the date of reimbursement by Mortgagor, and shall be secured by this Mortgage. Lender shall be the sole judge of the necessity for any action so taken by Lender and the amount necessary to be paid or incurred by Lender to remedy any such failure on the part of Mortgagor. Lender is hereby empowered to enter upon or to authorize others to enter upon the Mortgage Premises, or any part thereof, for the purpose of performing or observing any such

covenant or obligation, without thereby becoming liable to Mortgagor or any person or entity in possession holding under Mortgagor, except in the event of Lender's gross negligence or willful misconduct.

**Section 9.** **No Waiver of Existing or Future Rights**. No other security previously or hereafter granted for the benefit of Lender by Mortgagor to secure payment of the Obligations secured by this Mortgage shall be impaired or affected by this Mortgage; and no security subsequently taken by Lender to secure payment of the Obligations secured by this Mortgage shall affect or impair the lien of this Mortgage, but all such additional security shall be deemed cumulative. Upon or after the occurrence of an Event of Default, and subject to the terms of the Leases, Lender may seek recourse against and realize upon any other collateral securing the Obligations, including the Mortgage Premises, in such order and manner as Lender, in its sole discretion, may elect.

**Section 10.** **No Merger**. Mortgagor will not, without the prior written consent of Lender, permit the fee title to the Land and the improvements thereon, or any part thereof, to merge with the leasehold estate created by the Lease but shall always keep such estates separate and distinct notwithstanding the union of such estates whether in the Lessor or in Mortgagor or in a third party, by purchase or otherwise; and in case Mortgagor acquires the fee title or any other additional estate, title or interest in the Land the improvements thereon, this Mortgage shall attach to and cover and constitute a mortgage to the fee title or such other estate and shall, without further assignment, mortgage or conveyance, become and be subject to the lien and mortgage of and covered by this Mortgage. Mortgagor shall notify Lender of any such acquisition by Mortgagor, and, on written request by Lender, shall cause to be executed and recorded all such other and further assurances or other instruments in writing as may in the opinion of Lender be necessary to carry out the intent and meaning hereof.

**Section 11.** **After Acquired Property**. All property of every kind acquired by Mortgagor after the date hereof which is attached to and used in connection with the Mortgage Premises shall, immediately upon the acquisition thereof by Mortgagor, and without any further mortgage, conveyance, assignment or transfer, become subject to the lien of this Mortgage, subject, however, to the contrary provisions of the Lease. Nevertheless, Mortgagor will do, execute, acknowledge and deliver all and every such further acts, conveyances, mortgages, and assurances as Lender shall reasonably require for accomplishing the purposes of this Mortgage, and to the extent Mortgagor fails to so do hereby appoints Lender its attorney so to do.

**Section 12.** **Revolving Credit**. It is contemplated that the principal amount of the Loan may be reduced or extinguished from time to time and additional disbursements may be made in the future so that the total aggregate principal amount of loans disbursed over the term of the Loan Agreement may exceed TWENTY-FIVE MILLION AND NO/100 DOLLARS ($25,000,000); provided, however, that the maximum principal amount secured by this Mortgage shall not at any one time exceed TWENTY-FIVE MILLION AND NO/100 DOLLARS ($25,000,000) at any time. IT IS EXPRESSLY AGREED THAT THE OUTSTANDING PRINCIPAL BALANCE OF THE OBLIGATIONS MAY, FROM TIME TO TIME AFTER PAYMENT IN FULL OF THE NOTE, BE REDUCED TO A ZERO BALANCE WITHOUT SUCH REPAYMENT OPERATING TO EXTINGUISH AND RELEASE THE LIEN AND SECURITY INTERESTS CREATED BY THIS MORTGAGE. THIS MORTGAGE SHALL

REMAIN IN FULL FORCE AND EFFECT AS TO ANY SUBSEQUENT FUTURE ADVANCES MADE AFTER THE ZERO BALANCE WITHOUT LOSS OF PRIORITY UNTIL THE OBLIGATIONS ARE PAID IN FULL AND SATISFIED AND THE LOAN AGREEMENT AND ALL OTHER AGREEMENTS BETWEEN LENDER AND MORTGAGOR FOR FURTHER ADVANCES HAVE BEEN TERMINATED AND THIS MORTGAGE RELEASED OF RECORD. MORTGAGOR WAIVES THE OPERATION OF ANY APPLICABLE STATUTE, LAW OR REGULATION HAVING A CONTRARY EFFECT. ANYTHING HEREIN TO THE CONTRARY NOTWITHSTANDING, IN THE EVENT THAT THE OUTSTANDING BALANCE UNDER THE LOAN AGREEMENT IS REDUCED BELOW $10,000, LENDER SHALL HAVE THE RIGHT TO REFUSE TO FUND ADDITIONAL AMOUNTS THEREUNDER UNTIL LENDER HAS BEEN PROVIDED WITH UPDATED ENDORSEMENTS TO THE MORTGAGEE POLICY OF TITLE INSURANCE ISSUED IN FAVOR OF LENDER WITH RESPECT TO THE LOAN EVIDENCED BY THE LOAN AGREEMENT, INSURING THAT ANY SUCH SUBSEQUENT ADVANCES SHALL HAVE THE SAME PRIORITY AS THE INITIAL ADVANCES MADE UNDER THE LOAN AGREEMENT.

## ARTICLE II

ANY OF THE FOLLOWING EVENTS SHALL CONSTITUTE AN EVENT OF DEFAULT HEREUNDER:

**Section 1.** **Event of Default Under the Loan Agreement**. An Event of Default under the Loan Agreement shall have occurred.

**Section 2.** **Other Foreclosures**. Proceedings for foreclosure or collection of any other mortgage, encumbrance, judgment or lien prior, equal to or subordinate to the lien of this Mortgage, affecting the Mortgage Premises shall have been instituted.

**Section 3.** **Transfer of Mortgage Premises**. Except as may be permitted by the Loan Agreement, Mortgagor shall have transferred or caused to have been transferred, title to or possession of any interest in the Mortgage Premises, or any part thereof, to any party without the express prior written consent of Lender and, except as to matters shown on Exhibit C attached hereto and property taxes that are not delinquent, Mortgagor shall have failed to keep the Mortgage Premises free and clear of all liens.

**Section 4.** **Breach of Covenants**. Mortgagor shall fail or neglect to perform, keep or observe (i) any covenant contained in Sections 4 and 10 of Article I of this Mortgage, or (ii) any other covenant contained in this Mortgage or the Loan Agreement (other than a covenant the default in the performance or observance of which is dealt with specifically elsewhere in this Article II) and the breach of such other covenant is not cured to Lender's satisfaction within the time frames set forth in the Loan Agreement.

## ARTICLE III

DURING THE CONTINUANCE OF AN EVENT OF DEFAULT, LENDER MAY TAKE ANY OR ALL OF THE FOLLOWING ACTIONS, AT THE SAME OR AT DIFFERENT TIMES:

**Section 1. Possession.** Subject to applicable federal and state laws and regulations, the holder of this Mortgage shall have the right forthwith (a) to enter upon, take possession of and operate the Mortgage Premises, (b) to transfer, assign, sublease or sublet the Mortgage Premises, subject to the provisions of Section 3(e) of Article III of this Mortgage, and (c) to receive all the Rents which are overdue, due or to become due, and apply the same, after payment of all necessary charges and expenses to be paid by the lessee under the Lease and all costs and expenses incurred by Lender in collection of the Rents, on account of the amounts hereby secured, and the holder of this Mortgage is given and granted full power and authority to do any act or thing which Mortgagor or the successors or assigns of Mortgagor who may then own the Mortgage Premises might or could do in connection with the management and operation of the Mortgage Premises. This remedy shall be effective either with or without any action brought to foreclose the lien of this Mortgage and without applying at any time for a receiver of such rents. Should said rents or any part thereof be assigned without the consent of the holder of this Mortgage, then the Obligations shall at the option of the holder hereof become due and payable immediately, anything herein contained to the contrary notwithstanding.

**Section 2. Acceleration.** Lender may, at its option, declare the Obligations to be due and payable immediately, without any presentment, demand, protest or notice, all of which are hereby waived by Mortgagor, anything in the Loan Agreement or in this Mortgage to the contrary notwithstanding.

**Section 3. Foreclosure.**

(a) Lender may, at its option, or by its agent or attorneys proceed by suit or suits in law or in equity or by any other appropriate proceeding or remedy granted or conferred by applicable statutes to foreclose this Mortgage and, after complying with the statutory notice requirements applicable to such sales, to sell, as an entirety or in separate lots or parcels the Mortgage Premises under the judgment or decree of a court or courts of competent jurisdiction. In any suit to foreclose the lien created by this Mortgage, there shall be allowed and included as part of the Obligations in the decree of sale, to the extent permitted by law, all expenditures and expenses that may be paid or incurred by or on behalf of Lender, or the holder of the Loan Agreement, for attorneys' fees, court costs, appraisers fees, sheriff's fees, documentary and expert evidence, stenographers' charges, publication costs and such other costs and expenses as Lender or the holder of the Loan Agreement may deem reasonably necessary to prosecute such suit or to evidence to bidders at any sale that may be had pursuant to such decree the true condition of the title to or the value of the Mortgage Premises. To the extent permitted by law, all such expenditures and expenses shall become part of the Obligations secured hereby and shall be due and payable **on demand** with interest thereon from the date of expenditure at a rate equal to the Default Rate and in addition shall include expenditures and expenses incurred by Lender in connection with (a) a foreclosure proceeding; (b) any proceeding to which Lender shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any of the Obligations; (c) preparations for the commencement of any suit for foreclosure hereby after accrual of such right to foreclosure, whether or not actually commenced; or (d) preparation for the defense of or investigation of any threatened suit, claim or proceeding that might affect the Mortgage Premises, whether or not actually commenced.

(b) Lender may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law, Lender, without further notice or publication may make such sale at the time and place to which the same shall be adjourned.

(c) Upon completion of any sale made by Lender under or by virtue of this Mortgage, Lender, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the Mortgage Premises and rights sold. The recitals in such instruments shall be conclusive proof of the truthfulness thereof. Any person or entity may bid at the sale. Mortgagor hereby agrees to surrender immediately and without demand, possession of such Mortgage Premises to such purchaser. Lender is hereby irrevocably appointed the true and lawful attorney-in-fact of Mortgagor in its name and stead to make all necessary conveyances, assignments, transfers and deliveries of the Mortgage Premises and rights so sold and for that purpose Lender may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons or entities with like power, Mortgagor hereby ratifying and confirming all that its said attorney-in-fact or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, Mortgagor shall ratify and confirm any such sale by executing and delivering to Lender or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Lender, if so requested by Lender, for the purpose, and as may be designated in such request. Any such sale made under or by virtue of this article, whether made under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the Mortgage Premises and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against any and all persons and entities claiming or who may claim the same, or any part thereof from, through or under Mortgagor.

(d) In the event of any sale made under or by virtue of this Article (whether made under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale), the entire principal of, and interest on, the Obligations, if not previously due and payable, and all other sums required to be paid by Mortgagor pursuant to this Mortgage and the other Loan Documents, immediately thereupon shall, anything in the Obligations, this Mortgage or the other Loan Documents to the contrary notwithstanding, become due and payable.

(e) Notwithstanding anything to the contrary contained in this Section 3 of Article III of this Mortgage, the right of Lender to transfer, assign, sublease or sublet Mortgagor's right, title and interest in and to the Mortgage Premises to any person or entity (other than Lender, any subsidiary of Lender, the parent of Lender or any corporation under common control with Lender) is subject to the prior written approval of the Lessor as required pursuant to the Consent.

**Section 4. Appointment of Receiver.** Lender may have a receiver of the rents, issues and profits of the Mortgage Premises appointed without the necessity of proving either the depreciation or the inadequacy of the value of the security or the insolvency of Mortgagor or any person or entity which may be legally or equitably liable to pay moneys secured hereby, and Mortgagor and each such person or entity waive such proof and consent to the appointment of a receiver. Mortgagor will pay to Lender upon demand all expenses, including receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to the provisions of this Section, and all such expenses shall be secured by this Mortgage.

**Section 5. Other Remedies.** In addition to the foregoing remedies, Lender, at Lender's option, may, at its option, personally or by its agents or attorneys do any one or more of the following:

(i) Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of the State of New York or the State of South Carolina, as applicable;

(ii) Exercise any or all of the remedies available to it under this Mortgage, the Loan Agreement and the other Loan Documents; and

(iii) Take such steps to protect and enforce its rights whether by auction, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement herein, or in the Loan Agreement, or in any of the other Loan Documents or in aid of the execution of any power herein granted or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Lender shall elect.

In the event Lender shall have proceeded to enforce any right or remedy under this Mortgage, and such proceedings are discontinued or abandoned for any reason, then Mortgagor and Lender shall immediately be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceeding had taken place.

In no event shall Lender in the exercise of the remedies provided in this Mortgage be deemed a "mortgagee in possession," and Lender shall not in any way be liable for any act, either of commission or omission, in connection with the exercise of such remedies.

**Section 6. Application of Proceeds.** (a) The purchase money, proceeds or avails of any sale made under or by virtue of this article, together with any other sums which then may be held by Lender under this Mortgage, whether under the provisions of this paragraph or otherwise, shall be applied as follows:

FIRST: To the payment of costs and expenses of such sale, including compensation to Lender, its agents and attorneys, and of any judicial proceeding in respect of such sale, and of all expenses, liabilities and advances made or incurred by Lender under this Mortgage, including, but not limited to, the cost of any evidence of title procured in connection with such sale, together with interest at a rate equal to the Default Rate on all advances made by Lender and all taxes, levies or assessments, except any

taxes, levies, assessments or other charges subject to which the Mortgage Premises shall have been sold.

SECOND: To the payment of any other sums required to be paid by Lender pursuant to any provision of the Loan Documents including all expenses, liabilities and advances made or incurred by Lender under this Mortgage or in connection with the enforcement thereof, together with interest at a rate equal to the Default Rate on all such advances from the date of occurrence.

THIRD: To the payment of all amounts then secured by this Mortgage, including the outstanding principal amount on the Obligations, together with interest accrued and unpaid thereon.

FOURTH: To the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

Except as may be otherwise provided by applicable law, no purchaser of all or any part of the Mortgage Premises shall be required to see to the proper application of the purchase money, proceeds or avails of such sale.

(a) Upon any sale made under or by virtue of this Article, whether under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Lender may bid for and acquire the Mortgage Premises or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the amount of the Obligations outstanding the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Lender is authorized to deduct under this Mortgage.

**Section 7. Multiple Sales.** In any judicial proceedings to foreclose this Mortgage or any other private or public sale, the Mortgage Premises, at the option of Lender, may be sold in whole or in part, and in the event of such multiple sales, the lien of this Mortgage shall not be merged into any estate acquired by Lender pursuant to a foreclosure sale or foreclosure judgment so long as any of the Obligations remain outstanding.

**Section 8. Waiver of Appraisement, Valuation, Etc. MORTGAGOR UNDERSTANDS THAT UPON AND AFTER THE OCCURRENCE OF AN EVENT OF DEFAULT, AMONG OTHER REMEDIES SET OUT HEREIN AND IN THE LOAN AGREEMENT, LENDER MAY FORECLOSE UPON THE PREMISES AND ASK FOR A DEFICIENCY JUDGMENT PURSUANT TO SECTION 29-3-660, SOUTH CAROLINA CODE OF LAWS (1976). MORTGAGOR HEREBY WAIVES, TO THE FULL EXTENT IT MAY LAWFULLY DO SO, THE BENEFIT OF ALL RIGHTS AND EQUITIES OF APPRAISEMENT, PURSUANT TO SOUTH CAROLINA CODE OF LAWS SECTION 29-3-680 ET SEQ., OR OTHERWISE, VALUATION, STAY, EXTENSION, MORATORIUM, HOMESTEAD RIGHTS, EXEMPTION AND REDEMPTION, WHETHER AT LAW OR IN EQUITY, NOW OR HEREAFTER IN FORCE WITH RESPECT TO ANY AMOUNT SECURED HEREBY, ALL RIGHTS OF**

**MARSHALLING IN THE EVENT OF ANY SALE OF THE PREMISES OR ANY PART THEREOF OR ANY INTEREST THEREIN UPON FORECLOSURE AS PROVIDED IN THIS MORTGAGE, AND ANY RIGHT MORTGAGOR MAY HAVE TO REQUIRE LENDER TO OBTAIN ANY BOND OR MAKE ANY OATH.**

## ARTICLE IV

## MISCELLANEOUS

**Section 1. Cumulative Rights**. The rights and remedies herein expressed to be vested in or conferred upon Lender shall be cumulative and shall be in addition to and not in substitution for or in derogation of the rights and remedies conferred in equity or by any applicable law, the Loan Agreement or any other agreement between Mortgagor and Lender. The failure, at any one or more times, of Lender to assert the right to declare the principal indebtedness due or the granting of any extension or extensions of time of payment of the Obligations either to Mortgagor or to any other person or entity, or taking of other or additional security for the payment thereof, or releasing any security, or changing any of the terms of this Mortgage, the Loan Agreement, the Note or other obligation accompanying this Mortgage, or waiver of or failure to exercise any right under any covenant or stipulation herein contained shall not in any way affect this Mortgage nor the rights of Lender hereunder nor operate as a release from any personal liability upon the Obligations, nor under any covenant or stipulation therein contained, nor under any agreement assuming the payment of Obligations.

**Section 2. Notices**. Any notice or other communication required or permitted to be given hereunder shall be in writing and addressed to the respective party as set forth below and may be personally served, telecopied, telexed or sent by overnight courier service or United States Mail and shall be deemed to have been given: (a) if delivered in person, when delivered; (b) if delivered by telecopier or telex, on the date of transmission if transmitted on a Business Day before 4:00 p.m. (Chicago time) or, if not, on the next succeeding Business Day; (c) if delivered by overnight courier, two days after delivery to such courier properly addressed; or (d) if by U.S. Mail, four Business Days after depositing in the United States mail, with postage prepaid and properly addressed.

Notices should be addressed as follows:

If to Mortgagor:

Stevens Aviation, Inc.
Donaldson Center Air Park
600 Delaware Street
Greenville, South Carolina 29605
Attn: Thomas Sullivan
Telephone: 864-678-6222
Facsimile: 864-678-6041

With a copy to:

Dechert LLP
1775 I Street, N.W.

Washington, D.C. 20006-2401
Attn: David E. Schulman, Esq.
Telephone: 202-261-3440
Facsimile: 202-261-3334

If to Lender:

SFT I, Inc.
1114 Avenue of the Americas, 27th Floor
New York, New York 10036
Attn: Chief Operating Officer
Reference : Loan No. 1380:01
Telephone: 212-930-9400
Facsimile: 212-930-9494

With a copy to:

iStar Financial Inc.
1114 Avenue of the Americas, 27th Floor
New York, New York 10036
Attn: Nina B. Matis, Esq./General Counsel
Reference : Loan No. 1380:01
Telephone: 212-930-9406
Facsimile: 212-930-9492

With a copy to:

iStar Asset Services Inc.
180 Glastonbury Blvd., Suite 201
Glastonbury, Connecticut 06033
Attn: President
Reference : Loan No. 1380:01
Telephone: 860-815-5900
Facsimile: 860-815-5901

With a copy to:

Katten Muchin Rosenman LLP
525 West Monroe Street
Chicago, Illinois 60661-3693
Attn: Kenneth M. Jacobson, Esq.
Reference: Loan No. 1380:01
KMZR Reference: 208972/00585
Telephone: 312-902-5445
Facsimile: 312-902-1061

or to such other address as the party shall have previously designated by written notice to the serving party, given in accordance with this Section. A notice not given as provided herein shall, if it is in writing, be deemed given if and when actually received by the party to whom given.

**Section 3. Successors and Assigns.** All of the terms, covenants, provisions and conditions herein contained shall be for the benefit of, apply to, and bind the successors and assigns of Mortgagor and Lender, and are intended and shall be held to be real covenants running with the Land, and the term "Mortgagor" shall also include any and all subsequent owners and successors in title of the Mortgage Premises.

**Section 4. Gender.** When such interpretation is appropriate, any word denoting gender used herein shall include all persons, natural or artificial, and words used in the singular shall include the plural.

**Section 5. Reference to the Loan Agreement.** This Mortgage is one of the Mortgages referred to in the Loan Agreement, dated the date hereof, executed by and between Mortgagor and Lender is subject to all the terms and provisions of said Loan Agreement. Should any provisions of the Loan Agreement be inconsistent or contrary to the provisions of this Mortgage, the provisions of the Loan Agreement shall govern and control.

**Section 6. Severability.** If any court determines that any provision of this Mortgage is void or unenforceable, the Mortgage shall remain in effect in accordance with its terms excluding the provision declared void or unenforceable, unless Lender (in Lender's exclusive discretion) determines that the entire Mortgage should be terminated.

**Section 7. Amendment.** This Mortgage may not be changed or terminated, or any term or provision thereof waived or discharged, except in writing signed by the party against whom such change, termination, waiver or discharge is sought. This Mortgage and all its terms, covenants, conditions, and provisions shall run with the Land and shall bind Mortgagor and Mortgagor's successors, assigns, and any and all subsequent owners, encumbrancers, and tenants of the Mortgage Premises and shall inure to the benefit of Lender and Lender's successors, permitted assigns, and legal representative and all subsequent holders of this Mortgage. If Mortgagor is more than one person, the obligations and liabilities of each such person shall be joint and several. Exhibits "A" through "D" are made a part of this Mortgage as through fully set forth herein.

**Section 8. Governing Law.** This Mortgage shall be governed by and construed in accordance with the internal laws (and not the laws of conflicts) of the State of New York, in all respects, including, without limitation, in respect of any interest payable by Mortgagor on the amount of any advances or other payments made by Lender hereunder; except that the provisions hereof relating to the creation, validity, perfection, priority and enforceability of the lien and security interest created by this Mortgage, the warranties of title contained herein with respect to the Mortgage Premises and the exercises of remedies granted by this Mortgage, shall be governed by and construed in accordance with the internal laws of the State of South Carolina, without regard to principles of conflict of laws. The Loan Agreement and the Note shall be governed by and construed in accordance with the internal laws of the State of New York without regard to principles of conflict of laws.

**Section 9. Allocation.** Mortgagor acknowledges that this Mortgage and certain other mortgages and other instruments included within the definition of Mortgages in the Loan Agreement secure the indebtedness evidenced by the Term Note and the Loan Agreement.

Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Lender and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Lender of any security for or guarantors upon any of the indebtedness hereby secured, or by any failure, neglect or omission on the part of Lender to realize upon or protect any of the indebtedness hereby secured or any collateral security therefor, including any of the other Loan Documents. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, exchange, modification or disposition of any of the Obligations hereby secured or of any of the collateral guarantee thereof, including the other Loan Documents or of any security therefor, and Lender may in its discretion foreclose, exercise any power of sale, or exercise any other remedy available to them under any of or all the other Loan Documents without first exercising or enforcing any of their rights, and remedies hereunder. Such exercise of Lender's rights and remedies under any of or all the other Loan Documents shall not in any manner impair the Obligations or the lien of this Mortgage and any exercise of the rights or remedies of Lender hereunder shall not impair the lien of any of the other Loan Documents or of Lender's rights and remedies thereunder. Mortgagor specifically consents and agrees that Lender may exercise its rights and remedies hereunder and under the other Loan Documents separately or concurrently and in any order that Lender may deem appropriate.

Section 10. Waiver of Certain Rights. **MORTGAGOR HEREBY WAIVES ANY RIGHT MORTGAGOR MAY HAVE UNDER THE CONSTITUTION OF THE STATE OF SOUTH CAROLINA OR THE CONSTITUTION OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED TO LENDER BY THIS MORTGAGE, AND MORTGAGOR WAIVES ITS RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE UNDER POWER DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS MORTGAGE ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT PRIOR NOTICE OR JUDICIAL HEARING. THE WAIVERS MADE BY MORTGAGOR IN THIS PARAGRAPH AND ELSEWHERE IN THIS MORTGAGE HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY ON BEHALF OF MORTGAGOR BY ITS DULY AUTHORIZED OFFICERS AFTER THEY HAVE READ AND UNDERSTOOD THIS MORTGAGE AND HAVE BEEN AFFORDED AN OPPORTUNITY TO BE INFORMED BY COUNSEL OF MORTGAGOR'S POSSIBLE ALTERNATIVE RIGHTS, AND BY EXECUTING THIS MORTGAGE, THE DULY AUTHORIZED OFFICERS OF MORTGAGOR ACKNOWLEDGE SO MAKING SUCH WAIVERS ON BEHALF OF MORTGAGOR. MORTGAGOR FURTHER, DECLARES THAT MORTGAGOR HAS RECEIVED A COMPLETELY FILLED IN COPY OF THIS MORTGAGE AND HAS SIGNED THIS MORTGAGE AS OF THE DATE AT THE TOP OF THE FIRST PAGE.**

The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.**

IN WITNESS WHEREOF, Mortgagor has duly caused this Mortgage to be duly executed and delivered, and its corporate seal to be hereunto affixed and attested by its duly authorized officer as of the day and year first above written.

Witnesses:

Lisa M. Flener

[illegible]

**STEVENS AVIATION, INC.**

By: [signature]
Name: Glenn Brown
Its: President

Attest: [signature]
Name: Neal McGrael
Its: Secretary

[CORPORATE SEAL]

**ACKNOWLEDGMENT**

South Carolina
STATE OF ~~GEORGIA~~ )
Greenville )
COUNTY OF ~~FULTON~~ )

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named STEVENS AVIATION, INC. by its duly authorized _____, sign, seal and as the act of said corporation deliver the within written instrument and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Sworn to before me, this
12th day of December, 2006.

Kama V. Cox
Witness



GSP leasehold mortgage

**PROBATE**

STATE OF SOUTH CAROLINA )
)
COUNTY OF GREENVILLE )

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named STEVENS AVIATION, INC. by its duly authorized President sign, seal and as the act of said corporation deliver the within written instrument and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Sworn to before me, this
12th day of December, 2006.

Witness

Sarah F Kaner
Notary Public for S.C.

My Commission Expires: 7-9-2013

[NOTARIAL SEAL]

GSP Leasehold mortgage

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

(Spartanburg County, South Carolina)

PARCEL I:

All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 942; and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, THE TRUE POINT OF BEGINNING, thence running parallel to and 20 feet right of the centerline of Taxiway "B", N 32°55'08" E 1313.89 feet to a drill hole set in concrete, thence S 57°10'24" E 764.98 feet to an iron pin set 1/2" rebar, thence S 32°49'36" W 295.93 to an iron pin set 1/2" rebar, thence N 57°10'24" W 188.12 feet to a mag nail set, thence N 32°03'54" E 11.85 feet to a fence post, thence N 57°11'18" W 238.71 feet to a fence post, thence S 32°21'57" W 30.08 feet to a point on the face of building wood overhang, thence along the face of building wood overhang S 56°27'23" E 11.92 to the corner of wood overhang, thence S 33°02'29" W 18.83 to the corner of wood overhang, thence N 56°56'20" W 36.64 feet to the corner of wood overhang, thence S 33°04'17" W 48.48 feet to the corner of wood overhang, thence S 56°08'19" E 8.52 feet to the corner of wood overhang, thence S 32°58'08" W 50.29 feet to the corner of wood overhang, thence N 56°55'40" W 2.80 feet to a point on the face of wood overhang, thence leaving the face of wood overhang running S 33°04'20" W 6.86 feet to a fence post, thence N 57°00'51" W 14.56 feet to a fence post, thence S 32°19'51" W 94.72 feet to a fence post, thence S 57°39'57" E 6.50 to a fence post, thence S 33°22'35" W 15.31 feet to a point on face of building, thence running along the face of building S 57°08'03" E 73.32 feet to the building corner, thence leaving building and running S 57°08'03" E 144.52 feet to an iron pin set 1/2" rebar, thence S 32°55'16" W 986.69 feet to an iron pin found 5/8" solid rod, thence N 57°05'00" W 88.00 feet to an iron pin found 5/8" solid rod, thence N 32°55'19" E 221.01 feet to a drill hole set in concrete sidewalk, thence N 57°06'04" W 442.10 feet to the TRUE POINT OF BEGINNING, containing 16.735 acres more or less.

PARCEL II:

All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 942; and having, according to said plat, the following metes and bounds, to-wit:

**EXHIBIT "A" - CONTINUED**

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, thence along a tie line S 27°33'51" E 1406.17 feet to a fence corner, the TRUE POINT OF BEGINNING, thence along a 6' chain link fence S 56°51'54" E 128.73 feet to a fence corner, thence S 17°55'21" E 110.32 feet to a fence corner, thence S 32°14'41" W 160.71 feet to a fence corner, thence N 56°59'25" W 215.93 feet to a fence corner, thence N 32°51'39" E 8.34 feet an iron pin set 1/2" rebar, thence N 57°05'00" W 26.20 feet to an iron pin set 1/2" rebar, thence N 32°55'00" E 200.00 feet to an iron pin set 1/2" rebar, thence S 57°47'54" E 26.01 feet to an iron pin set 1/2" rebar, thence N 32°51'39" E 21.84 feet to the TRUE POINT OF BEGINNING, containing 1.187 acres more or less.

This being the same property leased to Mortgagor herein by Lessor pursuant to the agreements described on Exhibit B.

REM 3800 PAGE 990

**EXHIBIT "B"**

**DESCRIPTION OF LEASES**

1. General Aviation Lease and Facilities Agreement dated as of September 11, 2006, between Greenville-Spartanburg Airport District, a political subdivision of the State of South Carolina ("Lessor"), and Stevens Aviation, Inc., a South Carolina corporation ("Lessee").

2. Memorandum of Lease, dated as of December 12, 2006, recorded in the Office of the Register of Deeds for Spartanburg County in Book 87-J at page 951 on December 12, 2006.

Lessor is the record owner of the Land.

**EXHIBIT "C"**

**PERMITTED LIENS**

1. Ad valorem taxes for 2007 and subsequent years which are a lien but not yet due and payable.

2. Rights-of-way given to Duke Power Company, recorded in the Office of the Register of Deeds for Spartanburg County in Book 27-T at page 515, Book 40-E at page 357 and in Book 62-B at page 356.

3. Notice of Agreement by and between Lang Ligon & Company, Inc. and Greenville-Spartanburg Airport District for the installation of a sewer line, recorded in the Office of the Register of Deeds for Spartanburg County in Book 64-K at page 531.

4. Ten (10) foot drainage easement as shown on plat prepared for Heller Financial, Inc. and Stevens Aviation, Inc., prepared by International Land Surveying, Inc., dated February 26, 1994, last revised November 17, 1994.

5. The following matters as shown on plat entitled ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network:

   (a) underground telephone lines;
   (b) underground power lines;
   (c) sanitary sewer lines;
   (d) storm drain; and
   (e) encroachment by asphalt onto adjoining property.

**EXHIBIT "D"**

**DESCRIPTION OF "DEBTOR" AND "SECURED PARTY"**

A. Debtor:

1. Name and Identity or Corporate Structure:

   Stevens Aviation, Inc.

2. Debtor's chief executive office is located the following address:

   2100 GSP Drive
   Greer, South Carolina 29651

B. Secured Party:

   SFT I, Financial, Inc., a Delaware corporation

C. Debtor has been operating under the name listed at A(1) since April 17, 1989.

# EXHIBIT 5

[redacted]

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
Phone (800) 331-3282 Fax (818) 662-4141

B. SEND ACKNOWLEDGMENT TO: (Name and Address)
UCC Direct Services
P.O. Box 29071
Glendale, CA 91209-9071

DE, Secretary of State

FILING NUMBER: 64344834
FILING DATE: 12-DEC-2006
IMAGE REFLECTS DATA FROM AN ELECTRONIC FILING

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME: STEVENS AVIATION, INC.

OR 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

1c. MAILING ADDRESS: 600 DELAWARE STREET | CITY: GREENVILLE | STATE: SC | POSTAL CODE: 29605 | COUNTRY: US

1d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION: Corporation | 1f. JURISDICTION OF ORGANIZATION: DE | 1g. ORGANIZATIONAL ID #, if any: 2183352 ☐ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

2d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any ☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME: SFT I, INC.

OR 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

3c. MAILING ADDRESS: 1114 Avenue of the Americas, 27th Floor | CITY: New York | STATE: NY | POSTAL CODE: 10036 | COUNTRY: US

4. This FINANCING STATEMENT covers the following collateral:

EXHIBIT A TO UCC-1 FINANCING STATEMENT
COLLATERAL DESCRIPTION

Attached to and being a part of UCC Financing Statement from STEVENS AVIATION, INC. as Debtor, to SFT I, INC., as Secured Party (the "Financing Statement").

Reference is hereby made to that certain Leasehold Mortgage and Security Agreement made by Debtor for the benefit of Secured Party (the "Mortgage") and that certain Loan and Security Agreement by and between Debtor and Secured Party (the "Loan Agreement"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Mortgage or the Loan Agreement

This UCC Financing Statement covers the following property, right, title and interest now owned, or hereafter acquired by Debtor in connection with the real property described in Exhibit B attached hereto and made a part hereof.

All of Debtor's leasehold estate under and pursuant to the Lease and all of its rights in the Lease;

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] | 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA: Loan No. 1380 01

22814041

FILING OFFICE COPY — NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 07/29/98)

NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT
ORGANIZATION'S NAME
STEVENS AVIATION, INC.
INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME,SUFFIX

Use this space for additional information:
Additional Collateral Text:

All of Debtor's rights in the Leased Premises;

All further or additional title, estate, interest, or right in and to the Land and improvements thereon (including the fee simple thereof) which Debtor may acquire at any time prior to Debtor's payment in full of the amount secured hereby and Debtor's complete performance of every term, covenant, condition and provision of the Mortgage;

All of Debtor's rights in and to all additions, alterations, replacements and renewals made to the Leased Premises;

All and singular the tenements, hereditaments, rights-of-way, easements, exclusive and non-exclusive rights of ingress and egress and exclusive and non-exclusive rights to use areas and facilities as described in the Lease, riparian rights and appurtenances thereunto belonging, or in anywise appertaining;

Any and all awards, damages, payment and other compensation, and any and all claims therefor and rights thereto, which may result from taking or injury by virtue of the exercise of the power of eminent domain, or any damage, improvements, injury or destruction in any manner caused to the Leased Premises or thereon, or any part thereof;

All proceeds of the foregoing, including, without limitation, the fullest extent of Debtor's right, title and interest in the insurance policies required to be maintained by Debtor pursuant to the Loan Agreement and that certain Real Estate Agreement and any and all proceeds of insurance of every kind whatsoever (and all unearned premiums thereon) now or hereafter payable by reason of any damage or destruction to the Leased Premises, whether payable under such insurance policies or otherwise, and all interest thereon;

All the estate, right, title, interest, property, possession, claim and demand whatsoever of Debtor, at law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

All right, title and interest of Debtor in, arising out of, or in relation to, any and all contracts, instruments, leases, tenancies, occupancy agreements, and other agreements, whether now existing or hereafter arising, solely in connection with the leasing or occupancy of land and improvements defined as the Mortgaged Property, as amended from time to time (collectively, the "Contracts;" it being understood that "Contracts" will not include any agreement with any customer of the Borrower other than any Lease with such customer or to the extent such an agreement or contract involves the letting or subletting of the Mortgaged Property); and

The entire interest of Debtor in, arising out of, or in relation to, any and all licenses, permits, authorizations, development rights, certificates of occupancy, consents, waivers, zoning approvals and other approvals heretofore or hereafter issued by any and all Governmental Authorities solely in connection with the leasing or occupancy of the Mortgaged Property.

DEFINED TERMS

NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT
ORGANIZATION'S NAME
STEVENS AVIATION, INC.
INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME,SUFFIX

Use this space for additional information:

Governmental Authority means the United States of America, any state, any foreign governments and any political subdivision or regional division of the foregoing, and any agency, department, court, regulatory body, commission, board, bureau or instrumentality of any of them.

Land means "the real estate comprising the Mortgaged Property, as more specifically described in the Mortgage including all oil, gas and mineral rights, oil, gas and minerals (whether before or after extraction), easements, appurtenances, water rights, water stock, rights in and to streets, roads and highways (whether before or after vacation thereof), hereditaments and privilege relating, in any manner whatsoever, to the Land (to the extent Debtor has any right, title or interest therein). The Land is legally described on Exhibit B attached hereto.

Lease means the leases described in Exhibit B of the Mortgage and the leasehold estate created thereby, and Debtor's entire right, title and interest therein; all modifications, extensions, renewals, amendments, rights to renew or extend, and other options, privileges, and rights of Debtor under or with respect to the foregoing; all credits or deposits of Debtor under the foregoing; and all easements, rights, appurtenances, hereditaments, and other rights and privileges of every kind whatsoever of, affecting or benefiting, the foregoing.

Leased Premises means the leasehold estate created by the Lease in the Land described on Exhibit B attached hereto and incorporated herein by this reference and all improvements thereon and fixtures attached thereto, whether owned or leased by Debtor.

Mortgaged Property means Debtor's right, title and interest in the Land, the Improvements, the Fixtures, the Leases and the Rents, the Proceeds thereof and all substitutions therefor, replacements and accessions thereto, and proceeds including "proceeds" (as defined in the UCC) derived therefrom of each of GHY and GSP, all as more specifically described in the Mortgage.

EXHIBIT B TO UCC-1 FINANCING STATEMENT
LEGAL DESCRIPTION

All that certain piece, parcel or tract of land located, lying and being in the County of Greenville, State of South Carolina, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Greenville County in Plat Book _____ at page _____and having, according to said plat, the following metes and bounds, to-wit:

Beginning at a nail set (Labeled as P.O.B.) on the southerly side of Taxiway B-1, having South Carolina Grid Coordinates (NAD 83) of N. 1,067,218.63, E. 1,587,527.34; said point of beginning is located N 73(deg)19'01" W 2393.23 feet (grid) from NGS Monument 23-046, thence N 40(deg)49'19" E 1635.91 feet to a mag nail set, thence S 49(deg)13'30" E 256.85 feet to an iron pin found 1/2" rebar, located on the northwestern right-of-way of Delaware Street (60' total r/w), thence running along the northwestern right-of-way of Delaware Street, S 40(deg)42'52" W 347.20 feet to an iron pin set 1/2" rebar, thence

NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

ORGANIZATION'S NAME

STEVENS AVIATION, INC.

INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME,SUFFIX

Use this space for additional information:

along a curve to the left, having an arc length of 413.82 feet, a radius of 488.00 feet, a chord bearing and distance of S 16(deg)25'16" W 401.53 feet to an iron pin set 1/2" rebar, thence S 07(deg)52'20" E 446.32 feet to an iron pin set 1/2" rebar, thence running along a curve to the right, having an arc length of 354.31 feet, a radius of 415.00 feet, a chord bearing and distance of S 16(deg)25'18" W 343.64 feet to an iron pin set 1/2" rebar, thence S 40(deg)52'46" W 505.87 feet to an iron pin set 1/2" rebar (leaving the right-of-way of Delaware Street at point located at approximately 472 feet), thence N 48(deg)56'23" W 61.79 feet to a fence corner, thence N 40(deg)39'36" E 23.86 feet to an iron pin set 1/2" rebar, thence N 49(deg)44'48" W 145.27 feet to an iron pin set 1/2" rebar, thence N 17(deg)06'15" W 74.31 feet to a fence corner, thence N 40(deg)23'24" E 34.87 feet to a fence corner, thence running N 49(deg)13'52" W 528.79 feet to a nail set, thence running along a curve to the left, having an arc length of 149.48 feet, a radius of 107.50 feet, a chord bearing and distance of N 06(deg)19'41" W 137.73 feet to the point of beginning, containing 23.550 acres more or less.

# EXHIBIT 6

[redacted]

2006120502 FS/REAL
5 PGS
Book:FI 2006 Page:2488-2492
December 12, 2006 02:40:21 PM
Rec:$12.00 Cnty Tax:$0.00 State Tax:$0.00
FILED IN GREENVILLE COUNTY,SC

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

ANN MARIE SINK, ESQ.
KATTEN MUCHIN ROSENMAN LLP
525 WEST MONROE STREET
CHICAGO, ILLINOIS 60661

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

| | | | | | |
|---|---|---|---|---|---|
| 1a. ORGANIZATION'S NAME: STEVENS AVIATION, INC. | | | | | |
| OR 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX | | |
| 1c. MAILING ADDRESS: 600 DELAWARE STREET | CITY: GREENVILLE | STATE: SC | POSTAL CODE: 29605 | COUNTRY: USA | |
| 1d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION: CORPORATION | 1f. JURISDICTION OF ORGANIZATION: DELAWARE | 1g. ORGANIZATIONAL ID #, if any: 2183352 | ☐ NONE |

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

| | | | | | |
|---|---|---|---|---|---|
| 2a. ORGANIZATION'S NAME | | | | | |
| OR 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX | | |
| 2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY | |
| 2d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any | ☐ NONE |

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

| | | | | |
|---|---|---|---|---|
| 3a. ORGANIZATION'S NAME: SFT I, INC. | | | | |
| OR 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX | |
| 3c. MAILING ADDRESS: 1114 AVENUE OF THE AMERICAS, 27TH FLOOR | CITY: NEW YORK | STATE: NY | POSTAL CODE: 10036 | COUNTRY: USA |

4. This FINANCING STATEMENT covers the following collateral:

ALL OF DEBTOR'S RIGHT, TITLE AND INTEREST NOW OWNED OR HEREAFTER ACQUIRED BY DEBTOR IN AND TO THE COLLATERAL AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, WHICH COLLATERAL IS LOCATED ON OR USED IN CONNECTION WITH THE REAL PROPERTY DESCRIBED IN EXHIBIT B, BOTH EXHIBITS ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF FOR ALL PURPOSES.

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☑ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA
FILE IN GREENVILLE COUNTY, SC

FILING OFFICE COPY — UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)
SCUCC1FNAT- 10/01/02 C T Corporation System

# UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

OR STEVENS AVIATION, INC.

| 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME,SUFFIX |
|---|---|---|
| | | |

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

| 11b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 11c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 11d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 11e. TYPE OF ORGANIZATION | 11f. JURISDICTION OF ORGANIZATION | 11g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

| 12b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 12c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☑ fixture filing.

14. Description of real estate:

SEE EXHIBIT B ATTACHED HERETO.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years

☐ Filed in connection with a Public-Finance Transaction — effective 30 years

FILING OFFICE COPY — UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad) (REV. 05/22/02)

SCUCC1AD - 09/26/02 C T System Online

## EXHIBIT A TO UCC-1 FINANCING STATEMENT

## COLLATERAL DESCRIPTION

Attached to and being a part of UCC Financing Statement from STEVENS AVIATION, INC. as Debtor, to SFT I, INC., as Secured Party (the "Financing Statement").

Reference is hereby made to that certain Leasehold Mortgage and Security Agreement made by Debtor for the benefit of Secured Party (the "Mortgage"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Mortgage.

This UCC Financing Statement covers the following property, right, title and interest now owned, or hereafter acquired by Debtor in connection with the real property described in Exhibit B attached hereto and made a part hereof.

All of Debtor's leasehold estate under and pursuant to the Lease and all of its rights in the Lease;

All of Debtor's rights in the Leased Premises;

All further or additional title, estate, interest, or right in and to the Land and improvements thereon (including the fee simple thereof) which Debtor may acquire at any time prior to Debtor's payment in full of the amount secured hereby and Debtor's complete performance of every term, covenant, condition and provision of the Mortgage;

All of Debtor's rights in and to all additions, alterations, replacements and renewals made to the Leased Premises;

All and singular the tenements, hereditaments, rights-of-way, easements, exclusive and non-exclusive rights of ingress and egress and exclusive and non-exclusive rights to use areas and facilities as described in the Lease, riparian rights and appurtenances thereunto belonging, or in anywise appertaining;

Any and all awards, damages, payment and other compensation, and any and all claims therefor and rights thereto, which may result from taking or injury by virtue of the exercise of the power of eminent domain, or any damage, improvements, injury or destruction in any manner caused to the Leased Premises or thereon, or any part thereof;

All proceeds of the foregoing, including, without limitation, the fullest extent of Debtor's right, title and interest in the insurance policies required to be maintained by Debtor pursuant to that certain Loan Agreement and that certain Real Estate Agreement and any and all proceeds of insurance of every kind whatsoever (and all unearned premiums thereon) now or hereafter payable by reason of any damage or destruction to the Leased Premises, whether payable under such insurance policies or otherwise, and all interest thereon; and

All the estate, right, title, interest, property, possession, claim and demand whatsoever of Debtor, at law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances.

DEFINED TERMS

Lease means the leases described in Exhibit B of the Mortgage and the leasehold estate created thereby, and Debtor's entire right, title and interest therein; all modifications, extensions, renewals, amendments, rights to renew or extend, and other options, privileges, and rights of Debtor under or with respect to the foregoing; all credits or deposits of Debtor under the foregoing; and all easements, rights, appurtenances, hereditaments, and other rights and privileges of every kind whatsoever of, affecting or benefiting, the foregoing.

Leased Premises means the leasehold estate created by the Lease in the Land described on Exhibit B attached hereto and incorporated herein by this reference and all improvements thereon and fixtures attached thereto, whether owned or leased by Debtor.

**Exhibit "B" to UCC-1 Financing Statement**

**[Legal Description]**

All that certain piece, parcel or tract of land located, lying and being in the County of Greenville, State of South Carolina, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Greenville County in Plat Book _____ at page _____and having, according to said plat, the following metes and bounds, to-wit:

Beginning at a nail set (Labeled as P.O.B.) on the southerly side of Taxiway B-1, having South Carolina Grid Coordinates (NAD 83) of N. 1,067,218.63, E. 1,587,527.34; said point of beginning is located N 73°19'01" W 2393.23 feet (grid) from NGS Monument 23-046, thence N 40°49'19" E 1635.91 feet to a mag nail set, thence S 49°13'30" E 256.85 feet to an iron pin found 1/2" rebar, located on the northwestern right-of-way of Delaware Street (60' total r/w), thence running along the northwestern right-of-way of Delaware Street, S 40°42'52" W 347.20 feet to an iron pin set 1/2" rebar, thence along a curve to the left, having an arc length of 413.82 feet, a radius of 488.00 feet, a chord bearing and distance of S 16°25'16" W 401.53 feet to an iron pin set 1/2" rebar, thence S 07°52'20" E 446.32 feet to an iron pin set 1/2" rebar, thence running along a curve to the right, having an arc length of 354.31 feet, a radius of 415.00 feet, a chord bearing and distance of S 16°25'18" W 343.64 feet to an iron pin set 1/2" rebar, thence S 40°52'46" W 505.87 feet to an iron pin set 1/2" rebar (leaving the right-of-way of Delaware Street at point located at approximately 472 feet), thence N 48°56'23" W 61.79 feet to a fence corner, thence N 40°39'36" E 23.86 feet to an iron pin set 1/2" rebar, thence N 49°44'48" W 145.27 feet to an iron pin set 1/2" rebar, thence N 17°06'15" W 74.31 feet to a fence corner, thence N 40°23'24" E 34.87 feet to a fence corner, thence running N 49°13'52" W 528.79 feet to a nail set, thence running along a curve to the left, having an arc length of 149.48 feet, a radius of 107.50 feet, a chord bearing and distance of N 06°19'41" W 137.73 feet to the point of beginning, containing 23.550 acres more or less.

FILED FOR RECORD IN GREENVILLE COUNTY,SC ROD
2006120502 Book:FI 2006 Page:2488-2492
December 12, 2006 02:40:21 PM
Timothy J Mauney

1061529

# EXHIBIT 7

[redacted]

FILED
SPARTANBURG COUNTY
2006 DEC 12 P 2:31

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

050482

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

ANN MARIE SINK, ESQ.
KATTEN MUCHIN ROSENMAN LLP
525 WEST MONROE STREET
CHICAGO, ILLINOIS 60661

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

| | | | | | |
|---|---|---|---|---|---|
| 1a. ORGANIZATION'S NAME: STEVENS AVIATION, INC. | | | | | |
| OR 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | | | SUFFIX |
| 1c. MAILING ADDRESS: 600 DELAWARE STREET | CITY: GREENVILLE | STATE: SC | POSTAL CODE: 29605 | | COUNTRY: USA |
| 1d. SEE INSTRUCTIONS: ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION: CORPORATION | 1f. JURISDICTION OF ORGANIZATION: DELAWARE | 1g. ORGANIZATIONAL ID #, if any: 2183352 | | ☐ NONE |

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

| | | | | | |
|---|---|---|---|---|---|
| 2a. ORGANIZATION'S NAME | | | | | |
| OR 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | | | SUFFIX |
| 2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | | COUNTRY |
| 2d. SEE INSTRUCTIONS: ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any | | ☐ NONE |

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

| | | | | | |
|---|---|---|---|---|---|
| 3a. ORGANIZATION'S NAME: SFT I, INC. | | | | | |
| OR 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | | | SUFFIX |
| 3c. MAILING ADDRESS: 1114 AVENUE OF THE AMERICAS, 27TH FLOOR | CITY: NEW YORK | STATE: NY | POSTAL CODE: 10036 | | COUNTRY: USA |

4. This FINANCING STATEMENT covers the following collateral:

ALL OF DEBTOR'S RIGHT, TITLE AND INTEREST NOW OWNED OR HEREAFTER ACQUIRED BY DEBTOR IN AND TO THE COLLATERAL AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, WHICH COLLATERAL IS LOCATED ON OR USED IN CONNECTION WITH THE REAL PROPERTY DESCRIBED IN EXHIBIT B, BOTH EXHIBITS ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF FOR ALL PURPOSES.

UCC-2006-67070
Recorded 6 Pages on 12/12/2006 2:31:48 PM
Recording Fee: $13.00 Documentary Stamps: $0.00
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☑ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA
FILE IN SPARTANBURG COUNTY, SC

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SCUCC1PNAT- 10/01/02 C T Corporation System

# UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

STEVENS AVIATION, INC.

OR

| 9b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME,SUFFIX |
|---|---|---|
| | | |

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

| 11b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 11c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

| 11d. SEE INSTRUCTIONS | ADD'L INFO RE ORGANIZATION DEBTOR | 11e. TYPE OF ORGANIZATION | 11f. JURISDICTION OF ORGANIZATION | 11g. ORGANIZATIONAL ID #, if any |
|---|---|---|---|---|
| | | | | ☐ NONE |

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

| 12b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX |
|---|---|---|---|
| | | | |

| 12c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
|---|---|---|---|---|
| | | | | |

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☑ fixture filing.

14. Description of real estate:

SEE EXHIBIT B ATTACHED HERETO.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years

☐ Filed in connection with a Public-Finance Transaction — effective 30 years

FILING OFFICE COPY — UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad) (REV. 05/22/02)

SCUCC1AD - 09/26/02 C T System Online

## EXHIBIT A TO UCC-1 FINANCING STATEMENT

## COLLATERAL DESCRIPTION

Attached to and being a part of UCC Financing Statement from STEVENS AVIATION, INC. as Debtor, to SFT I, INC., as Secured Party (the "Financing Statement").

Reference is hereby made to that certain Leasehold Mortgage and Security Agreement made by Debtor for the benefit of Secured Party (the "Mortgage"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Mortgage.

This UCC Financing Statement covers the following property, right, title and interest now owned, or hereafter acquired by Debtor in connection with the real property described in Exhibit B attached hereto and made a part hereof.

All of Debtor's leasehold estate under and pursuant to the Lease and all of its rights in the Lease;

All of Debtor's rights in the Leased Premises;

All further or additional title, estate, interest, or right in and to the Land and improvements thereon (including the fee simple thereof) which Debtor may acquire at any time prior to Debtor's payment in full of the amount secured hereby and Debtor's complete performance of every term, covenant, condition and provision of the Mortgage;

All of Debtor's rights in and to all additions, alterations, replacements and renewals made to the Leased Premises;

All and singular the tenements, hereditaments, rights-of-way, easements, exclusive and non-exclusive rights of ingress and egress and exclusive and non-exclusive rights to use areas and facilities as described in the Lease, riparian rights and appurtenances thereunto belonging, or in anywise appertaining;

Any and all awards, damages, payment and other compensation, and any and all claims therefor and rights thereto, which may result from taking or injury by virtue of the exercise of the power of eminent domain, or any damage, improvements, injury or destruction in any manner caused to the Leased Premises or thereon, or any part thereof;

All proceeds of the foregoing, including, without limitation, the fullest extent of Debtor's right, title and interest in the insurance policies required to be maintained by Debtor pursuant to that certain Loan Agreement and that certain Real Estate Agreement and any and all proceeds of insurance of every kind whatsoever (and all unearned premiums thereon) now or hereafter payable by reason of any damage or destruction to the Leased Premises, whether payable under such insurance policies or otherwise, and all interest thereon; and

All the estate, right, title, interest, property, possession, claim and demand whatsoever of Debtor, at law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances.

DEFINED TERMS

Lease means the leases described in Exhibit B of the Mortgage and the leasehold estate created thereby, and Debtor's entire right, title and interest therein; all modifications, extensions, renewals, amendments, rights to renew or extend, and other options, privileges, and rights of Debtor under or with respect to the foregoing; all credits or deposits of Debtor under the foregoing; and all easements, rights, appurtenances, hereditaments, and other rights and privileges of every kind whatsoever of, affecting or benefiting, the foregoing.

Leased Premises means the leasehold estate created by the Lease in the Land described on Exhibit B attached hereto and incorporated herein by this reference and all improvements thereon and fixtures attached thereto, whether owned or leased by Debtor.

**Exhibit "B" to UCC-1 Financing Statement**

**[Legal Description]**

PARCEL I:
All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, THE TRUE POINT OF BEGINNING, thence running parallel to and 20 feet right of the centerline of Taxiway "B", N 32°55'08" E 1313.89 feet to a drill hole set in concrete, thence S 57°10'24" E 764.98 feet to an iron pin set 1/2" rebar, thence S 32°49'36" W 295.93 to an iron pin set 1/2" rebar, thence N 57°10'24" W 188.12 feet to a mag nail set, thence N 32°03'54" E 11.85 feet to a fence post, thence N 57°11'18" W 238.71 feet to a fence post, thence S 32°21'57" W 30.08 feet to a point on the face of building wood overhang, thence along the face of building wood overhang S 56°27'23" E 11.92 to the corner of wood overhang, thence S 33°02'29" W 18.83 to the corner of wood overhang, thence N 56°56'20" W 36.64 feet to the corner of wood overhang, thence S 33°04'17" W 48.48 feet to the corner of wood overhang, thence S 56°08'19" E 8.52 feet to the corner of wood overhang, thence S 32°58'08" W 50.29 feet to the corner of wood overhang, thence N 56°55'40" W 2.80 feet to a point on the face of wood overhang, thence leaving the face of wood overhang running S 33°04'20" W 6.86 feet to a fence post, thence N 57°00'51" W 14.56 feet to a fence post, thence S 32°19'51" W 94.72 feet to a fence post, thence S 57°39'57" E 6.50 to a fence post, thence S 33°22'35" W 15.31 feet to a point on face of building, thence running along the face of building S 57°08'03" E 73.32 feet to the building corner, thence leaving building and running S 57°08'03" E 144.52 feet to an iron pin set 1/2" rebar, thence S 32°55'16" W 986.69 feet to an iron pin found 5/8" solid rod, thence N 57°05'00" W 88.00 feet to an iron pin found 5/8" solid rod, thence N 32°55'19" E 221.01 feet to a drill hole set in concrete sidewalk, thence N 57°06'04" W 442.10 feet to the TRUE POINT OF BEGINNING, containing 16.735 acres more or less.

PARCEL II:
All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

EXHIBIT "B" – CONTINUED

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, thence along a tie line S 27°33'51" E 1406.17 feet to a fence corner, the TRUE POINT OF BEGINNING, thence along a 6' chain link fence S 56°51'54" E 128.73 feet to a fence corner, thence S 17°55'21" E 110.32 feet to a fence corner, thence S 32°14'41" W 160.71 feet to a fence corner, thence N 56°59'25" W 215.93 feet to a fence corner, thence N 32°51'39" E 8.34 feet an iron pin set 1/2" rebar, thence N 57°05'00" W 26.20 feet to an iron pin set 1/2" rebar, thence N 32°55'00" E 200.00 feet to an iron pin set 1/2" rebar, thence S 57°47'54" E 26.01 feet to an iron pin set 1/2" rebar, thence N 32°51'39" E 21.84 feet to the TRUE POINT OF BEGINNING, containing 1.187 acres more or less.

# EXHIBIT 8

Loan No. 1380:01

# ASSIGNMENT OF CONTRACTS

**THIS ASSIGNMENT OF CONTRACTS** (this "**Assignment**") is made as of the 12th day of December, 2006 by **STEVENS AVIATION, INC.**, a Delaware corporation ("**Assignor**"), in favor of **SFT I, INC.**, a Delaware corporation ("**Assignee**").

Assignor, having an office and principal place of business at Donaldson Center Air Park, 600 Delaware Street, Greenville, South Carolina 29605, for good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, does hereby collaterally assign to Assignee, with an office at c/o iStar Financial Inc., 1114 Avenue of the Americas, 27th Floor, New York, New York 10036, and does hereby grant to Assignee, a security interest in and to the entire right, title and interest of Assignor in, arising out of, or in relation to, any and all contracts, instruments, leases, tenancies, occupancy agreements, and other agreements, whether now existing or hereafter arising, solely in connection with the leasing or occupancy of land and improvements defined as the Mortgaged Property, as amended from time to time (collectively, the "**Contracts**;" it being understood that "Contracts" will not include any agreement with any customer of the Borrower other than any Lease with such customer or to the extent such an agreement or contract involves the letting or subletting of the Mortgaged Property).

**THIS ASSIGNMENT** is a present and irrevocable assignment and is made for the purpose of securing:

A. The payment of all sums and Indebtedness now or hereafter due in connection with the Loan from Assignee to Assignor pursuant to that certain Loan and Security Agreement of even date herewith by and between Assignor and Assignee (as the same may hereafter be amended, modified or supplemented from time to time, the "**Loan Agreement**") and the other Loan Documents. ***All capitalized words used but not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement***; and

B. Payment, performance and discharge of all Obligations of Assignor arising pursuant to the Loan Documents.

**THIS ASSIGNMENT** is made on the following terms, covenants and conditions:

1. Assignor hereby appoints Assignee its true, lawful and irrevocable attorney-in-fact, which appointment is coupled with an interest, to demand, receive and enforce any rights, interests and benefits accruing to Assignor under the terms of the Contracts, and after written notice given to Assignor, to sue, either in the name of Assignor or in the name of Assignee, or both, in connection with said rights, interests and benefits set forth in the Contracts. Assignee will exercise its rights as attorney-in-fact under this Paragraph 1 only after the occurrence and continuance of an Event of Default.

2. Unless an Event of Default has occurred and is then continuing, Assignor may continue to demand, receive and enforce said rights, interests and benefits under and in accordance with the terms of the Contracts.

3. Upon and during the continuance of an Event of Default, Assignee may, at its option, give written notice of this Assignment to Assignor and may demand, receive and enforce the aforesaid rights, interests and benefits under and in accordance with the terms of the Contracts. Nothing herein shall be deemed to impose upon Assignee any of the obligations or duties of Assignor provided in any of the Contracts until such time as Assignee has exercised its rights under Paragraph 1 above or under the first sentence of this Paragraph 3.

4. Assignor warrants and covenants to Assignee that Assignor shall not, without Assignee's prior written consent, execute any other assignment of the Contracts assigned to Assignee.

5. This Assignment is irrevocable and shall remain in full force and effect until and unless the Mortgage has been released; provided, however, in the event that Assignee has released the Mortgage with respect to the Mortgaged Property, this Assignment shall automatically be deemed released.

6. This Assignment, together with the agreements and warranties contained herein, shall inure to the benefit of Assignee, its successors and assigns, and shall be binding upon Assignor, its successors and assigns. Until such time as the Mortgaged Property is sold at a foreclosure sale or transferred by deed in lieu thereof, Assignee shall not assign its rights under this Assignment except in connection with the assignment of all or any part of Assignee's interest in the Loan. In connection with the sale of all or any part of Assignee's interest in the Loan, Assignee may, in Assignee's sole discretion, assign its right, title and interest in, to and under the Contracts to any persons or entities upon notice to Assignor, but without any further requirement for Assignor's consent, and any such assignment shall be valid and binding upon Assignor as fully as if it had expressly approved the same.

7. Assignor shall not enter into any new Contracts or amendments or modifications to the Contracts to the extent such actions are prohibited by the Loan Agreement.

8. In the event of any conflict between the terms hereof and the terms of the Loan Agreement, the terms of the Loan Agreement shall govern.

9. This Assignment shall be governed by and construed in accordance with the laws of the State of New York.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK;**
**SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, Assignor has duly executed this Assignment as of the date first written above.

**ASSIGNOR:**

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: Neal McGrail
Its: VP Finance

Assignment of Contracts

# EXHIBIT 9

# ASSIGNMENT OF LICENSES, PERMITS AND APPROVALS

**THIS ASSIGNMENT OF LICENSES, PERMITS AND APPROVALS** (this "**Assignment**") is made as of the 12th day of December, 2006 by **STEVENS AVIATION, INC.**, a Delaware corporation (the "**Assignor**") in favor of **STI I, INC.**, a Delaware corporation ("**Assignee**").

Assignor, having an office and principal place of business at Donaldson Center Air Park, 600 Delaware Street, Greenville, South Carolina 29605, for good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, does hereby grant to Assignee, with an office at c/o iStar Financial, Inc., 1114 Avenue of the Americas, 27th Floor, New York, New York 10036, and does hereby grant to Assignee, to the extent permitted under applicable law, a security interest in and to the entire interest of Assignor in, arising out of, or in relation to, any and all licenses, permits, authorizations, development rights, certificates of occupancy, consents, waivers, zoning approvals and other approvals heretofore or hereafter issued by any and all Governmental Authorities solely in connection with the leasing or occupancy of the Mortgaged Property.

**THIS ASSIGNMENT** is a present and irrevocable assignment and is made for the purpose of securing:

A. The payment of all sums and Indebtedness now or hereafter due in connection with the Loan from Assignee to Assignor pursuant to that certain Loan and Security Agreement of even date herewith by and between Assignor and Assignee (as the same may hereafter be amended, modified or supplemented from time to time, the "**Loan Agreement**") and the other Loan Documents. ***All capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement***; and

B. Payment, performance and discharge of all other Obligations of Assignor arising pursuant to the Loan Documents.

**THIS ASSIGNMENT** is made on the following terms, covenants and conditions:

1. Assignor hereby appoints Assignee its true, lawful and irrevocable attorney-in-fact, which appointment is coupled with an interest, to demand, receive and enforce any rights, interests and benefits accruing to Assignor under the terms of the Permits, and, after written notice given to Assignor, to sue, either in the name of Assignor or in the name of Assignee, or both, in connection with said rights, interests and benefits set forth in the Permits. Assignee will exercise its rights as attorney-in-fact under this Paragraph 1 only after the occurrence and continuance of an Event of Default.

2. Unless an Event of Default has occurred and is then continuing, Assignor may continue to demand, receive and enforce said rights, interests and benefits under and in accordance with the terms of the Permits.

3. Upon and during the continuance of an Event of Default, Assignee may, at its option, give written notice of this Assignment to Assignor and may demand, receive and enforce

the aforesaid rights, interests and benefits under and in accordance with the terms of the Permits. Nothing herein shall be deemed to impose upon Assignee any of the obligations or duties of Assignor provided in any of the Permits until such time as Assignee has exercised its rights under Paragraph 1 above or under the first sentence of this Paragraph 3.

4. Assignor warrants and covenants to Assignee that Assignor shall not, without first obtaining Assignee's consent, execute any other assignment of any or all interests assigned to Assignee.

5. This Assignment is irrevocable and shall remain in full force and effect until and unless the Mortgage has been released; provided, however, in the event that Assignee has released the Mortgage with respect to the Mortgaged Property, this Assignment shall automatically be deemed released.

6. This Assignment, together with the agreements and warranties contained herein, shall inure to the benefit of Assignee, its successors and assigns, and shall be binding upon Assignor, its successors and assigns. Until such time as the Mortgaged Property is sold at a foreclosure sale or transferred by deed in lieu thereof, Assignee shall not assign its rights under this Assignment except in connection with the assignment of all or any part of Assignee's interest in the Loan. In connection with the sale of all or any part of Assignee's interest in the Loan, Assignee may, in Assignee's sole discretion, assign its right, title and interest in, to and under the Permits to any persons or entities upon notice to Assignor, but without any further requirement for Assignor's consent, and any such assignment shall be valid and binding upon Assignor as fully as if it had expressly approved the same.

7. In the event of any conflict between the terms hereof and the terms of the Loan Agreement, the terms of the Loan Agreement shall govern.

8. This Assignment shall be governed by and construed in accordance with the laws of the State of New York.

**IN WITNESS WHEREOF**, Assignor has duly executed this Assignment as of the date first written above.

**ASSIGNOR:**

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: Neal McGrail
Its: VP Finance

Assignment of Licenses Permits + Approvals

# EXHIBIT 10

THIS INSTRUMENT WAS PREPARED BY ~~AND AFTER RECORDING IS TO BE RETURNED~~ TO:

Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, Illinois 60661
Attention: Chris Hartmann, Esq.

AFTER RECORDING RETURN TO.
First American Title Insurance Company
Attn Hilda Barbosa
30 N LaSalle St, Suite 2700
Chicago, IL 60602

2009023025 ASMT
10 PGS
Book:MO 5030 Page:3398-3407 E
March 23, 2009 09:16:05 AM
Rec:$15.00 Cnty Tax:$0.00 State Tax:$0.00
FILED IN GREENVILLE COUNTY,SC

(Space Above This Line for Recorder's Use Only)

NCS 389226 JMB 1 of 2

# ASSIGNMENT AND ASSUMPTION OF NOTE, MORTGAGE, AND OTHER LOAN DOCUMENTS

THIS ASSIGNMENT AND ASSUMPTION OF NOTE, MORTGAGE, AND OTHER LOAN DOCUMENTS ("Assignment") is made as of the 1st day of March, 2009, by SFT I, INC., a Delaware corporation, whose address is c/o iStar Financial Inc., 1114 Avenue of the Americas, New York, New York 10036 ("Assignor") to iSTAR TARA LLC, a Delaware limited liability company, whose address is c/o iStar Financial Inc., 1114 Avenue of the Americas, New York, New York 10036 ("Assignee").

## RECITALS

A. Assignor is the holder of a loan in the aggregate stated principal amount of TWENTY-FIVE MILLION and No/100 DOLLARS ($25,000,000.00) (as such loan has been amended, modified, extended, renewed, consolidated, reduced, spread or recast from time to time, the "Loan").

B. The Loan is evidenced, governed, insured and secured by various loan agreements, promissory notes, mortgages, deeds of trust, security agreements, assignments of leases, assignments of rents, assignments, stock pledges, guaranties, letters of credit, financing statements, opinion letters, instruments and other documents, including without limitation, (i) the promissory notes, if any, described in **EXHIBIT A** attached hereto and made a part hereof (collectively, the "Note"), (ii) the Mortgages and Deeds of Trust, if any, more specifically described in **EXHIBIT A** (collectively, the "Mortgage") and (iii) the documents listed on **EXHIBIT A**, other than the Note and the Mortgage (collectively, as such loan agreements, promissory notes, mortgages, deeds of trust, security agreements, assignments of leases, assignments of rents, assignments, stock pledges, guaranties, letters of credit, financing statements, opinions, letters, side letters, instruments and other documents have been modified, amended, assigned, consolidated, spread, recast, endorsed, continued, renewed, extended, superseded, exchanged, supplemented or restated from time to time, the "Loan Documents"). The Mortgage encumbers the property described on **EXHIBIT B** attached hereto and made a part hereof (the "Property").

NOW, THEREFORE, for and in consideration of the sum of Ten and no/100 Dollars ($10.00), and other good and valuable consideration paid by Assignee at the time of execution hereof, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Background Facts. The background facts as set forth above are agreed to be true and correct and incorporated herein by this reference.

2. Assignment. Assignor does hereby irrevocably grant, bargain, sell, assign, transfer and set over unto Assignee, without recourse or warranty, all of Assignor's right, title, interest, claim and demand in and to the Loan, the Notes, the Mortgages and the other Loan Documents, together with all monies, principal and interest, due and to become due thereon, and all rights, remedies and incidents thereunto belonging.

3. Assumption. From and after the date hereof, Assignee does hereby accept the foregoing assignment and assumes all of Assignor's obligations, right, title, interest, claim and demand in and to the Loan, the Notes, the Mortgages, and the other Loan Documents, together with all moneys, principal and interest, due and to become due thereon, and all rights, remedies and incidents thereunto belonging. Assignor and Assignee expressly acknowledge and agree that, except as expressly set forth herein, this Assignment shall not alter, amend, modify or otherwise affect the terms, provisions and conditions of the Loan, the Notes, the Mortgages, or the other Loan Documents.

4. Attorney-in-Fact. Assignor hereby irrevocably constitutes and appoints Assignee as its true and lawful attorney in fact, with the full power to act in Assignor's name and to otherwise enforce all of the rights of Assignor under the Notes, the Mortgages and the other Loan Documents. This power of attorney, being coupled with an interest, is irrevocable.

5. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of the parties hereto, their respective legal representatives, successors and assigns.

6. Severability. In the event any provision of this Assignment is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof.

7. Further Assurances. Assignor and Assignee hereby agree that they will execute such further documents and perform such further acts as may be necessary to properly consummate the transactions contemplated hereunder.

8. Amendments. Neither this Assignment nor any terms hereof may be amended, supplemented or modified except by a written instrument executed by the parties hereto.

9. Governing Law. This Assignment shall be governed by and construed and interpreted in accordance with the laws of the State in which the Property is located, except that the parties hereto expressly acknowledge that the Loan Documents shall be governed and construed in accordance with their respective terms.

10. Counterparts. This Assignment may be executed in several counterparts. If so executed, each of such counterparts shall be deemed an original for all purposes and all counterparts shall, collectively, constitute one agreement.

11. Notices. The Assignee's address for notice is c/o iStar Financial Inc., 1114 Avenue of the Americas, New York, New York 10036.

[EXECUTION PAGE FOLLOWS]

**WITNESS:**

Name: Valerie Calhoun

Name: Lori Ng

**ASSIGNOR:**

SFT I, INC., a Delaware corporation

By:
Name:
Title: Michelle M. MacKay
Executive Vice Presid...

STATE OF New York )
) SS
COUNTY OF New York )

On Feb. 26, 2009, before me, Tanya M Cibelli (NP)
*(Name, Title of Officer, e.g., "Jane Doe, Notary Public")*

personally appeared Michelle MacKay
*(Name(s) of Signer(s))*

☐ personally known to me -OR-
☒ proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as EVP of SFT I, INC., a Delaware corporation, and that by his/her signature on the instrument the person, or the entity upon behalf of which person acted, executed the instrument.

Witness my hand and official seal.

(Signature of Notary)

(SEAL)
My Commission expires: 3/14/09

TANYA M. CIBELLI
Notary Public, State of New York
No. 01CI6123705
Qualified in New York County
Commission Expires March 14, 2009

**WITNESS:**

Valerie Calhoun
Name: Valerie Calhoun

Lori Ng
Name: Lori Ng

**ASSIGNEE:**

iSTAR TARA LLC, a Delaware limited liability company

By: Michelle M. MacKay
Name: Michelle M. MacKay
Title: Executive Vice President

STATE OF New York )
) SS
COUNTY OF New York )

On Feb. 26, 2009, before me, Tanya M. Cibelli (NP)
*(Name, Title of Officer, e.g., "Jane Doe, Notary Public")*

personally appeared Michelle MacKay
*(Name(s) of Signer(s))*

☐ personally known to me -OR-
☒ proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as EVP of iStar Tara LLC, a Delaware limited liability company, and that by his/her signature on the instrument the person, or the entity upon behalf of which person acted, executed the instrument.

Witness my hand and official seal.

(COSGRIFF)
(Signature of Notary)

(SEAL)
My Commission expires: 3/14/09

TANYA M. CIBELLI
Notary Public, State of New York
No. 01CI6123705
Qualified in New York County
Commission Expires March 14, 2009

EXHIBIT A

(all documents dated December 12, 2006 unless otherwise noted)

1. Loan and Security Agreement between Stevens Aviation, Inc., a Delaware corporation ("Borrower"), and SFT I, Inc., a Delaware corporation ("Lender").

2. Secured Promissory Note Tranche A in the original principal amount of $21,300,000.00 made by Borrower to the order of Lender.

3. Secured Promissory Note Tranche B in the original principal amount of $3,700,000.00 made by Borrower to the order of Lender.

4. South Carolina Leasehold Mortgage, Security Agreement and Assignment of Rents by Borrower in favor of Lender, recorded on December 12, 2006 in the Office of the Register of Deeds of Greenville County, South Carolina ("Greenville Records"), as Document No. 2006120501 in Book MO 4692, at Page 258.

5. Leasehold Mortgage and Security Agreement by Borrower in favor of Lender, recorded on December 12, 2006 in the Office of the Register of Deeds for Spartanburg County, South Carolina ("Spartanburg Records"), in Book 3800, at Page 969.

6. Assignment of Contracts by Borrower in favor of Lender.

7. Assignment of Licenses, Permits and Approvals by Borrower in favor of Lender.

8. Consent Agreement by Borrower and Greenville-Spartanburg Airport District, a political subdivision of the State of South Carolina, in favor of Lender, dated November 30, 2006 and recorded on December 12, 2006 in the Spartanburg Records as Document No. MTG-2006-67069.

9. Consent Agreement by Borrower, Greenville County, South Carolina and the City of Greenville, South Carolina, in favor of Lender, dated November 20, 2006 and recorded on December 12, 2006 in the Greenville Records as Document No. 2006120500 in Book DE 2241, at Page 1117.

10. Officer's Certificate by Borrower in favor of Lender.

11. Secretary's Certificate by Borrower in favor of Lender.

12. Letter of Credit Substitution Letter between iStar Financial, Inc., JPMorgan Chase Bank, N.A. and Wachovia Bank, N.A., dated December 7, 2006.

13. Payoff Letter by Heller Financial, Inc., a Delaware corporation, acknowledged and accepted by Borrower.

14. Payoff Letter by Electra Investment Trust P.L.C. and Electra Associates, Inc., acknowledged and accepted by Borrower.

15. Subordination of Promissory Note by Thomas C. Foley, an individual, in favor of Lender.

16. UCC-1 Financing Statement naming Borrower as debtor and Lender as secured party, filed with the Delaware Secretary of State.

17. UCC-1 Financing Statement naming Borrower as debtor and Lender as secured party, filed with the Delaware Secretary of State.

18. UCC-1 Financing Statement naming Borrower as debtor and Lender as secured party, filed in Greenville County, South Carolina.

19. UCC-1 Financing Statement naming Borrower as debtor and Lender as secured party, filed in Spartanburg County, South Carolina.

EXHIBIT B

(Legal Description)

Attached.

## Legal Descriptions

### I. GSP Legal Description

PARCEL I:
All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, THE TRUE POINT OF BEGINNING, thence running parallel to and 20 feet right of the centerline of Taxiway "B", N 32°55'08" E 1313.89 feet to a drill hole set in concrete, thence S 57°10'24" E 764.98 feet to an iron pin set 1/2" rebar, thence S 32°49'36" W 295.93 to an iron pin set 1/2" rebar, thence N 57°10'24" W 188.12 feet to a mag nail set, thence N 32°03'54" E 11.85 feet to a fence post, thence N 57°11'18" W 238.71 feet to a fence post, thence S 32°21'57" W 30.08 feet to a point on the face of building wood overhang, thence along the face of building wood overhang S 56°27'23" E 11.92 to the corner of wood overhang, thence S 33°02'29" W 18.83 to the corner of wood overhang, thence N 56°56'20" W 36.64 feet to the corner of wood overhang, thence S 33°04'17" W 48.48 feet to the corner of wood overhang, thence S 56°08'19" E 8.52 feet to the corner of wood overhang, thence S 32°58'08" W 50.29 feet to the corner of wood overhang, thence N 56°55'40" W 2.80 feet to a point on the face of wood overhang, thence leaving the face of wood overhang running S 33°04'20" W 6.86 feet to a fence post, thence N 57°00'51" W 14.56 feet to a fence post, thence S 32°19'51" W 94.72 feet to a fence post, thence S 57°39'57" E 6.50 to a fence post, thence S 33°22'35" W 15.31 feet to a point on face of building, thence running along the face of building S 57°08'03" E 73.32 feet to the building corner, thence leaving building and running S 57°08'03" E 144.52 feet to an iron pin set 1/2" rebar, thence S 32°55'16" W 986.69 feet to an iron pin found 5/8" solid rod, thence N 57°05'00" W 88.00 feet to an iron pin found 5/8" solid rod, thence N 32°55'19" E 221.01 feet to a drill hole set in concrete sidewalk, thence N 57°06'04" W 442.10 feet to the TRUE POINT OF BEGINNING, containing 16.735 acres more or less.

PARCEL II:
All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, thence along a tie line S 27°33'51" E 1406.17 feet to a fence corner, the TRUE POINT OF BEGINNING, thence along a 6' chain link fence S 56°51'54" E 128.73 feet to a fence corner, thence S 17°55'21" E 110.32 feet to a fence corner, thence S 32°14'41" W 160.71 feet to a fence corner, thence N 56°59'25" W 215.93 feet to a fence corner, thence N 32°51'39" E 8.34 feet an iron pin set 1/2" rebar, thence N 57°05'00" W 26.20 feet to an iron pin set 1/2" rebar, thence N 32°55'00" E 200.00 feet to an iron pin set 1/2" rebar, thence S 57°47'54" E 26.01 feet to an iron pin set 1/2" rebar, thence N 32°51'39" E 21.84 feet to the TRUE POINT OF BEGINNING, containing 1.187 acres more or less.

## II. GYH Legal Description

All that certain piece, parcel or tract of land located, lying and being in the County of Greenville, State of South Carolina, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Greenville County in Plat Book 1026 at page 46-47 and having, according to said plat, the following metes and bounds, to-wit:

Beginning at a nail set (Labeled as P.O.B.) on the southerly side of Taxiway B-1, having South Carolina Grid Coordinates (NAD 83) of N. 1,067,218.63, E. 1,587,527.34; said point of beginning is located N 73°19'01" W 2393.23 feet (grid) from NGS Monument 23-046, thence N 40°49'19" E 1635.91 feet to a mag nail set, thence S 49°13'30" E 256.85 feet to an iron pin found 1/2" rebar, located on the northwestern right-of-way of Delaware Street (60' total r/w), thence running along the northwestern right-of-way of Delaware Street, S 40°42'52" W 347.20 feet to an iron pin set 1/2" rebar, thence along a curve to the left, having an arc length of 413.82 feet, a radius of 488.00 feet, a chord bearing and distance of S 16°25'16" W 401.53 feet to an iron pin set 1/2" rebar, thence S 07°52'20" E 446.32 feet to an iron pin set 1/2" rebar, thence running along a curve to the right, having an arc length of 354.31 feet, a radius of 415.00 feet, a chord bearing and distance of S 16°25'18" W 343.64 feet to an iron pin set 1/2" rebar, thence S 40°52'46" W 505.87 feet to an iron pin set 1/2" rebar (leaving the right-of-way of Delaware Street at point located at approximately 472 feet), thence N 48°56'23" W 61.79 feet to a fence corner, thence N 40°39'36" E 23.86 feet to an iron pin set 1/2" rebar, thence N 49°44'48" W 145.27 feet to an iron pin set 1/2" rebar, thence N 17°06'15" W 74.31 feet to a fence corner, thence N 40°23'24" E 34.87 feet to a fence corner, thence running N 49°13'52" W 528.79 feet to a nail set, thence running along a curve to the left, having an arc length of 149.48 feet, a radius of 107.50 feet, a chord bearing and distance of N 06°19'41" W 137.73 feet to the point of beginning, containing 23.550 acres more or less.

FILED FOR RECORD IN GREENVILLE COUNTY,SC ROD
2009023025 Book:MO 5030 Page:3398-3407
March 23, 2009 09:16:05 AM
Timothy L Hennessy

# EXHIBIT 11

15.00

REM 4213 PAGE 089

THIS INSTRUMENT WAS PREPARED BY ~~AND AFTER RECORDING IS TO BE RETURNED TO~~:

Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, Illinois 60661
Attention: Chris Hartmann, Esq.

AFTER RECORDING RETURN TO:
First American Title Insurance Company
Attn: Hilda Barbosa
30 N. LaSalle St, Suite 2700
Chicago, IL 60602

MTG-2009-16609
Recorded 10 Pages on 4/22/2009 3:22:38 PM
Recording Fee: $15.00 Documentary Stamps: $0.00
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register

(Space Above This Line for Recorder's Use Only.)

NCS 384226 WD 192

# ASSIGNMENT AND ASSUMPTION OF NOTE, MORTGAGE, AND OTHER LOAN DOCUMENTS

THIS ASSIGNMENT AND ASSUMPTION OF NOTE, MORTGAGE, AND OTHER LOAN DOCUMENTS ("Assignment") is made as of the 1st day of March, 2009, by SFT I, INC., a Delaware corporation, whose address is c/o iStar Financial Inc., 1114 Avenue of the Americas, New York, New York 10036 ("Assignor") to iSTAR TARA LLC, a Delaware limited liability company, whose address is c/o iStar Financial Inc., 1114 Avenue of the Americas, New York, New York 10036 ("Assignee").

## RECITALS

A. Assignor is the holder of a loan in the aggregate stated principal amount of TWENTY-FIVE MILLION and No/100 DOLLARS ($25,000,000.00) (as such loan has been amended, modified, extended, renewed, consolidated, reduced, spread or recast from time to time, the "Loan").

B. The Loan is evidenced, governed, insured and secured by various loan agreements, promissory notes, mortgages, deeds of trust, security agreements, assignments of leases, assignments of rents, assignments, stock pledges, guaranties, letters of credit, financing statements, opinion letters, instruments and other documents, including without limitation, (i) the promissory notes, if any, described in **EXHIBIT A** attached hereto and made a part hereof (collectively, the "Note"), (ii) the Mortgages and Deeds of Trust, if any, more specifically described in **EXHIBIT A** (collectively, the "Mortgage") and (iii) the documents listed on **EXHIBIT A**, other than the Note and the Mortgage (collectively, as such loan agreements, promissory notes, mortgages, deeds of trust, security agreements, assignments of leases, assignments of rents, assignments, stock pledges, guaranties, letters of credit, financing statements, opinions, letters, side letters, instruments and other documents have been modified, amended, assigned, consolidated, spread, recast, endorsed, continued, renewed, extended, superseded, exchanged, supplemented or restated from time to time, the "Loan Documents"). The Mortgage encumbers the property described on **EXHIBIT B** attached hereto and made a part hereof (the "Property").

NOW, THEREFORE, for and in consideration of the sum of Ten and no/100 Dollars ($10.00), and other good and valuable consideration paid by Assignee at the time of execution hereof, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Background Facts. The background facts as set forth above are agreed to be true and correct and incorporated herein by this reference.

2. Assignment. Assignor does hereby irrevocably grant, bargain, sell, assign, transfer and set over unto Assignee, without recourse or warranty, all of Assignor's right, title, interest, claim and demand in and to the Loan, the Notes, the Mortgages and the other Loan Documents, together with all monies, principal and interest, due and to become due thereon, and all rights, remedies and incidents thereunto belonging.

3. Assumption. From and after the date hereof, Assignee does hereby accept the foregoing assignment and assumes all of Assignor's obligations, right, title, interest, claim and demand in and to the Loan, the Notes, the Mortgages, and the other Loan Documents, together with all moneys, principal and interest, due and to become due thereon, and all rights, remedies and incidents thereunto belonging. Assignor and Assignee expressly acknowledge and agree that, except as expressly set forth herein, this Assignment shall not alter, amend, modify or otherwise affect the terms, provisions and conditions of the Loan, the Notes, the Mortgages, or the other Loan Documents.

4. Attorney-in-Fact. Assignor hereby irrevocably constitutes and appoints Assignee as its true and lawful attorney in fact, with the full power to act in Assignor's name and to otherwise enforce all of the rights of Assignor under the Notes, the Mortgages and the other Loan Documents. This power of attorney, being coupled with an interest, is irrevocable.

5. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of the parties hereto, their respective legal representatives, successors and assigns.

6. Severability. In the event any provision of this Assignment is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof.

7. Further Assurances. Assignor and Assignee hereby agree that they will execute such further documents and perform such further acts as may be necessary to properly consummate the transactions contemplated hereunder.

8. Amendments. Neither this Assignment nor any terms hereof may be amended, supplemented or modified except by a written instrument executed by the parties hereto.

9. Governing Law. This Assignment shall be governed by and construed and interpreted in accordance with the laws of the State in which the Property is located, except that the parties hereto expressly acknowledge that the Loan Documents shall be governed and construed in accordance with their respective terms.

10. Counterparts. This Assignment may be executed in several counterparts. If so executed, each of such counterparts shall be deemed an original for all purposes and all counterparts shall, collectively, constitute one agreement.

11. Notices. The Assignee's address for notice is c/o iStar Financial Inc., 1114 Avenue of the Americas, New York, New York 10036.

[EXECUTION PAGE FOLLOWS]

REM 4213 PAGE 092

**WITNESS:**

Name: Valerie Calhoun

Name: Lori Ng

**ASSIGNOR:**

SFT I, INC., a Delaware corporation

By:
Name:
Title: Michelle M. MacKay
Executive Vice President

STATE OF New York )
) SS
COUNTY OF New York )

On Feb. 26, 2009, before me, Tanya M Cibelli, NP
*(Name, Title of Officer, e.g., "Jane Doe, Notary Public")*

personally appeared Michelle MacKay
*(Name(s) of Signer(s))*

☐ personally known to me -OR-
☒ proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as EVP of SFT I, INC., a Delaware corporation, and that by his/her signature on the instrument the person, or the entity upon behalf of which person acted, executed the instrument.

Witness my hand and official seal.

(COSGRIFF)
(Signature of Notary)

(SEAL)
My Commission expires: 3/14/09

TANYA M. CIBELLI
Notary Public, State of New York
No. 01CI6123705
Qualified in New York County
Commission Expires March 14, 2009

REM 4213 PAGE 093

**WITNESS:**

Name: Valerie Calhoun

Name: Lori Ng

**ASSIGNEE:**

iSTAR TARA LLC, a Delaware limited liability company

By:
Name:
Title: Michelle M. MacKay
Executive Vice President

STATE OF New York )
) SS
COUNTY OF New York )

On February 26, 2009, before me, Tanya M Cibelli
*(Name, Title of Officer, e.g., "Jane Doe, Notary Public")*

personally appeared Michelle MacKay
*(Name(s) of Signer(s))*

☐ personally known to me -OR-
☒ proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as EVP of iStar Tara LLC, a Delaware limited liability company, and that by his/her signature on the instrument the person, or the entity upon behalf of which person acted, executed the instrument.

Witness my hand and official seal.

(COSGRIFF)
(Signature of Notary)

(SEAL)
My Commission expires: 3/14/09

TANYA M. CIBELLI
Notary Public, State of New York
No. 01CI6123705
Qualified In New York County
Commission Expires March 14, 2009

EXHIBIT A

(all documents dated December 12, 2006 unless otherwise noted)

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3. Secured Promissory Note Tranche B in the original principal amount of $3,700,000.00 made by Borrower to the order of Lender.

4. South Carolina Leasehold Mortgage, Security Agreement and Assignment of Rents by Borrower in favor of Lender, recorded on December 12, 2006 in the Office of the Register of Deeds of Greenville County, South Carolina ("Greenville Records"), as Document No. 2006120501 in Book MO 4692, at Page 258.

5. Leasehold Mortgage and Security Agreement by Borrower in favor of Lender, recorded on December 12, 2006 in the Office of the Register of Deeds for Spartanburg County, South Carolina ("Spartanburg Records"), in Book 3800, at Page 969.

6. Assignment of Contracts by Borrower in favor of Lender.

7. Assignment of Licenses, Permits and Approvals by Borrower in favor of Lender.

8. Consent Agreement by Borrower and Greenville-Spartanburg Airport District, a political subdivision of the State of South Carolina, in favor of Lender, dated November 30, 2006 and recorded on December 12, 2006 in the Spartanburg Records as Document No. MTG-2006-67069.

9. Consent Agreement by Borrower, Greenville County, South Carolina and the City of Greenville, South Carolina, in favor of Lender, dated November 20, 2006 and recorded on December 12, 2006 in the Greenville Records as Document No. 2006120500 in Book DE 2241, at Page 1117.

10. Officer's Certificate by Borrower in favor of Lender.

11. Secretary's Certificate by Borrower in favor of Lender.

12. Letter of Credit Substitution Letter between iStar Financial, Inc., JPMorgan Chase Bank, N.A. and Wachovia Bank, N.A., dated December 7, 2006.

13. Payoff Letter by Heller Financial, Inc., a Delaware corporation, acknowledged and accepted by Borrower.

14. Payoff Letter by Electra Investment Trust P.L.C. and Electra Associates, Inc., acknowledged and accepted by Borrower.

15. Subordination of Promissory Note by Thomas C. Foley, an individual, in favor of Lender.

16. UCC-1 Financing Statement naming Borrower as debtor and Lender as secured party, filed with the Delaware Secretary of State.

17. UCC-1 Financing Statement naming Borrower as debtor and Lender as secured party, filed with the Delaware Secretary of State.

18. UCC-1 Financing Statement naming Borrower as debtor and Lender as secured party, filed in Greenville County, South Carolina.

19. UCC-1 Financing Statement naming Borrower as debtor and Lender as secured party, filed in Spartanburg County, South Carolina.

EXHIBIT B

(Legal Description)

Attached.

## Legal Descriptions

### I. GSP Legal Description

PARCEL I:

All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, THE TRUE POINT OF BEGINNING, thence running parallel to and 20 feet right of the centerline of Taxiway "B", N 32°55'08" E 1313.89 feet to a drill hole set in concrete, thence S 57°10'24" E 764.98 feet to an iron pin set 1/2" rebar, thence S 32°49'36" W 295.93 to an iron pin set 1/2" rebar, thence N 57°10'24" W 188.12 feet to a mag nail set, thence N 32°03'54" E 11.85 feet to a fence post, thence N 57°11'18" W 238.71 feet to a fence post, thence S 32°21'57" W 30.08 feet to a point on the face of building wood overhang, thence along the face of building wood overhang S 56°27'23" E 11.92 to the corner of wood overhang, thence S 33°02'29" W 18.83 to the corner of wood overhang, thence N 56°56'20" W 36.64 feet to the corner of wood overhang, thence S 33°04'17" W 48.48 feet to the corner of wood overhang, thence S 56°08'19" E 8.52 feet to the corner of wood overhang, thence S 32°58'08" W 50.29 feet to the corner of wood overhang, thence N 56°55'40" W 2.80 feet to a point on the face of wood overhang, thence leaving the face of wood overhang running S 33°04'20" W 6.86 feet to a fence post, thence N 57°00'51" W 14.56 feet to a fence post, thence S 32°19'51" W 94.72 feet to a fence post, thence S 57°39'57" E 6.50 to a fence post, thence S 33°22'35" W 15.31 feet to a point on face of building, thence running along the face of building S 57°08'03" E 73.32 feet to the building corner, thence leaving building and running S 57°08'03" E 144.52 feet to an iron pin set 1/2" rebar, thence S 32°55'16" W 986.69 feet to an iron pin found 5/8" solid rod, thence N 57°05'00" W 88.00 feet to an iron pin found 5/8" solid rod, thence N 32°55'19" E 221.01 feet to a drill hole set in concrete sidewalk, thence N 57°06'04" W 442.10 feet to the TRUE POINT OF BEGINNING, containing 16.735 acres more or less.

PARCEL II:

All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 842, and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, thence along a tie line S 27°33'51" E 1406.17 feet to a fence corner, the TRUE POINT OF BEGINNING, thence along a 6' chain link fence S 56°51'54" E 128.73 feet to a fence corner, thence S 17°55'21" E 110.32 feet to a fence corner, thence S 32°14'41" W 160.71 feet to a fence corner, thence N 56°59'25" W 215.93 feet to a fence corner, thence N 32°51'39" E 8.34 feet an iron pin set 1/2" rebar, thence N 57°05'00" W 26.20 feet to an iron pin set 1/2" rebar, thence N 32°55'00" E 200.00 feet to an iron pin set 1/2" rebar, thence S 57°47'54" E 26.01 feet to an iron pin set 1/2" rebar, thence N 32°51'39" E 21.84 feet to the TRUE POINT OF BEGINNING, containing 1.187 acres more or less.

## II. GYH Legal Description

All that certain piece, parcel or tract of land located, lying and being in the County of Greenville, State of South Carolina, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Greenville County in Plat Book 1026 at page 46-47 and having, according to said plat, the following metes and bounds, to-wit:

Beginning at a nail set (Labeled as P.O.B.) on the southerly side of Taxiway B-1, having South Carolina Grid Coordinates (NAD 83) of N. 1,067,218.63, E. 1,587,527.34; said point of beginning is located N 73°19'01" W 2393.23 feet (grid) from NGS Monument 23-046, thence N 40°49'19" E 1635.91 feet to a mag nail set, thence S 49°13'30" E 256.85 feet to an iron pin found 1/2" rebar, located on the northwestern right-of-way of Delaware Street (60' total r/w), thence running along the northwestern right-of-way of Delaware Street, S 40°42'52" W 347.20 feet to an iron pin set 1/2" rebar, thence along a curve to the left, having an arc length of 413.82 feet, a radius of 488.00 feet, a chord bearing and distance of S 16°25'16" W 401.53 feet to an iron pin set 1/2" rebar, thence S 07°52'20" E 446.32 feet to an iron pin set 1/2" rebar, thence running along a curve to the right, having an arc length of 354.31 feet, a radius of 415.00 feet, a chord bearing and distance of S 16°25'18" W 343.64 feet to an iron pin set 1/2" rebar, thence S 40°52'46" W 505.87 feet to an iron pin set 1/2" rebar (leaving the right-of-way of Delaware Street at point located at approximately 472 feet), thence N 48°56'23" W 61.79 feet to a fence corner, thence N 40°39'36" E 23.86 feet to an iron pin set 1/2" rebar, thence N 49°44'48" W 145.27 feet to an iron pin set 1/2" rebar, thence N 17°06'15" W 74.31 feet to a fence corner, thence N 40°23'24" E 34.87 feet to a fence corner, thence running N 49°13'52" W 528.79 feet to a nail set, thence running along a curve to the left, having an arc length of 149.48 feet, a radius of 107.50 feet, a chord bearing and distance of N 06°19'41" W 137.73 feet to the point of beginning, containing 23.550 acres more or less.

# EXHIBIT 12

**AMENDMENT NO. 1**
**TO**
**LOAN AND SECURITY AGREEMENT**
**AND OTHER LOAN DOCUMENTS**

This Amendment No. 1 to Loan and Security Agreement and other Loan Documents (this "**Amendment**") is entered into as of March 31, 2011 (the "**Effective Date**"), by and between **STEVENS AVIATION, INC.**, a Delaware corporation, having an address at Donaldson Center Air Park, 600 Delaware Street, Greenville, South Carolina 29605 ("**Borrower**"), and **iSTAR TARA LLC**, a Delaware limited liability company and successor in interest to **SFT I, INC.**, a Delaware corporation, having an address at 1114 Avenue of the Americas, 39th Floor, New York, New York 10036 (together with its successors and assigns, "**Lender**").

**RECITALS:**

**A.** Borrower and Lender have previously executed a Loan and Security Agreement (as the same has been and may be amended from time to time, the "**Loan Agreement**") dated as of December 12, 2006, pursuant to which Lender had agreed, subject to the terms and conditions contained therein, to advance up to Twenty Five Million and No/100 Dollars ($25,000,000.00) (the "**Loan**") for, inter alia, the refinancing of two (2) FBO aviation facilities (the "**Improvements**"), located in Greenville and Spartanburg Counties, South Carolina (the "**Property**"; and the Property and the Improvements, together with the business and operations of the Borrower are hereinafter referred to as the "**Project**".)

**B.** The Loan is evidenced by (i) that certain Secured Promissory Note (Tranche A) and (ii) that certain Secured Promissory Note (Tranche B), each dated as of December 12, 2006 and made by Borrower to the order of Lender (collectively, as amended from time to time, the "**Promissory Note**"). The Loan is secured by, among other things, (i) that certain Leasehold Mortgage and Security Agreement, dated as of December 12, 2006 and recorded in the public records of Spartanburg County, South Carolina, by Borrower in favor of Lender (as amended from time to time, the "**Spartanburg Mortgage**"), and (ii) that certain South Carolina Leasehold Mortgage, Security Agreement and Assignment of Rents, dated as of December 12, 2006 and recorded in the public records of Greenville, South Carolina, by Borrower, in favor of Lender (as amended from time to time, the "**Greenville Mortgage**"; and the Greenville Mortgage and the Spartanburg Mortgage, as each may be further amended from time to time, are collectively referred to herein as the "**Mortgage**").

**C.** The Loan is also secured by, among other things, that certain Assignment of Contracts and that certain Assignment of Licenses, Permits and Approvals, each dated as of December 12, 2006, by Borrower in favor of Lender (as amended from time to time, the "**Assignments**"). The Loan Agreement, Promissory Note, Mortgage, Assignments and all other documents and agreements executed in connection with the Loan, all as same are amended, restated, supplemented or otherwise affected hereby, are hereinafter collectively referred to as the "**Loan Documents**." All capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

**D.** Borrower has requested that Lender agree to certain modifications to the Loan as more particularly set forth herein. To induce Lender to consent to such request and to amend the Loan Documents to reflect such agreement, Borrower shall execute this Amendment and those certain amendments to the Loan Documents, together with the execution and delivery of such other documents as may be required herein. Lender has agreed to make the requested amendments solely subject to and in accordance with the terms and conditions of this Amendment and of the Loan Agreement and the other Loan Documents, as amended hereby.

**E.** Borrower is in default in the payment of interest, principal and various other amounts that were due and payable to Lender under the Promissory Note and other Loan Documents prior to the Effective Date together with those certain additional breaches of covenants, representations and warranties described on Schedule E attached hereto (collectively, the "**Existing Default**"). Borrower has requested, that Lender forebear from the exercise of its rights and remedies under the Loan Documents and waive all unpaid interest and late fees which remain unpaid prior to the Effective Date, and otherwise amend and restate the Promissory Note and amend the other Loan Documents as of the Effective Date as more particularly set forth herein.

**F.** Borrower and Lender desire to amend the Loan Agreement and the Loan Documents on the terms and conditions set forth herein.

**AGREEMENT:**

NOW, THEREFORE, in consideration of their mutual agreements and covenants and other valuable consideration, the parties agree as follows:

**A.** **Waiver of Existing Default and Previously Accrued and Unpaid Interest**. Lender agrees to waive the Existing Default; provided, however, that the execution, delivery and performance of this Amendment by Lender and the acceptance by Lender of the performance of Borrower hereunder (x) shall not constitute a waiver or release by Lender of any default that may hereafter exist under the Loan Documents except for the Existing Default, and (y) shall be without prejudice to, and is not a waiver or release of, Lender's rights at any time in the future to exercise any and all rights conferred upon Lender by the Loan Documents or otherwise at law or in equity, including the right to accelerate the Note and to institute foreclosure proceedings and/or to institute collection proceedings against Borrower. In addition, Lender agrees to waive any and all accrued and unpaid interest under the Loan Documents existing prior to the Effective Date. For Borrower's information, the accrued and unpaid interest through March 31, 2011 at the original Base Rate in effect prior to the Effective Date is $1,934,916.

**B.** **Additional Collateral**. As of the Effective Date and as additional security for the Loan, Lender shall be granted a first priority security interest in the Mortgaged Property relating to the Airport Site known as Nashville International Airport located in Nashville, Tennessee (BNA). In accordance with Section H(6), and as additional security for the Loan, Lender shall be granted a first priority security interest in the Mortgaged Properties known as: (i) Dayton International Airport located in Dayton, Ohio (DAY), and (ii) Rocky Mountain Metropolitan Airport located in Denver, Colorado (BJC). Notwithstanding the foregoing, however, Lender agrees to release

its Mortgage (if applicable) on the Airport Site located in Denver, Colorado, so long as the net sales proceeds generated from such sale is not less than One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00) so long as no Event of Default exists at such time and the proceeds of such sale are applied in accordance with the terms of this Amendment.

C. **Letter of Credit**.

1. On March 17, 2011, the Letter of Credit was retired and replaced with a cash deposit in the amount of $8,925,000, which amount was deposited into an interest bearing collateral deposit account established by Lender in Lender's name at Wells Fargo Bank, N.A. ("**Wells Fargo**") for the benefit of Borrower (the "**Cash Collateral Account**"). The Cash Collateral Account is required to secure a letter of credit issued by Wells Fargo to secure Borrower's payment obligations in connection with the $8,500,000 Greenville County and City of Greenville, South Carolina Industrial Development Revenue Bonds (Stevens Aviation, Inc. Project) Series 1997. The cash deposit made by Lender on Borrower's behalf shall be treated as a draw under the Letter of Credit and an advance of funds to Borrower. As a result, notwithstanding anything to the contrary set forth herein, the outstanding principal of Component A of the Tranche A Promissory Note, as of March 17, 2011, is now equal to $18,925,000 and the outstanding principal balance of Component B of the Tranche A Promissory Note is now equal to $0.

2. If at any time the Cash Collateral Account is no longer required by Wells Fargo to secure its obligations under the above referenced letter of credit, all of the funds in the Cash Collateral Account shall be applied by Lender to repay interest and then principal on the outstanding balance of Component A of the Tranche A Promissory Note. The amounts in the Cash Collateral Account shall not constitute a trust fund. The Cash Collateral Account and the funds therein shall be secured by the Mortgage and the other security agreements in the Loan Documents. To the extent permitted by Wells Fargo, Lender shall invest the funds held in the Cash Collateral Account as directed by Borrower so long as such investments continue to be held in the name of Lender for the benefit of Borrower and are reasonably acceptable to Lender. Earnings or interest on the Cash Collateral Account shall be credited to Borrower. All interest earned on the Cash Collateral Account shall be taxable to Borrower. Borrower shall include and report such interest in its income for federal, state and local income, franchise and other tax purposes.

D. **Amendments to Loan Agreement**.

1. Section 1.1 of the Loan Agreement is hereby modified by deleting the terms "Base Rate", "Budget", "Change of Control", "Component A", "Interest Rate", "Leases", "Loan", "Material Contracts", "Maturity Date", "Mortgage", "Mortgaged Property", "Permitted Encumbrances","Permitted Holder", "Permitted Indebtedness", "Promissory Note", "Tranche A", "Tranche B", "Tranche A Promissory Note", "Tranche B Promissory Note", and the following terms are substituted in their place and stead, in correct alphabetical order:

"**Base Rate**" means: (i) with respect to Component A of Tranche A, a fixed rate of interest equal to 5% per annum; (ii) with respect to Component B of Tranche A, a

fixed rate of interest equal to 3.5% per annum; provided that draws under any Letter of Credit shall have a fixed rate of interest equal to 5% per annum as a loan under Component A of Tranche A (in accordance with Section 2.8(D)), including, without limitation, that portion of Component A consisting of the funds maintained in the Cash Collateral Account; and (iii) with respect to Tranche B, a fixed rate per annum equal to 0%.

"**Budget**" means a budget setting forth the projected revenues and budgeted costs and expenses for the ownership, operation and management for each of each of the Airport Sites, the Mortgaged Property in the aggregate, and the business and operations of the Borrower, for each calendar year commencing with calendar year 2011.

"**Change of Control**" means the occurrence of any of the following events:

(A) the sale, lease or transfer (other than by way of merger, consolidation, amalgamation or other business combination transaction), in one or a series of related transactions, of all or substantially all of the assets of the Borrower or of any of its Subsidiaries, taken as a whole and on a consolidated basis, to any Person; or

(B) the acquisition by any Person or "group" (within the meaning of Section 13(d)(3) on Section 14(d)(2) of the Exchange Act, as in effect as of the date hereof), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, as in effect as of the date hereof), in a single transaction or in a series of transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3(a) under the Exchange Act, as in effect as of the date hereof) of more than 50% of the total voting power of the Voting Shares of the Borrower or any holding company of the Borrower; provided that any Voting Shares of which any Permitted Holder is the beneficial owner shall not in any case be included in any Voting Shares of which any such person or group is the beneficial owner.

"**Component A**" means that portion of Tranche A in the principal amount of $10,000,000.00, subject to increase in the amount of any portion which is drawn under a Letter of Credit comprising Component B (it being understood that on March 17, 2011, the then outstanding Letter of Credit was replaced with a cash deposit at Wells Fargo for the benefit of Borrower and principal amount advanced as part of Component A was increased to $18,925,000 and the amount available under Component B was reduced to zero).

"**Component B**" means that portion of Tranche A in the principal amount of $8,925,000.00, which has been allocated for the Letter of Credit (it being understood that on March 17, 2011, the Letter of Credit was replaced with a cash deposit at Wells Fargo for the benefit of Borrower and principal amount advanced as part of Component A was increased to $18,925,000 and the amount available under Component B was reduced to zero).

"**Leases**" means any and all leases, subleases, occupancy agreements or grants of other possessory interests, whereby Borrower acts as the lessor, sublessor, licensor, grantor or in another similar capacity, now or hereafter in force, oral or written, covering or affecting the Land or Improvements, or any part thereof, together with all rights, powers, privileges, options and other benefits of Borrower thereunder and any and all guaranties of the obligations of the lessees, sublessees, occupants, and grantees thereunder (including Rents), as such leases, subleases, occupancy agreements or grants may be extended, renewed, modified or replaced from time to time (exclusive of any ground lease having Borrower as ground lessee).

"**Loan**" means the loan in the aggregate principal amount of up to $24,925,000.00 from Lender to Borrower as evidenced by the Promissory Note. As of the Effective Date, the Loan consists of (i) $24,925,000 advanced in cash to Borrower ($18,9245,000 of which shall be deemed to be evidenced by Component A of the Tranche A Promissory Note and (ii) $6,000,000 of which shall be deemed to be evidenced by the Tranche B Promissory Note). The conversion of the Letter of Credit to cash shall be treated as a cash advance under Component A of the Tranche A Promissory Note and is included in the amounts described above.

"**Material Contracts**" means (a) the Ground Leases, (b) any agreements evidencing the Permitted Encumbrances (not including the Letter of Credit or any agreement related to Permitted Encumbrances related to the Letter of Credit to the extent such Letter of Credit is no longer to be funded by Lender), and (c) those Contracts (not otherwise referred to in this definition of Material Contracts) set forth on **Schedule 4.6(C)** attached hereto which, if not complied with by Borrower, would reasonably be expected to have a Material Adverse Effect.

"**Maturity Date**" means (a) with respect to the Tranche A Promissory Note, March 1, 2015, (b) with respect to the Tranche B Promissory Note, March 1, 2021, or (c) such earlier date as the Loan is prepaid in full or accelerated.

"**Mortgage**" means, collectively, each of the leasehold mortgages and security agreements (or an equivalent deed of trust and security agreement, in those jurisdictions where a deed of trust is used) from Borrower to or for the benefit of Lender, constituting a first lien on the Mortgaged Property, as collateral for the Loan, as the same may be amended or modified from time to time.

"**Mortgaged Property**" means Borrower's right, title and interest in the Land, the Improvements, the Fixtures, the Leases and the Rents, the Proceeds thereof and all substitutions therefor, replacements and accessions thereto, and proceeds including "proceeds" (as defined in the UCC) derived therefrom for each of the Airport Sites, all as more specifically described in the Mortgage.

"**Permitted Encumbrances**" means the following: (a) the Leases identified on **Schedule 4.6(C)** and Leases hereafter entered into in compliance with this Agreement, (b) the matters identified on **Exhibit B**, (c) the Ground Leases, each with respect to the

Mortgaged Property, (d) the title policy exceptions identified in each of the Title Policies, and (e) any liens or encumbrances (excluding any liens or other encumbrances which run to the benefit of any Affiliate of Borrower, if any) in existence as of March 31, 2011 or otherwise granted in accordance with this Agreement at any time hereafter, which affect Borrower's title to the leasehold interest, improvements and other Mortgaged Property at its Airport Sites located at Dayton International Airport in Dayton, Ohio (DAY), Rocky Mountain Metropolitan Airport located in Denver, Colorado (BJC), and Nashville International Airport located in Nashville, Tennessee (BNA).

"**Permitted Holder**" means any of (i) Thomas C. Foley and the members of his immediate family and/or any of his or their descendants who are legal heirs; and (ii) any trust or similar instrument created for the benefit of the persons described in clause (i).

"**Permitted Indebtedness**" means (a) ordinary and customary trade payables, including, but not limited to those incurred in the ordinary course of business of ownership and operation of the Mortgaged Property, (b) working capital financing from Wells Fargo Bank, N.A. and/or its affiliates not to exceed $4,500,000.00, (c) floor plan financing, (d) the Permitted Foley Loan, (e) any Existing Indebtedness, and extensions and renewals thereof, (f) the Obligations, (g) Indebtedness secured by Liens which constitute Permitted Encumbrances, and extensions, renewals and refinancings thereof, (h) Indebtedness of the Borrower to any Subsidiary of Borrower or Indebtedness of any Subsidiary of Borrower to the Borrower or another Subsidiary of Borrower, and unsecured guarantee obligations made in the ordinary course of business by the Borrower or any of its Subsidiaries of obligations of the Borrower or any Subsidiary of the Borrower, (i) [intentionally omitted], (j) hedging obligations for bona fide hedging purposes, provided that such Hedging Obligations shall be for bona fide hedging purposes and not for speculation, (k) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is extinguished within five business days of incurrence; (l) guarantees of the Borrower or any Subsidiary of the Borrower of Permitted Indebtedness of any Subsidiary of the Borrower, and (m) Indebtedness represented by letters of credit and guarantees for the account of the Borrower in order to provide security for workers' compensation claims, payment obligations in connection with self-insurance or similar requirements in the ordinary course of business, and other Indebtedness with respect to workers' compensation claims, self-insurance obligations, performance, surety and similar bonds, and completion guarantees provided by the Borrower in the ordinary course of business.

"**Promissory Note**" means, collectively, the Tranche A Promissory Note and the Tranche B Promissory Note, made by Borrower to the order of Lender in the original aggregate principal amount of up to $24,925,000.00, as the same may be amended or modified from time to time.

"**Tranche A**" means that portion of the Loan in the principal amount of up to $18,925,000.00, which is composed of Component A and Component B.

"**Tranche A Promissory Note**" means that certain Tranche A Secured Promissory Note dated as of December 12, 2006, as amended and restated as of February 10, 2011, made by Borrower to the order of Lender in the principal amount of up to $18,925,000.00, as the same may be amended or modified from time to time.

"**Tranche B**" means that portion of the Loan in the principal amount of $6,000,000.00.

"**Tranche B Promissory Note**" means that certain Tranche B Secured Promissory Note dated as of December 12, 2006, as amended and restated as of February 10, 2011, made by Borrower to the order of Lender in the original principal amount of $6,000,000.00, as the same may be amended or modified from time to time.

2. Section 1.1 of the Loan Agreement is hereby modified by adding the following terms in correct alphabetical order:

"**Airport Sites**" shall mean Borrower's fixed base operations located in: (i) Greenville-Spartanburg Airport facility, located in Spartanburg, South Carolina (GSP), (ii) Donaldson Center Air Industrial Park, located in Greenville, South Carolina (GYH), (iii) Dayton International Airport located in Dayton, Ohio (DAY), (iv) Rocky Mountain Metropolitan Airport located in Denver, Colorado (BJC), and (v) Nashville International Airport located in Nashville, Tennessee (BNA).

"**Available Cash**" means, for each monthly period determined as of the most recent Payment Date, the amount by which the sum of (i) all cash and cash equivalents contained in any of the Borrower's bank accounts, investment accounts, and which are otherwise subject to Borrower's control and (ii) all unfunded loan proceeds under the Wells Fargo Loan which are available to Borrower as funds to be borrowed as of such Payment Date (net of all reserves, offsets and then outstanding borrowings) exceeds the sum of (a) all Current Liabilities (including current interest due and payable under the Note, current Management Fees to the extent due and payable in accordance with the terms hereof, payroll and Attributable Income Tax Liability (based on the estimated annual liability with any adjustments necessary to reflect the actual Attributed Income Tax Liability)) that management of Borrower has budgeted for payment during such month or accrued for future payment in the case of any Attributed Income Tax Liability, and (b) capital expenditures proposed for payment in such month by Borrower.

"**Capital Event**" means any one of the following: (a) any sale in one or more of a series of transactions of all or substantially all of the assets of Borrower and its Subsidiaries taken as a whole; (b) any sale or transfer by Borrower of any one or more of its Subsidiaries (excluding the sale of TCF Yachting, LLC and its Subsidiaries in connection with the Yacht Transaction); (c) any merger involving Borrower in which a majority of the shareholders of Borrower, following any such merger, were not Affiliates of Borrower prior to giving effect to the merger; (d) any liquidation or dissolution (or similar event) of the Borrower; (e) any issuance of additional share of capital stock or the creation and issuance of a new class or series of capital stock, including, without

limitation, any initial public offering and any subsequent offering of shares of capital stock of the Borrower or any of its Subsidiaries; and (f) any transaction which constitutes a Change of Control.

"**Cash Availability Trigger Event**" means at any time there is Excess Availability (as defined in the Wells Fargo Loan Documents) of at least Two Million Five Hundred Thousand and No/100 Dollars ($2,500,000.00).

"**Current Liabilities**" means, for each monthly period determined as of the most recent Payment Date in accordance with GAAP, all reasonable and necessary expenses of operating the Project which constitute "current liabilities" as defined by GAAP.

"**Effective Date**" means March 31, 2011.

"**Existing Foley Debt**" means the existing indebtedness owed to Foley in the amount of approximately $4.4 million (excluding any and all amounts owed to Foley in connection with the purchase of the Yacht, which amounts shall be deemed paid in full in accordance with the Yacht Sale Transaction), as further described on Schedule 1.1(A) attached hereto as "Existing Foley Debt".

"**Foley**" means Thomas C. Foley, a resident of Connecticut, who is one of the shareholders of Borrower, and his successors and assigns permitted pursuant to the terms of the Loan Agreement.

"**Foley Yacht Loan**" the outstanding loan(s) made by Foley to Stevens Yachting LLC, including, without limitation, the 2003 Shareholder Note (as defined in the Wells Fargo Loan documents).

"**NTC**" means NTC Group, Inc., a Delaware corporation, which is an Affiliate of Foley.

"**Permitted Foley Loan**" means a loan made to Borrower by NTC in the aggregate amount of up to $5,000,000 which may be made in multiple advances, has an interest rate equal to five percent (5%) per annum and a maturity date of no earlier than March 1, 2014, and is secured by a second lien on the collateral securing the Wells Fargo Loan and evidenced and secured by documents previously delivered to Lender.

"**Project**" means the Mortgaged Property, together with the business and operations of the Borrower.

"**Stock Transfer**" means the direct or indirect sale, transfer, pledge, assignment of shares of stock or other ownership interests by a direct or indirect shareholder or owner of Borrower.

"**Trust**" means the THOMAS C. FOLEY 2009 STEVENS AVIATION, INC. GRANTOR RETIREMENT ANNUITY TRUST, a Connecticut trust, of which

Foley is the Trustee, including any other permitted successors or assigns, and including, without limitation, any new trust created by Foley for purposes of estate planning.

**"Wells Fargo Loan"** means that certain revolving loan in a maximum amount of $4,500,000,000, made by Wells Fargo Bank, N.A. (successor by merger to Wachovia Bank, National Association) to Borrower as of April 25, 2007, any replacement financing consented to in writing by Lender.

**"Wells Fargo Loan Documents"** means all loan documents and instruments evidencing and securing the Wells Fargo Loan, dated as of April 25, 2007, as the same may be amended, modified and restated from time to time.

**"Yacht Transaction"** means that certain sale and distribution of either (i) title to that certain yacht named "Odalisque" and related supplies, equipment and other personal property related to the ownership and operation thereof (the "**Yacht**") owned by Seagoing Services Ltd., which is a wholly owned subsidiary of TCF Yachting LLC, which in turn is a wholly owned subsidiary of Stevens Yachting, LLC, which in turn is a wholly owned Subsidiary of Borrower, or (ii) the membership interests in TCF Yachting LLC to Foley as repayment in full of the Foley Yacht Loan.

3. Effective from and after the Effective Date, Section 2.3 of the Loan Agreement is hereby deleted in its entirety and the following is substituted in its place and stead:

**2.3 Payments.**

(A) Interest on the Obligations shall accrue at the Base Rate, commencing on the Effective Date; provided, however, that Borrower shall not be required to make any interest payments on the Obligations under the Tranche A Promissory Note until the Cash Availability Trigger Event has occurred. Notwithstanding the foregoing or anything else to the contrary, in the event Borrower elects from time to time to make current interest payments under the Permitted Foley Loan prior to the Cash Availability Trigger Event, Borrower shall also be required to make current interest payments for the same period on the Obligations due and payable under the Tranche A Promissory Note. All accrued interest due and payable under the Tranche A Note shall compound on a monthly basis on the last day of each calendar month. Notwithstanding anything to the contrary contained herein, no interest, prepayment penalty or premium shall accrue or be payable with respect to Tranche B. Subject to the foregoing, commencing upon the Cash Availability Trigger Event, Borrower shall be required to make current interest payments in arrears for the month preceding each Payment Date at the Base Rate on both Components of Tranche A (but excluding any previously accrued interest relating to the period prior to the Cash Availability Trigger Event, which interest shall continue to accrue), and, to the extent there are sufficient funds therefor, any unpaid accrued interest and principal on the Note, subject to Sections 2.3(B), 2.3(C) and 2.3(D) hereof. A balloon payment of all principal and interest then outstanding under the Loan

shall be due and payable on the Maturity Date.

(B) At any time after a Cash Availability Trigger Event, Borrower shall be required on a monthly basis to (i) deliver to Lender a statement certified by the chief financial officer which calculates the amount of Available Cash together with such other documentation as may be required by Lender to evidence the calculation of Available Cash as of the most recent Payment Date, and (ii) apply all such Available Cash within fifteen (15) days after the end of each calendar month as follows and in the following priority (after payment in full of all Distributions to shareholders of Borrower in an amount equal to the amount required to permit such shareholders to satisfy all Attributed Income Tax Liabilities as contemplated by the last sentence of Section 7.12):

(1) all accrued and unpaid interest on the Permitted Foley Loan, if any;

(2) all accrued and unpaid interest (including, without limitation, any previously compounded interest) on the Tranche A Promissory Note;

(4) the principal balance on the Permitted Foley Loan, if any (provided that, if at any time there is Excess Availability (as defined in the Wells Fargo Loan Documents) of less One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00), then Borrower shall cease applying Available Cash to the principal balance on the Permitted Foley Loan); and

(5) thereafter, to the extent that there is Excess Availability (as defined in the Wells Fargo Loan Documents) of at least One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00), any remaining funds shall be applied in accordance with Section 2.3(C) below.

(C) Notwithstanding anything to the contrary in Section 2.4(B) below, in connection with any Capital Event (subject to any consent rights Lender may have including Section 7.4 hereof), Borrower shall be required to (i) notify Lender in writing at least ten (10) days prior any transaction constituting a Capital Event, (ii) deliver to Lender a statement certified by the chief financial officer which calculates the amount of Available Cash (including all Available Cash generated by the Capital Event) and the amount of any net pre-tax cash proceeds to be received by Foley and the Trust from a Stock Transfer after deduction for any all non-affiliated, third party transaction expenses incurred in connection therewith, including any reasonable expenses payable to any non-affiliated financial advisor, attorney, accountant or other service provider (the "**Stock Proceeds**") and such other documentation as may be required by Lender to evidence the calculation of such Available Cash and Stock Proceeds and (iii) at the closing of such Capital

Event (in accordance with escrow instructions with a third party escrow agent to the extent one is appointed at Lender's request) apply all Available Cash resulting from each such Capital Event in accordance with this Section 2.3, with Available Cash first being applied pursuant to this Section 2.3 as follows and in the following priority (after payment in full of all Distributions to the shareholders of Borrower in an amount equal to the amount required to permit such shareholders to satisfy all Attributed Income Tax Liabilities as contemplated by the last sentence of Section 7.12):

(1) all accrued and unpaid interest and outstanding principal on the Permitted Foley Loan, if any;

(2) repay the funds contained in the Cash Collateral Account (as defined in Section 2.8) to Lender;

(3) *pari passu* and prorated (in proportion to amounts owed by Borrower) (a) all accrued and unpaid interest and principal on Component A of the Tranche A Promissory Note and other sums (other than principal and interest) due from Borrower to Lender under the Loan Documents, and (b) any accrued and unpaid Management Fees (except in connection with Lender's exercise of Lender's Buyout Right pursuant to Section 7.4 hereof);

(4) *pari passu*, one-half of the proceeds to repay the outstanding principal balance of the Tranche B Promissory Note and one-half of the proceeds to Borrower (or to any Person designated by Borrower, including, without limitation, Foley) for its own use and enjoyment (including, making Distributions to Borrower's shareholders); it being understood and agreed that (a) Borrower hereby irrevocably designates Foley as the recipient of the proceeds owing to Borrower under this sub-paragraph (4) from time to time, and (b) Foley shall have the right, from time to time, to designate one or more recipients of the proceeds referred to in clause (a) of this proviso; and

(5) thereafter, to the extent applicable, pay to Lender its share of any and all Available Cash and Stock Proceeds that are due and payable in accordance with Section 2.11 below. All other remaining Available Cash and Stock Proceeds may be applied by Borrower in its sole discretion.

(D) Notwithstanding anything to the contrary in this Amendment, no Distribution or payment of Management Fees shall be permitted for so long as an Event of Default exists and the Tranche A Promissory Note, the Letter of Credit or the Tranche B Promissory Note is outstanding unless the proceeds of such Distribution will be sufficient to cause the release of the Letter of Credit and

payment of all of the indebtedness evidenced by the Tranche A Promissory Note and Tranche B Promissory Note in full, except for Distributions to the shareholders of Borrower in an amount equal to the amount required to permit such shareholders to satisfy all Attributed Income Tax Liabilities as contemplated by the last sentence of Section 7.12. In addition, if at any time Borrower makes any payments to Foley, the Trust or NTC in violation of this Section 2.3 or of Section 2.11 below and such violation is not cured within five (5) days following discovery of such violation by Borrower, then, notwithstanding anything to the contrary in this Section 2.3, but in addition to and without limiting all other rights and remedies available to Lender, Borrower shall be required to pay all Available Cash to Lender to be applied by Lender for the repayment of the Obligations and release of its obligations under the Letter of Credit in such order as Lender shall determine in its sole and absolute discretion. Borrower shall be required to make such payments to Lender no less frequently than on each Payment Date. Borrower shall also deliver to Lender a statement certified by the chief financial officer which calculates the amount of Available Cash held by Borrower within ten (10) days after each Payment Date together with such other documentation as may be required by Lender to evidence the calculation of such Available Cash. Borrower agrees and acknowledges that Lender shall be permitted to specifically enforce Borrower's obligations hereunder. Borrower's failure to pay any amounts due and payable to Lender in accordance with Sections 2.3(A), 2.3(B) and 2.3(C) shall result in an immediate Event of Default.

4. A new Section 2.11 is hereby added to the Loan Agreement as follows:

2.11 **Additional Contingent Payments**.

(a) In addition to the payment obligations set forth in Section 2.3, if any Distributions are made by Borrower or if any payment is received by Foley, the Trust or any of their respective Affiliates in connection with (i) any Capital Event, (ii) any sale of assets of Borrower or any of its Subsidiaries outside of the ordinary course of business (excluding the Yacht Transaction and any asset sale by Borrower for the sole purpose of paying accrued and unpaid Management Fees or Attributed Income Tax Liabilities), which individually or in the aggregate together with any other such sales exceeds $1,000,000 in any twelve month period, or (iii) any Stock Transfer or any other sale, transfer or exchange of shares of Borrower by Borrower, Foley, the Trust or any Affiliates of Foley or the Trust, Lender shall be paid the following by Borrower simultaneously with the consummation of such transfer, distribution, sale or exchange:

I. if the sale, transfer or exchange is made by a shareholder in connection with a Stock Transfer, an amount equal to thirty-three and one-third percent (33.33%) of the Stock Proceeds received by Foley, the Trust or any of their respective Affiliates or its assignee up to, but in no case to exceed, the greater of (i) an amount sufficient to achieve the Internal Rate of Return Deficit and (ii) the Whole Dollar Profit Deficit (the greater of (i) and (ii) being referred to as the "**Cap Amount**"); and

II. after the Tranche A Promissory Note and the Tranche B Promissory Note has been paid in full in accordance with Section 2.3(C) above, if the sale, transfer or exchange is made by Borrower, an amount equal to thirty three and one-third percent (33.33%) of any Distributions paid to Foley, the Trust or any Affiliates of Foley or the Trust or their assignees up to the Cap Amount.

An example of how the Cap Amount is calculated is attached hereto as Exhibit C. Notwithstanding anything to the contrary in this Section 2.11, Borrower may pay the Capped Amount to Lender at any time in satisfaction of its obligations under this Section 2.11.

(b) For the purposes of this Section 2.11, the following terms shall have the following meanings:

"**Actual Whole Dollar Profit Amount**" shall mean, as of any date of determination, the total dollar amount of the interest, fees and other profit (without taking into account (x) taxes on the net income of Lender or withholding taxes imposed with respect to the Loan, (y) any payments made in connection with the Letter of Credit or the Cash Collateral Account except to the extent funds in the Cash Collateral Account are withdrawn by Wells Fargo) actually realized by Lender on the Loan from the date of the making of the Loan to the date of determination, and (z) Lender's legal or other professional fees or internal costs), which interest, fees and other profit amount shall be computed by Lender and set forth in a certificate of Lender showing, in reasonable detail, such computation for review and approval by Borrower, which approval shall not be unreasonably withheld, conditioned or delayed.

"**Internal Rate of Return Deficit**" shall mean, as of any date of determination, a positive amount of money that the Lender would need to receive in order for the Lender to have realized, as of such date of determination and after taking into account (A) all payments of the principal of and interest on the Loan (without taking into account any payments made in connection with the Letter of Credit or the Cash Collateral Account except to the extent funds in the Cash Collateral Account are withdrawn by Wells Fargo) made by Borrower since the date on which the Loan was initially made under the Loan Agreement to such date of determination and (B) all commitment fees paid by Borrower to the Lender under the Loan Agreement as of such date of determination, a twelve percent (12%) annual Internal Rate of Return on the Loan (excluding any payments made in connection with the Letter of Credit or the Cash Collateral Account except to the extent funds in the Cash Collateral Account are withdrawn by Wells Fargo and before taxes on the net income of the Lender), which amount shall be computed by the Lender and set forth in a certificate of the Lender showing, in reasonable detail, such computation for review and approval by Borrower, which approval shall not be unreasonably withheld, conditioned or delayed.

"**Internal Rate of Return**" shall mean, as of any date of determination, the discount rate at which the net present value of all payments and advances made by Lender in connection with the Loan (excluding any payments made in connection with

the Letter of Credit or the Cash Collateral Account except to the extent funds in the Cash Collateral Account are withdrawn by Wells Fargo) and all payments made to Lender by Borrower of principal and interest on the Loan (without taking into account any payments made in connection with the Letter of Credit or the Cash Collateral Account except to the extent funds in the Cash Collateral Account are withdrawn by Wells Fargo) and payments to Lender pursuant to this Section 2.11 since the date on which the Loan was initially made and all commitment fees paid by Borrower to Lender under the Loan Agreement equals zero, calculated for each such payment and advance from the date such payment or advance was made by Lender and with respect to each such payment received by Lender. For example, Lender shall have received a twelve percent (12%) annual Internal Rate of Return upon its receipt of a cumulative amount of payments that cause (a) the net present value of the aggregate of all such payments to Lender, discounted at an annual rate of twelve percent (12%) from the date each such payment was received by Lender back to the date of the advances and payments made by Lender for which each such payment is made, reduced by (b) the net present value of such payments and advances made by Lender to Borrower discounted at an annual rate of twelve percent (12%) from the date each such payment by Lender was made under the terms of the Loan Agreement, to equal zero. The Internal Rate of Return shall be calculated on the basis of the actual number of days elapsed over a 365 or 366-day year, as the case may be. Each Internal Rate of Return calculation shall be determined using a Microsoft Excel XIRR (Microsoft Office Excel 2003 edition or later) calculation and shall include a return of, as well as a return on, the relevant capital. Lender shall deliver to Borrower its calculation of the Internal Rate of Return in a certificate of Lender showing, in reasonable detail, such computation for review and approval by Borrower, which approval shall not be unreasonably withheld, conditioned or delayed. For the purpose of calculating the Internal Rate of Return received by Lender pursuant to this Section 2.11, any payments received by Lender pursuant to this Section 2.11 shall be deemed to have been received by Lender.

"**Target Whole Dollar Profit Amount**" shall mean Thirteen Million Eight Hundred Thousand and No 100 Dollars ($13,800,000.00).

"**Whole Dollar Profit Deficit**" shall mean, as of any date of determination, the positive amount by which the Target Whole Dollar Profit Amount exceeds the Actual Whole Dollar Profit Amount.

(c) If Lender has not received payments from Borrower pursuant to this Section 2.11 in an amount equal to its Cap Amount on or prior to March 1, 2021 and Foley or any of his Affiliates (or any combination thereof) then own, either directly or indirectly, as of such date, shares of capital stock or other ownership interests (including, without limitation, any options, warrants, other equity rights or indebtedness convertible or exchangeable for shares of capital stock) in Borrower, then the Fair Market Value (as defined below) of the common stock of Borrower on a fully-diluted basis shall be determined as of such date. Within thirty (30) days after the Fair Market Value is determined, Borrower shall pay to Lender an amount equal to thirty three and one-third percent (33.33%) of the Fair Market Value of all of the shares of common stock owned

by Foley, the Trust or any Affiliates of Foley or the Trust up to the Cap Amount. By way of example, if Foley, the Trust or any Affiliates of Foley or the Trust owned collectively 75 shares of common stock and the Fair Market Value of common stock on a fully diluted basis is $133,000 per share, then Lender would be entitled to a payment of $3,324,667.50 (i.e., $133,000 x 75 shares x 33.33%). For the purposes hereof, "**Fair Market Value**" shall mean, as of any date of determination, the fair market value on a per share basis of all of the common stock of Borrower calculated on a fully-diluted basis as determined by Lender and Borrower; provided however, that such valuation shall not take into account (i) any control premium, (ii) any minority discount, or (iii) the Existing Foley Debt, which shall be disregarded for the purpose of determining Fair Market Value, but such valuation shall take into account an illiquidity discount unless the shares are publicly traded. If Lender and Borrower are unable to agree upon such Fair Market Value within ten (10) Business Days following the occurrence of any event giving rise to such valuation, then Lender and Borrower shall promptly thereafter (but in no event later than three (3) Business Days) appoint a nationally recognized independent investment banking or investment valuation firm or accounting firm (which, if the parties are unable to agree upon the selection thereof, shall be one of the big four accounting firms selected by Lender, which firm shall not be the regular accounting firm of either Lender or Borrower over the past three (3) years) to determine such Fair Market Value within a reasonable period of time (but in no event later than fifteen (15) Business Days or such longer period as shall be required to complete its valuation after being engaged), which determination shall be binding and conclusive on the parties and the fees and expenses of such firm shall be borne and paid by Borrower. Borrower shall cooperate on a timely basis with all requests of such investment banking, investment valuation or accounting firm as shall be reasonably requested by such firm in connection with its valuation process.

(d) Notwithstanding anything to the contrary in this Amendment, no portion of the Existing Foley Debt shall be due or payable and no payments of the Existing Foley Debt may be made by Borrower except out of (i) Borrower's one-half share of proceeds pursuant to Section 2.3(C) above or (ii) the proceeds payable to Foley or the Trust pursuant to this Section 2.11.

(e) Nothing contained in this Section 2.11 shall be deemed or construed to waive, restrict, impair or in any manner affect Lender's rights under the Loan Documents, in Lender's sole and absolute discretion, to consent to, or withhold its consent to sales or other transfers of all or a portion of the Property or any interest therein, sales or other transfers of any ownership interests in Borrower or any other matters, to the extent such transfers are prohibited under the Loan Documents or require Lender's consent. In no event shall Borrower undertake any such actions without Lender's consent to the extent required under the Loan Documents. Notwithstanding the foregoing, however, upon the payment to Lender of all amounts due under Section 2.3(C) hereof, none of the covenants and negative covenants set forth in Article 7 of the Loan Agreement shall have any further force or effect; provided, however, that until Lender has received all payment or payments required under this Section 2.11 (in no event to exceed the Cap Amount), (i) no transaction between Borrower and an Affiliate or

between any of Borrower's direct or indirect shareholders and an Affiliate may occur (except for purposes of transfers made in connection with estate planning or as otherwise permitted by this Agreement including without limitation as provided in Section 7.12 with respect to Attributed Income Tax Liability payments) without Lender's prior written consent which may be withheld, conditioned or delayed in its sole and absolute discretion, and (ii) any proceeds which are paid to Borrower or any of its direct or indirect shareholders in violation of the terms set forth in Section 2.3 or this Section 2.11 shall be held in trust for and shall be payable to Lender.

(f) The provisions of this Section 2.11 shall survive the repayment of the Tranche A Promissory Note and the Tranche B Promissory Note and shall remain in effect until the earlier to occur of the following: (i) Lender has received payment of the Cap Amount pursuant to this Section 2.11; (ii) Foley and the Trust no longer hold any ownership interest in Borrower; and (iii) Borrower no longer has any assets. Notwithstanding the foregoing or anything else contained in this Agreement, for so long as Borrower is an "S" corporation, Borrower may pay dividends or other Distributions to its shareholders but only in an amount sufficient for such shareholders to satisfy their Attributed Income Tax Liability (which Distributions may be paid in sufficient time to permit such shareholders to pay their Attributed Income Tax Liability arising from such stockholding at the times such shareholder is obligated to make payments, including estimated payments, in respect thereof to the relevant taxing authorities).

5. Notwithstanding anything to the contrary in Section 2.4(C) and elsewhere in the Loan Agreement, no Yield Maintenance Amount shall be due or payable by Borrower except with respect to payments made during the continuation of an Event of Default.

6. The first sentence of Section 2.7 is hereby deleted in its entirety, and the following is substituted in its place and stead:

Except as otherwise expressly provided in the last sentence of this Section 2.7, all payments made to Lender hereunder pursuant to Sections 2.3(A), 2.3(B) or 2.3(C) hereof, as applicable, shall be applied, first, to the payment of any Late Charges and other sums (other than principal and interest) due from Borrower to Lender under the Loan Documents, second, to any interest then due under the Default Rate, third, to interest then due at the Base Rate, fourth, to accrued and unpaid interest, and last, to the extent applicable, to the principal balance under the Loan.

7. Section 2.8 is hereby deleted in its entirety and the following is substituted in its place and stead:

2.8 Letter of Credit/Cash Collateral Account. Prior to March 17, 2011, Lender caused the issuance and/or renewal of the Letter of Credit. From and after March 17, 2011 the Letter of Credit was retired and replaced with a cash deposit in the amount of $8,925,000, which amount was deposited into an interest bearing collateral deposit account established by Lender in Lender's name at Wells Fargo Bank, N.A. ("**Wells Fargo**") for the benefit of Borrower (the "**Cash Collateral**

**Account**"). The funds deposited into the Cash Collateral Account shall be treated as a cash advance of Loan proceeds under Component A of Tranche A in an amount equal to $8,925,000 (which was the then face amount of the Letter of Credit, thereby increasing the total amount advanced under Component A of Tranche A to $18,925,000. No further advances shall be available to Borrower under Component A or Component B.

8. Section 7.1 of the Loan Agreement is hereby deleted in its entirety and the following is substituted in its place and stead:

7.1 Indebtedness. The Borrower shall not directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt) other than Permitted Indebtedness, without Lender's prior written consent which may be withheld or conditioned in its sole discretion; provided, however, that if the proceeds of such Indebtedness would be used to refinance the Wells Fargo Loan or would create Available Cash to be applied in accordance with Section 2.3(C), then (subject to Section 7.15 herein) Lender shall not unreasonably withhold, condition or delay its consent.

9. Section 7.4 of the Loan Agreement is hereby deleted in its entirety and the following is substituted in its place and stead:

7.4 Restriction on Fundamental Changes.

(a) Borrower will not directly or indirectly through one or more Subsidiaries, without Lender's prior written consent: (1) amend, modify or waive in any material respect any term or provision of its Organizational Documents, (2) liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), (3) merge or consolidate with another Person, (4) convert into another form of organization, (5) any transaction or series of transactions that constitutes a Capital Event, or (6) acquire by purchase or otherwise all or any part of the business or assets of, or stock or other evidence of beneficial ownership of, any Person. Borrower will not issue, sell, assign, pledge, convey, dispose or otherwise encumber (or permit any of the foregoing with respect to any direct or indirect interest in) any partnership, stock, membership, beneficial or other ownership interests in Borrower or any of its Subsidiaries or grant (or permit the granting of) any options, warrants, purchase rights or other similar agreements or understandings with respect thereto, except for the following: (i) the Yacht Transaction, and (ii) to the extent expressly permitted in Section 7.4(b) below or otherwise previously approved in writing by Lender on a case by case basis.

(b) Notwithstanding anything to the contrary in this Section 7.4, Lender's consent shall not be required if (A) the transaction described in Section 7.4(a) above does not involve an Affiliate of Borrower, Foley or the Trust and is otherwise an arms length transaction on market terms, and (B) the transaction either (i) involves a Stock Transfer which does not result in a Change of Control and thirty-three and one-third percent

(33.33%) of the Stock Proceeds to be received by Foley or the Trust are paid to Lender's or (ii) the Tranche A Promissory Note (including, without limitation, the repayment of the funds contained in the Cash Collateral Account) and the Tranche B Promissory Note will be repaid in full pursuant to Section 2.3(C) hereof at the closing of any of the foregoing transactions referenced in Section 7.4(a) hereof. In addition, if the proceeds from any such transaction would be sufficient to repay the Tranche A Promissory Note in full (including, without limitation, the release of the funds contained in the Cash Collateral Account to Lender) and the condition in clause (A) above of this Section 7.4(b) is satisfied, then Lender may only withhold its consent to the transaction if Lender agrees to pay ("**Lender's Buyout Right**") the remaining unpaid principal balance of the Permitted Foley Loan in full together with any other payments which Foley and the Trust would have received pursuant to the provisions of Section 2.3 hereof (excluding the payment of any previously unpaid or accrued Management Fees, which in such event shall be deemed to have been waived and shall no longer be due or payable) if the transaction had been approved and consummated, subject to the conveyance of all of Foley's and the Trust's direct and indirect interests in Borrower to Lender. Lender's payment of the foregoing in connection with the exercise of Lender's Buyout Right and the conveyance of the ownership interests of Foley and the Trust shall be consummated in accordance with commercially standard escrow instructions reasonably acceptable to Borrower, Foley, the Trust and a third party escrow agent.

10. Section 7.7 of the Loan Agreement is hereby deleted in its entirety and the following is substituted in its place and stead:

7.7 Management Fees and Compensation; Contracts. Except as set forth on Schedule 7.7, Borrower will not enter into or become obligated under any management (property and asset), brokerage or other such similar agreement, whether with an Affiliate or any other Person, with respect to the Mortgaged Property, unless (i) the management agreement has been previously approved by Lender in writing, and (ii) the same may be terminated, without cause and without payment of a penalty or fee, on not more than thirty (30) days' prior written notice. In addition, notwithstanding anything to the contrary, the fees for any and all such agreements ("**Management Fees**") not exceed $740,000.00 annually in the aggregate and shall not be in an amount that would violate the Wells Fargo Loan Documents; provided, however, that such Management Fees shall only be deemed to have been earned and accrue from and after the Effective Date (not to exceed such $740,000 limit annually) of which $240,000 of such Management Fees in the aggregate may be paid annually in equal monthly installments at the end of each calendar month after the Cash Availability Trigger Event has occurred or if earlier, for any monthly payment period in which current interest has been paid on the Permitted Foley Loan and the Tranche A Promissory Note. Any and all accrued and unpaid Management Fees (not to exceed such $740,000 limit annually) shall be paid upon the occurrence of a Capital Event in accordance with Section 2.3(C) hereof. Notwithstanding anything to the contrary but subject to the preceding limitations in this Section 7.7, such Management Fees shall only accrue and be payable as set forth above to the extent that they are due and payable pursuant to the terms of a management agreement that has been previously approved in writing by Lender, no default exists under the terms thereof, and

no Event of Default exists. Notwithstanding anything to the contrary, no Management Fees shall be due or payable in connection with Lender's Buyout Right or at any time following the exercise of Lender's Buyout Right, and the Management Agreement shall contain a provision which is consistent with the foregoing.

11. Section 7.12 of the Loan Agreement is hereby deleted in its entirety and the following is substituted in its place and stead:

> Except as permitted in the last sentence of this Section 7.12 or in Sections 2.3, 2.11 or 7.7 hereof, Borrower shall not pay any distributions, dividends or other payments or return any capital to any of its respective partners, members, owners or shareholders or any other Affiliate (other than dividends or distributions payable in stock or other equity interests of the Borrower) or make any distribution of assets, rights, options, obligations or securities to any of its respective partners, members, shareholders or owners or any other Affiliate (individually or collectively, a **"Distribution"**). Notwithstanding the foregoing or anything else contained in this Agreement, for so long as Borrower is an "S" corporation, Borrower may pay dividends or other Distributions to its shareholders but only in an amount sufficient for such shareholders to satisfy their Attributed Income Tax Liability (which Distributions may be paid in sufficient time to permit such shareholders to pay their Attributed Income Tax Liability arising from such stockholding at the times such shareholder is obligated to make payments, including estimated payments, in respect thereof to the relevant taxing authorities).

12. Section 9.1(O) of the Loan Agreement is hereby deleted in its entirety and the following is substituted in its place and stead:

> (O) Cross-Acceleration. The occurrence of the acceleration of any of the Permitted Indebtedness in excess of $500,000.

13. Sections 7.13, 7.15, 9.1(L), 9.1(P) and 9.1(Q) and Article 13 of the Loan Agreement are hereby deleted and shall be of no further force or effect and are replaced with the words "Intentionally Deleted".

14. Exhibits A and B and all schedules to the Loan Agreement are hereby deleted and the following exhibits and schedules are hereby substituted in their place and stead as of the Effective Date:

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|---|---|
| Exhibit A | Legal Description |
| Exhibit B | Permitted Encumbrances |
| Exhibit C | Example of Calculation of Cap Amount |
| Schedule 1.1(A) | Existing Indebtedness |
| Schedule 1.1(B) | Environmental Reports |

| | |
|---|---|
| Schedule 1.1(C) | Physical Conditions Reports |
| Schedule 2.4(A) | Wiring Instructions |
| Schedule 4.1(A)-1 | Borrower U.S. Taxpayer Identification Number |
| Schedule 4.1(A)-2 | Organizational Chart |
| Schedule 4.1(A)-3 | Location of Principal Place of Business and Chief Executive Office |
| Schedule 4.6(C) | Other Material Contracts |
| Schedule 4.6(D) | Flood Plain Status |
| Schedule 4.6(E) | Ground Lease Qualifications |
| Schedule 4.7 | Litigation |
| Schedule 4.8 | Taxes |
| Schedule 4.10 | Employee Benefit Plans, Collective Bargaining Agreements and Employment Agreements |
| Schedule 4.11 | Proprietary Rights |
| Schedule 4.16 | Insurance |
| Schedule 4.17 | Budget |
| Schedule 4.21 | Leases |
| Schedule 7.7 | Management Fees; Compensation; Contracts |
| Schedule 11.5 | Notice Addresses |

15. Section 11.9 of the Loan Agreement is hereby deleted in its entirety and the following is substituted in its place and stead:

11.9 Successors and Assigns; Transfer of Loan.

(a) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns except that Borrower may not assign its rights or obligations hereunder or under any of the other Loan Documents without the written consent of Lender. Any assignee of Lender's interest in the Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to the Loan Documents which Borrower may otherwise have against any assignor of the Loan Documents.

(b) Borrower expressly recognizes and agrees that Lender may at any time without Borrower's consent (a) fund the Loan through an affiliate, (b) sell or transfer interests in the Loan and the Loan Documents related thereto to one or more participants or special purpose entities, (c) pledge Lender's interests in the Loan and the Loan Documents as security for one or more loans obtained by Lender or (d) sell or transfer Lender's interests in all or portion of the Loan and

the Loan Documents, including, without limitation, all or a portion of the rights and remedies of Lender therein, to one or more Persons (including, without limitation, special purpose entities), and that all documentation, financial statements, appraisals, reports and other data, or copies thereof, related to Borrower, the principals of Borrower or the Loan may be exhibited to and retained by any party that is reviewing the Loan for the purposes of purchasing, evaluating or servicing the Loan or any portion thereof.

(c) Borrower shall cooperate with Lender in connection with the sale, participation, pledge or the securitization of all or a part of the Loan, which cooperation shall include (i) providing additional information regarding Borrower, its business, the Mortgaged Property or any of Borrower's affiliates, including without limitation, additional appraisals, environmental reports, engineering reports and similar due diligence materials, and updates, verifications and consents with respect to such materials that were delivered on or prior to the Closing Date (as defined in the Mortgage), (ii) making modifications to the Loan Documents or the organizational documents, revisions to existing opinions or supplying additional opinions, provided that no such modification, revision, additional documents, or other action in connection with such cooperation shall increase the substantive obligations or decrease the substantive rights of Borrower under the Loan Documents, and (iii) participating (including senior management of Borrower) in meetings and presentations to prospective investors. The cost of providing such additional opinions, additional documents, revisions to existing opinions or modifications to the Loan Documents or other actions in connection with such cooperation shall be borne by Lender, except Borrower will pay the cost of making reasonable amounts of photocopies and postage and for the time incurred by its employees in the course of such cooperation.

(d) Lender shall have the right, in its sole discretion, to require that any of Lender's rights under the Loan be separated from the Loan and documented separately in order to differentiate more clearly the rights being assigned or transferred to another Person prior to the assignment thereof, including, without limitation, dividing any of the Notes into two or more separate (or component) notes. In no event shall such bifurcation of the Notes or separation of any of Lender's rights under the Loan Documents increase Borrower's obligations under the Loan Documents.

(e) Notwithstanding anything to the contrary in this Section 11.9, Lender agrees that it shall retain control and shall be the sole point of contact with respect to the administration of the Loan (including, without limitation, Lender's rights under Section 2.11 hereof) following any sale, transfer or participation of all or a portion of the Loan. Notwithstanding the foregoing, if an Event of Default has occurred and is not cured within fifteen (15) days, this Section 11.9(e) shall be null and void and of no further force or effect.

E. **References**. All references in the other Loan Documents to the Loan Agreement or other Loan Documents shall mean the Loan Agreement and the other Loan Documents as amended hereby or pursuant hereto.

F. **Representations and Warranties of Borrower and Affiliates**. In order to induce Lenders to enter into this Agreement, the Borrower hereby represents, covenants and warrants to Lender as follows as of the Effective Date:

1. The representations and warranties in the Loan Documents as amended hereby are true and correct as of the date hereof in all material respects and Borrower hereby restates and reaffirms such representations and warranties as same may be amended hereby, with the same force and effect as if made on the date hereof. Each of the schedules attached hereto are true and correct as of the date hereof.

2. After giving effect to the terms of this Amendment, no event or condition will exist, which, with the giving of notice or the passage of time, or both, would constitute a Default or an Event of Default under any of the Loan Documents. Borrower has no offsets or defenses to any amounts currently due under the Note or to any current obligations under the Loan Agreement or any other Loan Documents. Borrower currently has no defenses, claims or setoffs to the enforcement by Lender of the Loan Agreement and Loan Documents.

3. The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they will continue to be the legal, valid and binding obligations of Borrower, enforceable in accordance with their respective terms, as amended hereby, except only as enforceability may be subject to applicable bankruptcy, reorganization, moratorium and similar laws affecting the rights of creditors generally.

4. There has been no material adverse change in the financial condition of Borrower or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

5. As of the date hereof, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

6. Borrower is validly existing under the laws of the State of Delaware and has the requisite capacity, power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein and the documents and instruments to be executed and delivered by Borrower pursuant to this Amendment. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein and by any other documents and instruments to be executed and delivered by Borrower pursuant hereto have been duly authorized by all requisite action by or on behalf of Borrower, as applicable, have received all necessary approvals, and do not contravene any law or any contractual restrictions binding on Borrower or constitute a default or create a lien under (i) Borrower's partnership agreement, articles of incorporation or bylaws, or (ii) any note, instrument, lease, indenture, deed of trust, mortgage, agreement, document or other obligation of or binding upon Borrower, including,

without limitation, the Wells Fargo Loan or the Wells Fargo Loan Documents. This Agreement has been duly executed and delivered on behalf of Borrower.

7. Borrower has good and valid leasehold interest in the Land, the Improvements and the other components of the Mortgaged Property that constitute real property, subject only to the Permitted Encumbrances and except for such portion of the Land and except for interests therein which have been released from the lien of the Mortgage by Lender. Except for Permitted Encumbrances, the Mortgaged Property is free and clear of Liens and other encumbrances which are superior to the Mortgage. The Mortgage, as affected hereby, constitutes a valid first priority lien upon the Mortgaged Property and the fee simple and leasehold interests in the Land, as such term is amended hereby, such Lien being subject only to the Permitted Encumbrances (as such definition is affected by this Amendment).

8. The Yacht is owned by Seagoing Services, Ltd. Seagoing Services, Ltd. does not own any real or personal property except as described in the preceding sentence. Seagoing Services, Ltd. is a wholly owned Subsidiary of TCF Yachting LLC, which in turn is a wholly owned Subsidiary of Stevens Yachting, LLC, which in turn is a wholly owned Subsidiary of Borrower. Stevens Yachting LLC and TCF Yachting LLC do not own any assets other all of the ownership interests in their respective Subsidiaries.

**G. Covenant of Borrower**. Borrower hereby acknowledges and agrees to give Lender thirty (30) days' prior notice, or such shorter period of notice as is given to members of Borrower's board of directors, of each meeting of Borrower's board of directors so that representatives of Lender may attend. In addition, Borrower shall deliver copies of all materials which are distributed to the Borrower's board of directors in advance of, at or following each such board meeting or otherwise.

**H. Conditions to Effectiveness**. This Agreement shall not be effective unless all of the following conditions are satisfied:

1. Organizational Documents. Borrower shall have delivered to Lender such evidence of Borrower's good standing and authority to enter into this Amendment and other related documentation as Lender may request, including, without limitation, certified certificates of incorporation, certified resolutions authorizing the transactions contemplated hereby, current certificates of good standing or existence, a certificate of no change as to the organizational documents delivered to Lender in connection with the closing of the Amendment, and other such documentation as Lender may reasonably require.

2. Title Insurance. Borrower shall, at its sole cost and expense have caused the Title Company to issue a re-issued Title Policy or date-down and such other amendment endorsements to the Title Policy, that shows no matters unsatisfactory to Lender (Permitted Encumbrances shall be deemed satisfactory), reflects the recording of this Amendment and/or amendments to the Mortgage, and insures the first priority of the liens of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its initial date of issuance and any other encumbrances expressly agreed to by Lenders, and insuring any other matters reasonably required by Lender.

3. Opinion. Borrower shall deliver an opinion of counsel relating to such matters with respect to this Amendment and the transactions contemplated hereby as Lender may reasonably require.

4. Principal and Interest. After giving effect to this Amendment, payment of any all payments of principal and interest which is due and payable pursuant to the terms of this Amendment since the Effective Date.

5. Amendments to Mortgage; Promissory Note. Borrower shall execute and deliver amendments to the Mortgage, as well as amended and restated Promissory Notes, which shall amend such Mortgage and Promissory Note to evidence and secure the Obligations of the Borrower as amended by this Amendment, and shall otherwise be in form and substance satisfactory to Lender.

6. New Mortgages for Affiliated Sites.

(a) Borrower shall cause a new Mortgage to be executed and recorded to create a first priority security interest in the Affiliated Site located in Nashville, Tennessee (BNA), in a form acceptable to Lender. A Mortgage shall not be required for the Affiliated Site in Denver, Colorado, unless that Affiliated Site is not sold within three (3) months after the Effective Date; provided, however, that the Denver Affiliated Site may only be sold for a net sales price of at least One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00). If the Denver Affiliated Site has not been sold within such three month period, Borrower shall execute, deliver and record a Mortgage for the Denver Affiliated Site and deliver an enforceability opinion in connection therewith, each in form and substance acceptable to Lender in its reasonable discretion. In addition, Borrower shall execute, deliver and record a Mortgage for the Affiliated Site located in Dayton, Ohio (DAY) and deliver an enforceability opinion in connection therewith, each in form and substance acceptable to Lender in its reasonable discretion, within five (5) business days after Borrower obtains a Leasehold Mortgage Consent (as hereinafter defined) for such Affiliated Site.

(b) Borrower shall be required to deliver any and all consents required from each ground lessor, sub-ground lessor or any other Person in order for such Mortgages to be granted by Borrower and recorded on the Effective Date, except as otherwise provided herein. Borrower shall use good faith and commercially reasonable efforts to obtain such consents as soon as possible; provided, however, that if Borrower does not (i) deliver to the applicable ground lessor, sub-ground lessor or other Person a request seeking any such required consent in form and substance acceptable to Lender (collectively, the "**Leasehold Mortgage Consent**") on or prior to the Effective Date or (ii) obtain such Leasehold Mortgage Consent or cause a new Mortgage to be executed and recorded in Dayton, Ohio (DAY) as required above prior to the date which is the six month anniversary of the Effective Date, then Borrower shall be required to pay Lender a per diem fee of $2,000 until each of the foregoing has been satisfied for a period not to exceed sixty (60) days, which fee shall be due and payable to Lender on each Payment Date. If the Leasehold Mortgage Consent, recordation of the new Mortgage for the Dayton, Ohio Affiliated Site or the opinion in connection therewith has not been obtained and delivered prior to the end of such sixty (60) day period, then the fee shall cease to accrue and an Event of

Default shall be deemed to have occurred. If applicable, in the event the Mortgage for the Denver Affiliated Site and the opinion in connection therewith has not been executed, recorded and delivered as applicable in accordance with Section 6(a) above, then an Event of Default shall have occured.

7. Yacht for Loans Transaction. On or before the Effective Date, Borrower shall complete the Yacht Transaction, and Borrower shall be required to deliver to Lender satisfactory written evidence of the cancellation and acceptance of payment in full of the Foley Yacht Loan. Borrower, hereby represents and warrants that after giving effect to the Yacht Transaction there are no other outstanding loans made by Foley or any of his Affiliates to Borrower or any of its Subsidiaries, except for the Existing Foley Debt and the Permitted Foley Loan.

8. Wells Fargo Consents; Other Documents. Borrower shall deliver such consents as may be required from (i) Wells Fargo pursuant to the Wells Fargo Loan Documents, and (ii) such other agreements, certificates, powers and other documentation as may be required by Lender to evidence the agreements provided herein.

9. Wells Fargo Loan Modification. Lender shall have received copies of all of the documents between Borrower and Wells Fargo which modify or amend the Wells Fargo Loan.

10. Fees and Costs. Borrower shall pay all reasonable costs and expenses of any kind or nature related to this Amendment, including, without limitation, (a) title insurance premiums, escrow, recording and other title fees, (b) costs of any title endorsements to the Title Policy and (c) Lender's reasonable and documented attorneys' fees and out-of-pocket costs incurred in connection with the execution and delivery of this Amendment and related documents.

**I. Counterparts**. This Amendment, and any of the other Loan Documents, may be executed in any number of counterparts, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same document. Delivery by telecopier, facsimile, or electronic mail of an executed counterpart of a signature page (in any electronic format, including, without limitation, ".TIFF", ".JPG", or Adobe Corporation's Portable Document Format (".PDF")) shall be deemed an original signature page and fully effective as such. Any party delivering an executed counterpart by facsimile or other electronic method of transmission shall also deliver an original executed counterpart, but the failure to do so shall not affect the validity, enforceability, or binding effect of such executed counterpart.

**J. Indemnity**. In addition to all other obligations of Borrower hereunder, and without limiting the generality of any and all indemnity obligations of Borrower already set forth in the Loan Documents, upon Lender's demand, Borrower shall pay (or, if already paid by Lender, reimburse Lender for) any and all documentary stamp, intangible and other taxes levied on, in connection with or as a result of this Amendment No. 1, and shall indemnify Lender from and against any liability resulting from any breach of the foregoing agreement, including any interest and penalties. Lender is hereby authorized to deduct any such tax from any advance made under a Loan Document or from any account of any Borrower or mortgagor.

K. **Reaffirmation; No Waiver; Full Force and Effect**. Except as otherwise set forth herein to the contrary, the Loan Documents remain unmodified and continue in full force and effect. Borrower hereby reaffirms, confirms and ratifies each and every covenant, condition, obligation and provision set forth in the Loan Agreement, the Note, the Mortgage, the Assignments, the Financing Statements and the other Loan Documents, each as modified hereby. Other than as expressly set forth herein, by entering into this Amendment, Lender does not waive any condition or obligation in the Loan Documents. Except as amended hereby, the Loan Documents remain in full force and effect. Nothing contained in this Agreement or in any discussions, either before or after the date of this Amendment, with Borrower or any of its representatives, is intended to limit, nor shall it be deemed to limit or in any way affect, any of Lender's rights or remedies under the Loan Documents with respect to any future Default under the Loan Documents as amended hereby. No waiver by Lender shall be enforceable unless it is in writing and no waiver on any one occasion shall be deemed a waiver in any subsequent occasion.

L. **Foley Loans; Wells Fargo Loan and Lien on Wells Fargo Collateral**.

1. Lender hereby acknowledges and agrees that NTC may make the Permitted Foley Loan to Borrower, subject to Lender's prior written approval of the loan documents evidencing and securing the Permitted Foley Loan. Except for the Permitted Foley Loan and the Existing Foley Debt, no other secured or unsecured loans shall be permitted to be made by Foley or any of his Affiliates to the Borrower and its Subsidiaries. At no time may Borrower's indebtedness under the Permitted Foley Loan exceed $5,000,000; it being understood and agreed that any portion of the Permitted Foley Loan that has been advanced and repaid may be readvanced to Borrower from time to time. Notwithstanding anything to the contrary contained herein, NTC shall be permitted to Transfer or cause the Transfer of all or any portion of the Permitted Foley Loan to any Person, without Lender's prior written consent, so long as immediately following any such Transfer Foley (and/or his successors and assigns to the extent permitted as set forth below) continues to own at least 51% of the Permitted Foley Loan and at least $2,550,000 of the principal amount thereof. Notwithstanding anything to the contrary set forth herein, there shall be no restriction on a Transfer of the Permitted Foley Loan or the Existing Foley Debt by Foley (and his permitted successors and assigns) as a result of estate planning, death and/or the laws of descent and distribution; provided, however, that no other Transfers of either the Permitted Foley Loan or the Existing Foley Debt Lender's shall be permitted without Lender's prior written consent.

2. Lender hereby acknowledges and consents to the Ninth Amendment to the Wells Fargo Loan in the form provided to Lender prior to the Effective Date.

3. No amendments to the Wells Fargo Loan Documents or to any of the loan documents evidencing and securing the Permitted Foley Loan or the Existing Foley Debt (each such loan, including the Wells Fargo Loan, is hereinafter referred to as the "**Subject Indebtedness**") may be made without Lender's prior written consent, to the extent such amendment does any of the following: (i) increase the interest rate or principal amount of the Subject Indebtedness, (ii) increase in any other material respect any monetary obligations of Borrower under the loan documents evidencing and securing the Subject Indebtedness

(hereinafter referred to as the "**Subject Loan Documents**"), (iii) shorten the scheduled maturity date of the subject Indebtedness (excluding any extension options exercised in accordance with the terms and provisions of the Subject Loan Documents), (iv) modify or amend the terms and provisions with respect to the manner, timing and method of the application of payments under the Subject Loan Documents, (v) cross default the Subject Indebtedness with any other Indebtedness, (vi) consent to a higher strike price with respect to any new or extended interest rate cap agreement entered into in connection with the extended term of the Subject Indebtedness, (vii) obtain any contingent interest, additional interest or so-called "kicker" measured on the basis of the cash flow or appreciation of the business or the assets relating thereto (or other similar equity participation), (ix) extend the period during which voluntary prepayments are prohibited or during which prepayments require the payment of a prepayment fee or premium or yield maintenance charge or increase the amount of any such prepayment fee, premium or yield maintenance charge, (x) modify or amend the terms pertaining to the creation of reserves and the amounts required to be deposited therein, (xi) add any events of default under the Subject Loan Documents, or (xii) shorten any notice and cure periods provided in the Subject Loan Documents.

4. Borrower shall be required to reimburse Lender for all costs and expenses incurred by Lender in connection with any such requested Transfer or loan amendment requiring the consent of Lender hereunder (including all Attorneys' fees and expenses), regardless of whether or not such request is approved by Lender.

**M.** **APPLICABLE LAW.** THIS AMENDMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

**N.** **RELEASE.**

(1) TO THE MAXIMUM EXTENT PERMITTED BY LAW, EFFECTIVE AS OF THE EFFECTIVE DATE, BORROWER, FOR ITSELF AND, TO THE FULLEST EXTENT OF ITS ABILITY TO BIND SUCH PERSONS, FOR ITS AFFILIATES, PARTNERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS AND ITS RESPECTIVE HEIRS, SUCCESSORS AND ASSIGNS (ALL OF THE FOREGOING, THE "**RELEASING PARTIES**"), KNOWINGLY AND VOLUNTARILY (I) WAIVES ALL RIGHTS OF OFFSET, REDUCTION AND/OR DEFENSES THAT EACH SUCH PARTY MAY HAVE WITH RESPECT TO ITS OBLIGATIONS UNDER THE LOAN DOCUMENTS, AND (II) RELEASES LENDER AND ITS OFFICERS, EMPLOYEES, AGENTS, DIRECTORS AND LEGAL COUNSEL AND THEIR SUCCESSORS AND ASSIGNS (THE "**LENDER RELEASED PARTIES**") FROM AND ANY ALL CLAIMS (AS DEFINED BELOW). FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "**CLAIMS**" SHALL MEAN (I) ALL POSSIBLE CLAIMS, JUDGMENTS, DEMANDS, ACTIONS, COSTS, EXPENSES,

LIABILITIES, RIGHT OF OFFSET, REDUCTION AND/OR DEFENSE WHATSOEVER, KNOWN OR UNKNOWN, ARISING UNDER THE LOAN DOCUMENTS, AT LAW OR IN EQUITY, ORIGINATING IN WHOLE OR IN PART AT ANY TIME ON OR BEFORE THE EFFECTIVE DATE WHICH ANY RELEASING PARTY MAY NOW OR MAY HEREAFTER HAVE AGAINST ANY LENDER RELEASED PARTY, IF ANY, AND IRRESPECTIVE OF WHETHER ANY SUCH CLAIMS ARISE OUT OF CONTRACT, TORT, VIOLATION OF LAWS, OR REGULATIONS, OR OTHERWISE IN CONNECTION WITH THE LOAN, THE LOAN DOCUMENTS AND (II) ANY LOSS, COST OR DAMAGE, OF ANY KIND OR CHARACTER, ARISING OUT OF OR IN ANY WAY CONNECTED WITH OR IN ANY WAY RESULTING FROM THE ACTS OR OMISSIONS OF ANY LENDER RELEASED PARTY OR THEIR AGENTS ON OR BEFORE THE EFFECTIVE DATE. THE ACCEPTANCE OF THIS RELEASE BY THE LENDER RELEASED PARTY PURSUANT TO THIS MODIFICATION AGREEMENT SHALL NOT BE CONSTRUED AS AN ADMISSION OF LIABILITY BY THE LENDER RELEASED PARTIES. BORROWER HEREBY REPRESENTS AND WARRANTS THAT IT IS THE CURRENT LEGAL AND BENEFICIAL OWNER OF ALL CLAIMS, IF ANY, RELEASED HEREBY AND HAS NOT ASSIGNED, PLEDGED OR CONTRACTED TO ASSIGN OR PLEDGE ANY SUCH CLAIM TO ANY OTHER PERSON.

(2) In consideration of the benefits referred to in this Agreement, Lender for itself and its assigns: (a) hereby consents to the Yacht Transaction, and (b) upon the consummation of the Yacht Transaction, hereby agrees not to, directly or indirectly, challenge the Yacht Transaction in any way.

**O. NO WAIVER.** EACH BORROWER PARTY ACKNOWLEDGES AND AGREES THAT NEITHER THE EXECUTION BY LENDER OF THIS MODIFICATION AGREEMENT OR THE OTHER MODIFICATION DOCUMENTS NOR THE TERMS AND PROVISIONS CONTAINED HEREIN SHALL BE DEEMED TO BE A WAIVER, LIMITATION, OR RELEASE BY LENDER OF ANY OF ITS RIGHTS, CLAIMS OR REMEDIES UNDER THE LOAN DOCUMENTS OR THE ENVIRONMENTAL INDEMNITY, AT LAW OR IN EQUITY, INCLUDING ANY RIGHTS, CLAIMS, OR REMEDIES WITH RESPECT TO ANY DEFAULT, POTENTIAL DEFAULT OR EVENT OF DEFAULT THAT MAY NOW OR HEREAFTER EXIST, ALL OF WHICH RIGHTS, CLAIMS OR REMEDIES ARE HEREBY EXPRESSLY RESERVED, AND WHICH RIGHTS INCLUDE, WITHOUT LIMITATION, LENDER'S RIGHT TO ELECT NOT TO ADVANCE ANY PROCEEDS OF THE LOAN DURING ANY DEFAULT, POTENTIAL DEFAULT OR EVENT OF DEFAULT.

[Signatures appear on next page]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date written above.

**BORROWER:**

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: Neal McGrail
Title: COO/CFO

**LENDER:**

**iSTAR TARA LLC,**
a Delaware limited liability company

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date written above.

**BORROWER:**

**STEVENS AVIATION, INC.,**
a Delaware corporation

By:_____
Name:_____
Title:_____

**LENDER:**

**iSTAR TARA LLC,**
a Delaware limited liability company

By:_____
Name: Samantha K. Garbus
Title: Senior Vice President

**JOINDER TO AMENDMENT NO. 1 TO LOAN AND SECURITY AGREEMENT AND OTHER LOAN DOCUMENTS**

In order to induce iSTAR TARA LLC, a Delaware limited liability company and successor-in-interest to SFT I, Inc., a Delaware corporation, having its principal place of business at 1114 Avenue of the Americas, 39th Floor, New York, New York 10036 (together with its successors and assigns, "**Lender**"), to enter into the Amendment No. 1 to Loan and Security Agreement and Other Loan Documents (the "**Amendment**") dated as of the March 31, 2011 by and between Stevens Aviation, Inc., a Delaware corporation, having an address at Donaldson Center Air Park, 600 Delaware Street, Greenville, South Carolina 29605 ("**Borrower**"), THOMAS C. FOLEY, a resident of Connecticut ("**Foley**"), The NTC Group, Inc., a Delaware corporation ("NTC"), Thomas C. Foley, as Trustee of the THOMAS C. FOLEY 2009 STEVENS AVIATION, INC. GRANTOR RETIREMENT ANNUITY TRUST, a Connecticut trust (the "**Foley Trust**", and together with Foley, and NCT each a "**Beneficiary**" and collectively, the "**Beneficiaries**"), has agreed to enter into this Joinder to the Amendment. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Amendment. Beneficiary acknowledges that without this Joinder, Lender would be unwilling to enter into the Amendment.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree and covenant as follows:

1. In the event either Beneficiary receives directly or indirectly any proceeds in violation of Sections 2.3, 2.11, 7.4, 7.7 (with respect to Foley only) and 7.12, such proceeds shall be held in trust for the benefit of Lender and such Beneficiary shall promptly notify Lender of its receipt thereof and pay to Lender within one (1) Business Day after such Beneficiary's receipt thereof.

2. Each Beneficiary hereby (a) ratifies and approves the Amendment and the consummation of the transaction described therein and (b) confirms that each Beneficiary is duly authorized to enter into this Joinder and has obtained all consents required in order to do so.

3. The foregoing obligations shall be direct and immediate as a primary and not a secondary obligation or liability, and such obligations are not conditional or contingent upon the pursuit of any remedies against Borrower; provided, however, that the foregoing shall in no way limit or impair the enforcement against the Borrower of any of Lender's rights and remedies pursuant to the Loan Agreement.

4. THIS JOINDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

5. To the fullest extent permitted by applicable law, each Beneficiary agrees that its obligations under this Joinder shall be direct, primary, absolute and unconditional and that its obligations under this Joinder shall be unaffected by any of the following: (a) rights which it may

have to require that Lender first proceed against Borrower with respect to any breach of the obligations of Beneficiary hereunder; (b) the incapacity or lack of authority of Borrower or Beneficiary; (c) any duty on the part of Borrower to disclose to Beneficiary any facts it may now or hereafter know regarding Lender or the Loan; (d) lack of notice of default, demand of performance or otherwise to Lender or Beneficiary with respect to the Loan Agreement, the Amendment or any breach hereof or of the covenants referred to herein; (e) the consideration for this Joinder; (f) any acts or omissions of Borrower which vary, increase or decrease the risk on Beneficiary; (g) any statute of limitations affecting the liability of Beneficiary hereunder or the liability of Lender under the Loan Agreement, to the extent permitted by law; and (h) an election of remedies by Borrower, whether or not any such election of remedies destroys or otherwise impairs the subrogation rights of Beneficiary or the rights of Beneficiary to proceed against Lender for reimbursement, or both.

6. Beneficiary hereby consents and agrees that Borrower may at any time, and from time to time, without notice to or further consent from Beneficiary and either with or without consideration do any one or more of the following, all without affecting the agreements contained herein or the liability of Beneficiary hereunder: (a) modify the terms of the Loan Agreement, the Amendment or any document contemplated thereby; or (b) take or fail to take any action of any type whatsoever with respect to the Loan Agreement, the Amendment or this Joinder.

7. The obligations of each Beneficiary as set forth herein are several and not joint.

8. Borrower agrees that it shall not execute any further amendments to the Loan Documents without the consent of each Beneficiary.

Executed as of March 31, 2011.

**BENEFICIARY:**

By: _____
THOMAS C. FOLEY

THOMAS C. FOLEY 2009 STEVENS AVIATION, INC. GRANTOR RETIREMENT ANNUITY TRUST

By: _____
Name: Thomas C. Foley
Title: Trustee

THE NTC GROUP, INC.

By: _____
Name: Thomas C. Foley
Title: President

**Schedule 1.1(A)**

**Existing Indebtedness**

| Lender | Aggregate Principal Amount | Approximate Accrued Interest as of March 1, 2011 |
|---|---|---|
| Industrial Revenue Bonds | $8,500,000 | $7,306 |
| Thomas C. Foley, pursuant to Note to Thomas C. Foley, dated as of October 31, 1997 (Existing Foley Debt) | $1,220,000 | $135,018 |
| The NTC Group, Inc. Management Fee (Existing Foley Debt) | $3,224,287 | |
| Floor Plan Financing | $0 | $0 |
| Certain accounts payable outstanding more than 90 days from the invoice date | $2,611,162 | Aged payables report delivered to Lender under separate cover |

**Capital Leases**

| Lessor | Description | Amount | Contract Duration |
|---|---|---|---|
| Donaldson Center Dev. Commission | Baydoors & Hangar Mod | $608,750 | 10/02-10/17 |
| Marlin Lease | Corridor Enterprise Software | $4,944 | 05/06-05/11 |
| Key Equipment Finance | Corridor Enterprise Software | $7,538 | 06/06-05/11 |
| Wells Fargo Financial leasing | Corridor Enterprise Software | $6,706 | 06/06-05/11 |
| Bank of America | Corridor Enterprise Software | $6,178 | 02/07-01/12 |

| | | | |
|---|---|---|---|
| Key Equipment Finance | Great Plains Software | $8,524 | 06/06-05/11 |
| Madison Capital | Trade Show Booth | $0 | 09/06-09/10 |
| Puget Sound | Engineering Software | $11,367 | 10/08-11/11 |
| Direct Capital | Hi- lift at GSP | $18,595 | 12/08-12/12 |
| Axis Capital | GSP Phone System | $11,522 | 1/07-12/11 |
| GMC | GMC Sierra | $15,087 | 12/12 |
| Ford | Ford F150 | $5,401 | 2/12 |

**Schedule 1.1(B)**

**Environmental Reports**

| Provider | Date | Subject |
|---|---|---|
| Clayton Group Services, Inc. | 11/15/2006 | Follow Up to the Phase 1 Environmental Site Assessment Update of 2100 GSP Drive in Greer, South Carolina and 350 and 600 Delaware Street in Greenville, South Carolina; and the Phase 1 Environmental Site Assessment of 37B Freedom Court in Greenville, South Carolina |
| Clayton Group Services, Inc. | 8/4/2006 | Phase 1 Environmental Site Assessment Update of 2100 GSP Drive in Greer, South Carolina |
| Clayton Group Services, Inc. | 8/4/2006 | Phase 1 Environmental Site Assessment Update of 600 and 350 Delaware Street Greenville, South Carolina |
| Clayton Group Services, Inc. | 8/10/2006 | Phase 1 Environmental Site Assessment of 37B Freedom Court Greenville, South Carolina |

**Schedule 1.1(C)**

**Physical Condition Reports**

| Provider | Date | Subject |
|---|---|---|
| Walker Restoration Consultants | August 31, 2006 | Stevens Aviation Donaldson Air Park, Greenville, South Carolina, Project No. 31-6625.000 Due Diligence Survey |
| Walker Restoration Consultants | August 31, 2006 | Stevens Aviation GSP, Greer, South Carolina, Project No. 31-6625.000 |

**Schedule 2.4(A)**

**Wiring Instructions**

JPMorgan Chase

ABA: 021-000-021

A/C : iStar Financial SF Account

A/C # : [redacted]

Ref: StevePort

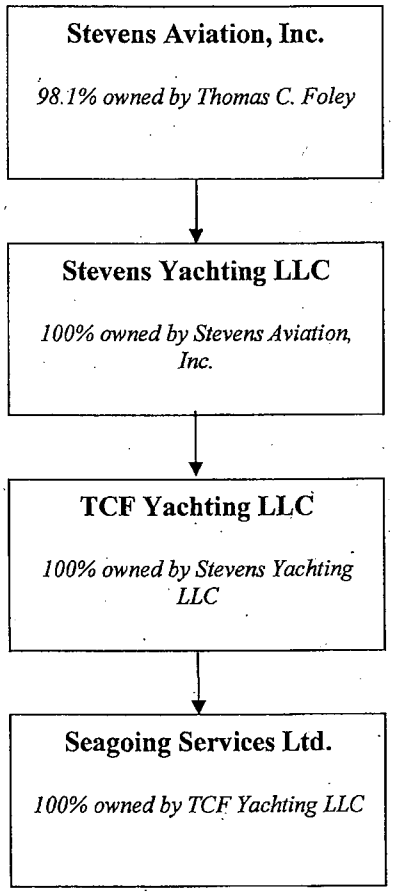
**Schedule 4.1(A)-1**

**Borrower U.S. Taxpayer Identification Number**

Stevens Aviation, Inc. [redacted]

**Schedule 4.1(A)-2**

**Organizational Chart**



**Schedule 4.1(A)-3**

**Location of Principal Place of Business and Chief Executive Office**

Stevens Aviation, Inc.
South Carolina Aviation & Technology Center
600 Delaware St.
Greenville, SC 29605

**Schedule 4.6(C)**

**Other Material Contracts**

None.

**Schedule 4.6(D)**

**Flood Plain Status**

As indicated in ALTA Surveys prepared by Bock and Clark for each of GSP and GYH in December, 2006.

**Schedule 4.6(E)**

**Ground Lease Qualifications**

| | GSP | GYH |
|---|---|---|
| 4.6(E)(2)(1) | The Memorandum of Lease, dated as of December 12, 2006, recorded in the Office of the Register of Deeds for Spartanburg County in Book 87-J at page 951 on December 12, 2006. Except as otherwise provided for in the Ground Lease or consent agreement, the consent agreement permits the interest of the lessee to be encumbered by the Mortgage. (Consent Agreement) | A memorandum of Project Lease Agreement dated October 10, 1997 related to the Ground Lease was recorded on November 6, 1997 in the Office of the Register of Deeds for Greenville County in Book 1725 at page 758, as amended by First Amendment to Lease and Memorandum Thereof dated December 12, 2006 and recorded in Book 2241 at page 1112 on December 12, 2006. Except as otherwise provided for in the Ground Lease or consent agreement, the consent agreement permits the interest of the lessee to be encumbered by the Mortgage. (Consent Agreement) |
| 4.6(E)(2)(2) | Except as otherwise set forth in the Ground Lease or title policy, the lessee's interest in the Ground Lease are not subject to any Liens or encumbrances superior to, or of equal priority with, the Mortgage other than the ground lessor's related fee interest and Permitted Encumbrances. | Except as otherwise set forth in the Ground Lease or title policy, the lessee's interest in the Ground Lease are not subject to any Liens or encumbrances superior to, or of equal priority with, the Mortgage other than the ground lessor's related fee interest and Permitted Encumbrances. |
| 4.6(E)(2)(3) | Except as otherwise set forth in the Ground Lease or consent agreement, Borrower's interests in the Ground Lease is assignable to Lender and its successors and assigns upon notice and consent of lessee. (GSP Consent Agreement) | Except as otherwise set forth in the Ground Lease or consent agreement, Borrower's interests in the Ground Lease may not be assigned to Lender and its successors and assigns without consent of lessee. (Section 20) |
| 4.6(E)(2)(4) | Except as otherwise set forth in the Ground Lease, such Ground Lease is in full force and effect, and Borrower has not received any notice that an event of default has occurred thereunder. | Except as otherwise set forth in the Ground Lease, such Ground Lease is in full force and effect, and Borrower has not received any notice that an event of default has occurred thereunder. |
| 4.6(E)(2)(5) | Except as otherwise set forth in the Ground Lease or consent agreement, the lessor is required to give notice of any default by the lessee to Lender, its | Except as otherwise set forth in the Ground Lease or consent agreement, the lessor is required to give notice of any default by the lessee to Lender, its |

| | | |
|---|---|---|
| | successors and assigns. (GSP Consent Agreement) The Ground Lease does not explicitly require delivery of a notice of termination to Lender for such a notice to be effective. | successors and assigns. (GYH Consent Agreement) The Ground Lease does not explicitly require delivery of a notice of termination to Lender for such a notice to be effective. |
| 4.6(E)(2)(6) | Except as otherwise set forth in the Ground Lease and consent agreement, Lender is entitled to notice of a default and is permitted 15 days to effect a cure of such default. (GSP Consent Agreement) | Except as otherwise set forth in the Ground Lease and consent agreement, Lender is entitled to notice of a default and is permitted 30 days to effect a cure of such default. (GYH Consent Agreement) |
| 4.6(E)(2)(7) | Except as otherwise set forth in the Ground Lease and Loan Documents, under the terms of the Ground Lease and Loan Documents taken together, any related insurance proceeds will be applied either to the repair or restoration of all or part of the Property. (Section 5.6 of Loan Agreement) Except as otherwise set forth in the Ground Lease, such Ground Lease is silent with respect to the rights of a mortgagees/beneficiary of a deed of trust to hold and disburse such proceeds. | Except as otherwise set forth in the Ground Lease and Loan Documents, under the terms of the Ground Lease and Loan Documents taken together, any related insurance proceeds will be applied either to the repair or restoration of all or part of the Property. (Section 5.6 of Loan Agreement) Except as otherwise set forth in the Ground Lease, such Ground Lease is silent with respect to the rights of a mortgagees/beneficiary of a deed of trust to hold and disburse such proceeds. |
| 4.6(E)(2)(8) | Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not impose any restrictions on subletting of the areas identified as hangars which would be viewed as commercially unreasonable. (Section XIV (B)). Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not contain a covenant of quiet enjoyment. | Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not impose any restrictions on subletting which would be viewed as commercially unreasonable. (Section 20). Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease contains a covenant of quiet enjoyment. (Section 5) |
| 4.6(E)(2)(9) | Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not require lessor to enter into a new lease with lender in the event of a termination by reason of a default by Borrower. | Except as otherwise set forth in the Ground Lease and consent agreement, the Ground Lease does not require lessor to enter into a new lease with lender in the event of a termination by reason of a default by Borrower. |

**Schedule 4.6(E) (Continued)**

Nashville Sublease

- Sublease between MAC and Stevens Aviation, Inc. ("Occupant").
- Term: Expires June 30, 2012.
- Consent of Ground Landlord required for Lender to take a leasehold mortgage: Not provided for in Sublease.
- Lender rights in a foreclosure: Not provided for in Sublease.
- Ground Landlord's consent for an assignment of the Sublease:
  - Occupant shall not have the right to assign the Sublease without MAC's and Prime Lessor's written approval (which as to MAC, shall not be unreasonably withheld or delayed). However, Occupant may assign all of its interest under this Agreement to its lender as collateral security.
- Notes: Unable to review the "Prime Lease."

Dayton Fuel Storage

- Lease between City of Dayton ("Lessor") and Stevens Aviation, Inc. ("Lessee").
- Term: Expires August 31, 2035.
- Consent of Ground Landlord required for Lender to take a leasehold mortgage: Not provided for in Lease.
- Lender rights in a foreclosure: Not provided for in Lease.
- Ground Landlord's consent for an assignment of the Lease:
  - Lessee may not sell, assign, transfer, sublet or underlet the same without the prior consent of Lessor.

Dayton Fixed Base Operations

- Lease between City of Dayton ("Lessor") and Stevens Aviation, Inc. ("Lessee").
- Term: Expires August 31, 2035.
- Consent of Ground Landlord required for Lender to take a leasehold mortgage:
  - Lessee shall have the right to mortgage its leasehold interest, provided that Lessee invests 100% of the proceeds on improving and renovating the Premises. Prior to executing such mortgage, Lessee shall deliver to Lessor written notice thereof. (§ 14).
- Lender rights in a foreclosure:
  - At the request of Lessee or any mortgagee, Lessor shall join in executing the appropriate documents (i.e.: subordination agreements or any lease amendments to add mortgagee notice and cure rights) to the extent reasonably necessary to protect mortgagee's interest. (§ 14).
- Ground Landlord's consent for an assignment of the Lease:
  - Lessee may not sell, assign, transfer, sublet or underlet the same without the prior consent of Lessor. However, Lessor gives its consent to the subleasing of hangar space to third parties and for maintenance operations.

Denver Lease

FBO Master Lease, between Jefferson County ("Lessor") and Stevens Aviation Inc. ("Lessee").

Term: Expires April 30, 2018.

Consent of Ground Landlord required for Lender to take a leasehold mortgage: Not provided for in Lease.

Lender rights in a foreclosure: Not provided for in Lease.

Ground Landlord's consent for an assignment of the Lease:

- Lessee shall not assign or sublet its rights under the Lease without the written consent of Lessor. (§ 7.1).

Denver Sublease (*Referencing the above Denver FBO Master Lease*).

Stevens Aviation Inc., as Lessee, assigned a portion of its interest in the Denver FBO Master Lease to GEP Investments, Inc. ("GEP"), pursuant to a Partial Lease Assignment and Hangar Ground Lease (the "Sublease"). The Sublease is between Jefferson County, as Lessor, and GEP, as lessee, dated as of November 1, 2004.

Term: 40 years from the Effective Date. The "Effective Date", which the parties agreed would be determined in an Amendment to the Sublease, was not available for review.

Consent of Ground Landlord required for Lender to take a leasehold mortgage: Not provided for in Sublease.

Lender rights in a foreclosure: Not provided for in Sublease.

Ground Landlord's consent for an assignment of the Sublease:

- GEP shall not assign or sublet its rights under the Sublease unless the assignee is financially acceptable to Lessor, and then, only with the written consent of Lessor, which consent shall not be unreasonably withheld provided use of the Premises remains the same.

**Schedule 4.7**

**Litigation**

1. Stevens vs Dyncorp. Stevens is suing Dyncorp for an unspecified amount for diverting aircraft from Stevens to other repair facilities in violation of contract. Stevens won a summary judgment and Dyncorp has appealed.

**Schedule 4.8**

**Taxes**

1. Borrower's Industrial Revenue Bonds were audited in 2006. The IRS found that the Borrower violated the bond agreement by depreciating the assets purchased with the bond proceeds. The Borrower paid a fine of $250,000. In addition, the IRS agreed that the Borrower was entitled to a calculated rental charge in place of depreciation. The calculated rent will create a tax credit of approximately $250,000 for years 2004 and 2005. The Company took neither depreciation nor rent after 2003. The Company settled for the previously mentioned credit of $250,000 in 2004 and 2005. The Company will restate its earnings in 2006-2008 to generate additional credits.

**Schedule 4.10(A) – (B)**

**Employee Benefit Plans, Collective Bargaining Agreements and Employment Agreements**

**(A) Material "Employee Benefit Plans" maintained by or contributed to by the Borrower (or with respect to which the Borrower is liable) for the last five years:**

| | |
|---|---|
| Stevens Aviation 401K Savings and Retirement Plan | Borrower suspended contributions in February 2009. Previously Borrower contributed 50% of employee contributions up to 6% of pay. |
| Stevens Aviation Healthcare Reimbursement Plan | Self-insured up to $90,000 per participant; $1,000,000 Lifetime limit |

**Schedule 4.11**

**Proprietary Rights**

| Registration Number | Mark |
|---|---|
| 1899205 | Stevens Aviation® |
| 76/289554 | "S" logo |

## Schedule 4.16

## Insurance

| INSURER | TYPE OF COVERAGE | POLICY NUMBER | COVERAGE PERIOD | AMOUNT OF COVERAGE |
|---|---|---|---|---|
| Allianz Global Risks US Ins Co 50% | Aircraft Hull & Liability | A4GA000387810AM | 05/01/10-05/01/11 | $50,000,000 Combined Single Limit - Liability |
| Federal Insurance Company c/o Starr Aviation - 25% | Aircraft Hull & Liability | 9957-3077-02 | 05/01/10-05/01/11 | $50,000,000 Combined Single Limit - Liability |
| Catlin Insurance c/o W. Brown & Assoc - 20% | Aircraft Hull & Liability | NQC4006420 | 05/01/10-05/01/11 | $50,000,000 Combined Single Limit - Liability |
| Old Republic Insurance Co c/o Phoenix Avn Managers - 5% | Aircraft Hull & Liability | AVC002640-02 | 05/01/10-05/01/11 | $50,000,000 Combined Single Limit - Liability |
| Allianz Global Risks US Ins Co 50% | General Liability | A4GA000387910AM | 05/01/10-05/01/11 | $50,000,000 Per Occurrence |
| Federal Insurance Company c/o Starr Aviation - 25% | General Liability | 9957-3075-02 | 05/01/10-05/01/11 | $50,000,000 Per Occurrence |
| Catlin Insurance c/o W. Brown & Assoc - 20% | General Liability | NQF4006421 | 05/01/10-05/01/11 | $50,000,000 Per Occurrence |
| Old Republic Insurance Co c/o Phoenix Avn Managers - 5% | General Liability | AP009748-02 | 05/01/10-05/01/11 | $50,000,000 Per Occurrence |
| Travelers Indemnity of Connecticut | Boiler & Machinery | BAJ-BMC871X9084 | 05/20/10-05/20/11 | $10,000,000 Limit |
| Travelers Property & Casualty Company of America | Commercial Auto | BA2572M145-10 | 05/01/10-05/01/11 | $2,000,000 Limit of Liability |

| | | | | |
|---|---|---|---|---|
| Travelers Casualty and Surety Company | Employers Practices Liability, Fiduciary Liab and Crime | 105112138 | 05/01/10-05/01/11 | EPLI - $1,000,000<br><br>Fiduciary - $1,000,000 Crime/Employee Dishonesty - $500,000 |
| St. Paul Fire & Marine | Excess Liability | QI08500125 | 05/01/10-05/01/11 | $10,000,000 |
| Chubb Environmental | Pollution | 37312826 | 03/10/09 - 03/10/12 | $3,000,000 |
| The Travelers Indemnity Co | Commercial Property | KTK6303412M436 | 05/01/10-05/01/11 | $57,850,000<br><br>Total Blanket Property Limit |
| Liberty Mutual Insurance Co. | Workers Compensation | WCK291445433010 | 05/01/10-05/01/11 | $1,000,000 |

**Schedule 4.17**

**Budget**

Delivered to Lender under separate cover.

**Schedule 4.21**

**Leases**

| Lease | Term | Leased Property | Rent |
|---|---|---|---|
| Michelin North America | October 15, 2006 - October 14, 2016 | Hangar Four - 16,340 | $8,341.07/month |
| Miliken & Company | October 16, 2006 – December 31, 2016 | Hangar One - 12,230 sq ft | $5,658.97/month |
| Air BP | October 22, 2003 – October 21, 2013 | Land occupied by BP fuel farm | $1,145.00/month |
| Gibbs International | June 2, 2007 – June 1, 2012 | Hangar Space | $3,760/month |

**Schedule 7.7**

**Management Fees**

Management Services Agreement, dated as of April 1, 1989, between The NTC Group, Inc. and Stevens Aviation, Inc., amended and restated March 31, 2011

**Schedule 11.5**

Addresses for Notice

If to Borrower:

Stevens Aviation, Inc.
Donaldson Center Air Park
600 Delaware Street
Greenville, South Carolina 29605
Attn: Neal McGrail
Telephone: 864-678-6228
Facsimile: 864-678-6041

With a copy to:

Dechert LLP
1775 I Street, N.W.
Washington, D.C. 20006-2401
Attn: David E. Schulman, Esq.
Telephone: 202-261-3440
Facsimile: 202-261-3334

If to Lender:

iStar Tara LLC
c/o iStar Financial Inc.
1114 Avenue of the Americas, 39th Floor
New York, New York 10036
Attn: Chief Operating Officer
Reference : Loan No. 1380:01
Telephone: 212-930-9400
Facsimile: 212-930-9494

With a copy to:

iStar Tara LLC
c/o iStar Financial Inc.
1114 Avenue of the Americas, 39th Floor
New York, New York 10036
Attn: Nina B. Matis, Esq./General Counsel
Reference : Loan No. 1380:01
Telephone: 212-930-9406
Facsimile: 212-930-9492

With a copy to:

iStar Asset Services Inc.
180 Glastonbury Blvd., Suite 201
Glastonbury, Connecticut 06033
Attn: President

Reference : Loan No. 1380:01
Telephone: 860-815-5900
Facsimile: 860-815-5901

With a copy to:

Katten Muchin Rosenman LLP
525 West Monroe Street
Chicago, Illinois 60661-3693
Attn: Kenneth M. Jacobson, Esq.
Reference: Loan No. 1380:01
Katten Reference: 208972/00585
Telephone: 312-902-5445
Facsimile: 312-902-1061

# EXHIBIT 13

Loan No. 1380:01

**AMENDED AND RESTATED**
**SECURED PROMISSORY NOTE**

**TRANCHE A**

**$18,925,000.00**

Amended and Restated
as of March 31, 2011

**FOR VALUE RECEIVED, STEVENS AVIATION, INC.**, a Delaware corporation ("**Borrower**"), promises to pay to **iSTAR TARA LLC**, a Delaware limited liability company and assignee of SFT I, INC., a Delaware corporation ("**Holder**"), or order, at 1114 Avenue of the Americas, 39th Floor, New York, New York 10036, or at such other place as Holder may from time to time in writing designate, in lawful money of the United States of America, the principal sum of EIGHTEEN MILLION NINE HUNDRED TWENTY-FIVE THOUSAND AND NO/100THS DOLLARS ($18,925,000.00) payable at such rates and at such times as are provided in the Loan Agreement (as hereinafter defined). Capitalized terms used herein but not otherwise defined herein shall have the meanings as ascribed to such terms in the Loan Agreement.

This Promissory Note ("**Note**") amends and restates in its entirety, as more particularly described herein, that certain secured Promissory Note, dated December 12, 2006 (the "**Original A Note**"), issued by the Borrower to SFT I, Inc., as predecessor-in-interest to Holder, in the original principal amount of Twenty One Million Three Hundred Thousand Dollars ($21,300,000.00). In conjunction with the Original A Note, Borrower also executed that certain secured Promissory Note, dated December 12, 2006, issued by Borrower to SFT I, Inc., predecessor-in-interest to Holder, in the original principal amount of Three Million Seven Hundred Thousand Dollars ($3,700,000.00) (the "**Original B Note**", and together with the Original A Note, collectively, the "**Original Notes**").

This Note evidences Indebtedness incurred under, is subject to the terms and provisions of, and is executed in connection with and pursuant to that certain Loan and Security Agreement, dated as of December 12, 2006, by and between Borrower and Holder (the "**Original Loan Agreement**"), as amended by that certain Amendment No. 1 to Loan and Security Agreement and Other Loan Documents, dated as of the date hereof, by and between Borrower and Holder (the "**First Amendment**", and together with the Original Loan Agreement, as either may be amended, modified, assigned, restated, supplemented, or otherwise modified from time to time, collectively, the "**Loan Agreement**"). The Loan Agreement, to which reference is hereby made, sets forth said terms and provisions, including those under which both Component A and Component B of this Note may or must be paid prior to its due date or may have its due date accelerated or extended. The Loan Agreement also contains provisions for the payment of late charges and interest at the Default Rate, all as more specifically set forth therein. Repayment of the Obligations evidenced by this Note is secured by the Mortgage and the other Loan Documents referred to in the Loan Agreement, and reference is made thereto for a statement of terms and provisions.

This Note is also entered into in connection with the execution and delivery of that certain Amended and Restated Secured Promissory Note (Tranche B), dated as of the date hereof, made by Borrower in favor of Holder, in the principal sum of Six Million Dollars ($6,000,000.00) (the "**B Note**", and together with this Note, collectively, the "**Notes**"), which Notes, in the aggregate, are evidence of the loan made by Lender to Borrower pursuant to the terms of the Loan Agreement (the "**Loan**").

It is expressly understood and agreed by Borrower that (i) the principal balance of this Note, together with the B Note, includes certain obligations hitherto evidenced by the Original Notes, and (ii) to the extent any of such Obligations are included in the principal balance of this Note, together with the B Note, this Note, together with the B Note: (a) merely reevidences such obligations, (b) is given in substitution for, and not in payment of, the Original Notes, and (c) is no way intended, and shall not be deemed or construed, to constitute a novation of the Original Notes. No person or entity liable to Holder for the payment of all or any part of the indebtedness evidenced by the Original Notes as so modified is intended to be released or discharged from such liability as a result of the execution and delivery of this Note.

To the extent that Borrower has granted liens, security interests, or other encumbrances on any of its properties or assets pursuant to any agreement or instrument to secure in favor of Holder the payment, performance or observances of all, or any part of the principal or interest on, the Loan evidenced by the Original Notes or any other obligations or liabilities of Borrower thereunder or under any other Loan Documents, Borrower hereby acknowledges, ratifies, confirms and reaffirms such grant of liens, security interests and other encumbrances and further acknowledges and agrees that all such liens, security interests and other encumbrances are intended, and shall be deemed and construed, to secure to the fullest extent set forth therein all now existing and hereafter arising obligations and liabilities created or arising under or evidenced by this Note and each of the other Loan Documents.

Payments of both principal and interest are to be made in lawful money of the United States of America.

This Note may only be prepaid in whole or in part in accordance with the terms of Section 2.4 of the Loan Agreement (or as otherwise expressly provided elsewhere in the Loan Agreement or the other Loan Documents). Any payments of the outstanding principal balance of the Loan evidenced by this Note, whether voluntary or involuntary, shall be accompanied by interest accrued to the date of prepayment and the Prepayment Premium, to the extent, if any, provided in Section 2.4 of the Loan Agreement (except to the extent any other provision of the Loan Agreement expressly provides otherwise).

EXCEPT AS OTHERWISE EXPRESSLY PERMITTED IN THIS NOTE OR THE OTHER LOAN DOCUMENTS, BORROWER HEREBY EXPRESSLY (i) WAIVES ANY RIGHTS IT MAY HAVE UNDER LAW TO PREPAY THIS NOTE, IN WHOLE OR IN PART, WITHOUT PENALTY, UPON ACCELERATION OF THE MATURITY DATE, AND (ii) AGREES THAT IF, FOR ANY REASON, A PREPAYMENT OF ALL OR ANY PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE IS MADE, INCLUDING, WITHOUT LIMITATION, UPON OR FOLLOWING ANY ACCELERATION OF THE MATURITY DATE BY HOLDER ON ACCOUNT OF ANY DEFAULT BY BORROWER,

INCLUDING, WITHOUT LIMITATION, ANY TRANSFER, DISPOSITION, OR FURTHER ENCUMBRANCE PROHIBITED OR RESTRICTED BY THE LOAN AGREEMENT, THEN BORROWER SHALL BE OBLIGATED TO PAY CONCURRENTLY WITH SUCH PREPAYMENT THE PREPAYMENT PREMIUM TO THE EXTENT REQUIRED UNDER SECTION 2.4 OF THE LOAN AGREEMENT. BY INITIALING THIS PROVISION IN THE SPACE PROVIDED BELOW, BORROWER HEREBY DECLARES THAT (1) EACH OF THE MATTERS SET FORTH IN THIS PARAGRAPH IS TRUE AND CORRECT, (2) HOLDER'S AGREEMENT TO MAKE THE LOAN EVIDENCED BY THIS NOTE AT THE INTEREST RATES AND FEES APPLICABLE TO COMPONENT A AND COMPONENT B OF THIS NOTE, ALL AS SET FORTH IN THE LOAN AGREEMENT AND FOR THE TERM SET FORTH IN THIS NOTE CONSTITUTES ADEQUATE CONSIDERATION FOR THIS WAIVER AND AGREEMENT, AND HAS BEEN GIVEN INDIVIDUAL WEIGHT BY BORROWER AND HOLDER, (3) BORROWER HAS RETAINED COMPETENT AND INDEPENDENT LEGAL COUNSEL, AND (4) BORROWER FULLY UNDERSTANDS THE EFFECT OF THIS WAIVER AND AGREEMENT.

The remedies of Holder, as provided in this Note, the Loan Agreement and the other Loan Documents, shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of Holder, and may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof. In any action, sale of collateral, or other proceedings to enforce this Note, the Loan Agreement or any other Loan Document, Holder need not file or produce the original of this Note, but only need file or produce a photocopy of this Note certified by Holder to be a true and correct copy of this Note.

In the event of any dispute, action or lawsuit regarding the terms hereof, subject to the provisions of the Loan Agreement, the prevailing party will have the right to recover from the other party all court costs, costs of collection, and reasonable attorneys' fees and disbursements incurred with respect thereto, in addition to all other applicable damages and costs, whether or not legal proceedings are commenced.

BORROWER AND ANY GUARANTOR OF THIS NOTE EACH WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, DILIGENCE, PRESENTMENT FOR PAYMENT, DEMAND, NOTICE OF DEMAND, NOTICE OF PROTEST, NOTICE OF NONPAYMENT OR DISHONOR, NOTICE OF INTENTION TO ACCELERATE, NOTICE OF ACCELERATION, PROTEST AND NOTICE OF PROTEST OF THIS NOTE, AND ALL OTHER NOTICES (OTHER THAN AS EXPRESSLY PROVIDED IN THE LOAN AGREEMENT OR OTHER LOAN DOCUMENTS) IN CONNECTION WITH THE DELIVERY, ACCEPTANCE, PERFORMANCE, DEFAULT OR ENFORCEMENT OF THE PAYMENT OF THIS NOTE. BORROWER FURTHER WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL VALUATION AND APPRAISEMENT PRIVILEGES, CLAIMS OF LACK OF DILIGENCE OR DELAYS IN COLLECTION OR ENFORCEMENT OF THIS NOTE, THE RELEASE OF ANY PARTY LIABLE, THE RELEASE OF ANY SECURITY FOR THE DEBT, THE TAKING OF ANY ADDITIONAL SECURITY AND ANY OTHER INDULGENCE OF FORBEARANCE.

Holder shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Holder, and then only to the extent specifically set forth in the writing. The acceptance by Holder of any payment hereunder which is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time or nullify any prior exercise of any such option without the express consent of Holder, except as and to the extent otherwise provided by law. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

PURSUANT TO SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BORROWER AND ANY GUARANTOR OF THIS NOTE EACH AGREES THAT THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES OF AMERICA AND THE LAWS OF THE STATE OF NEW YORK. IN ACCORDANCE WITH SECTION 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BORROWER AND ANY GUARANTOR EACH HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO HOLDER'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS NOTE OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS.

Whenever used, the singular number shall include the plural, the plural shall include the singular, and the words "Holder" and "Borrower" shall be deemed to include their respective heirs, executors, successors and assigns.

All notices which Holder or Borrower may be required or permitted to give hereunder shall be made in the same manner as set forth in Section 11.5 of the Loan Agreement.

If any provision of this Note shall for any reason be determined by any court, governmental body or otherwise to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not in any instance affect the validity, legality, or enforceability of any other provision of this Note in any circumstance not controlled by such determination and this Note shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein, but only to the extent of such invalidity, illegality, or unenforceability; provided that the parties intend that each provision of this Note shall be given validity and effect to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

Borrower acknowledges that Holder may, in its sole discretion, sell all or any part of its interest in the Loan evidenced by this Note, including, without limitation, for purposes of effecting a Securitization.

Notwithstanding anything to the contrary contained in this Note or any other Loan Documents, to the fullest extent permitted by applicable law, the Holder's rights hereunder shall be reinstated and revived, and the enforceability of this Note and the other Loan Documents shall

continue, with respect to any amount at any time paid on account of the Loan which thereafter shall be required to be restored by Holder pursuant to a court order or judgment (whether or not final or non-appealable), as though such amount had not been paid. The rights of Holder created or granted herein and the enforceability of the Loan Documents at all times shall, to the fullest extent permitted by applicable law, remain effective to cover the full amount of the Loan even though the Loan, including any part thereof or any other security or guaranty therefor, may be or hereafter may become invalid or otherwise unenforceable as against any other party and whether or not any other party shall have any personal liability with respect thereto.

Borrower and Holder, by acceptance of this Note, hereby agree that the Loan Documents supersede any prior oral or written agreements of the parties; without limiting the generality of the foregoing, in the event of conflict between the terms of this Note and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

Time is of the essence for the performance of each and every covenant of the parties hereunder or under the other Loan Documents. No excuse, delay, act of God, or other reason, whether or not within the control of Borrower or Holder (as the case may be), shall operate to defer, reduce or waive Borrower's or Holder's (as the case may be) performance of any such covenant or obligation.

BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF BORROWER, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE HOLDER RELATING TO THE ADMINISTRATION OF THE LOAN OR ENFORCEMENT OF THIS NOTE AND AGREE THAT NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED, UNLESS SUCH ACTION MUST BE CONSOLIDATED PURSUANT TO CONTROLLING MANDATORY JOINDER DOCTRINE, PROVIDED THAT WITH RESPECT TO SUCH CONSOLIDATED CLAIM, THE PARTIES HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, AS PROVIDED ABOVE ANY RIGHT TO A JURY TRIAL. EXCEPT AS PROHIBITED BY LAW, THE BORROWER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE BORROWER CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE HOLDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE HOLDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR THE HOLDER TO ACCEPT THIS NOTE.

TO INDUCE HOLDER TO MAKE THE LOAN, BORROWER HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY AGREES THAT ALL ACTIONS ARISING DIRECTLY OR INDIRECTLY AS A RESULT OF THIS NOTE, OR ANY OTHER LOAN DOCUMENTS, SHALL BE INSTITUTED AND

LITIGATED ONLY IN COURTS THAT HAVE SITUS IN THE COUNTY OF NEW YORK, STATE OF NEW YORK, AND BORROWER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT LOCATED AND HAVING SITUS IN SAID COUNTY OF NEW YORK, AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS. BORROWER HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS, AND CONSENTS THAT, AT HOLDER'S OPTION, ALL SUCH SERVICE OF PROCESS MAY BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO BORROWER AS SET FORTH IN SECTION 11.5 OF THE LOAN AGREEMENT.

ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT, INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE, REGARDLESS OF THE LEGAL THEORY UPON WHICH IT IS BASED. IN ORDER TO PROTECT BORROWER AND HOLDER FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENT BETWEEN BORROWER AND HOLDER COVERING SUCH MATTERS ARE CONTAINED IN THE LOAN AGREEMENT AND THE LOAN DOCUMENTS, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE PARTIES.

If, under any circumstance whatsoever, interest would otherwise be payable to Holder in excess of the maximum lawful amount, and if, under any circumstance, Holder shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of the principal of this Note and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal, such excess shall be refunded to Borrower. All interest paid or agreed to be paid to Holder shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal so that the interest hereon for such full period shall not exceed the maximum amount permitted by applicable law.

Borrower may not delegate all or any portion of its obligations under this Note without the prior written consent of Holder, which may be withheld in its sole and exclusive discretion, and any delegatee so approved by Holder shall be required to assume all obligations of Borrower under this Note.

This Note shall inure to the benefit of each successive Holder, and its respective heirs, legal representatives, successors and assigns, and shall bind Borrower, all guarantors and endorsers, and their respective heirs, legal representatives, successors and permitted assigns.

(END OF PAGE)

IN WITNESS WHEREOF, Borrower, intending to be legally bound hereby, has duly executed this Note the day and year first above written.

**BORROWER:**

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: Neal McGrail
Its: Controller

Loan No. 1380:01

**AMENDED AND RESTATED**
**SECURED PROMISSORY NOTE**

**TRANCHE B**

**$6,000,000.00**

Amended and Restated
as of March 31, 2011

**FOR VALUE RECEIVED, STEVENS AVIATION, INC.,** a Delaware corporation ("**Borrower**"), promises to pay to **iSTAR TARA LLC**, a Delaware limited liability company and assignee of SFT I, INC., a Delaware corporation ("**Holder**"), or order, at 1114 Avenue of the Americas, 39th Floor, New York, New York 10036, or at such other place as Holder may from time to time in writing designate, in lawful money of the United States of America, the principal sum of SIX MILLION ($6,000,000.00) payable at such rates and at such times as are provided in the Loan Agreement (as hereinafter defined). Capitalized terms used herein but not otherwise defined herein shall have the meanings as ascribed to such terms in the Loan Agreement.

This Promissory Note ("**Note**") amends and restates in its entirety, as more particularly described herein, that certain secured Promissory Note, dated December 12, 2006 (the "**Original B Note**"), issued by the Borrower to SFT I, Inc., as predecessor-in-interest to Holder, in the original principal amount of Three Million Seven Hundred Thousand Dollars ($3,700,000.00). In conjunction with the Original B Note, Borrower also executed that certain secured Promissory Note, dated December 12, 2006, issued by Borrower to SFT I, Inc., predecessor-in-interest to Holder, in the original principal amount of Twenty One Million Three Hundred Thousand Dollars ($21,300,000.00) (the "**Original A Note**", and together with the Original B Note, collectively, the "**Original Notes**").

This Note evidences Indebtedness incurred under, is subject to the terms and provisions of, and is executed in connection with and pursuant to that certain Loan and Security Agreement, dated as of December 12, 2006, by and between Borrower and Holder (the "**Original Loan Agreement**"), as amended by that certain Amendment No. 1 to Loan and Security Agreement and Other Loan Documents, dated as of the date hereof, by and between Borrower and Holder (the "**First Amendment**", and together with the Original Loan Agreement, as either may be amended, modified, assigned, restated, supplemented, or otherwise modified from time to time, collectively, the "**Loan Agreement**"). The Loan Agreement also contains provisions for the payment of late charges and interest at the Default Rate, all as more specifically set forth therein. Repayment of the Obligations evidenced by this Note is secured by the Mortgage and the other Loan Documents referred to in the Loan Agreement, and reference is made thereto for a statement of terms and provisions.

This Note is also entered into in connection with the execution and delivery of that certain Amended and Restated Secured Promissory Note (Tranche A), dated as of the date hereof, made by Borrower in favor of Holder, in the principal sum of Eighteen Million Nine Hundred Twenty Five Thousand Dollars ($18,925,000.00) (the "**A Note**", and together with this

Note, collectively, the "**Notes**"), which Notes, in the aggregate, are evidence of the loan made by Lender to Borrower pursuant to the terms of the Loan Agreement (the "**Loan**").

It is expressly understood and agreed by Borrower that (i) the principal balance of this Note, together with the A Note, includes certain obligations hitherto evidenced by the Original Notes, and (ii) to the extent any of such Obligations are included in the principal balance of this Note, together with the A Note, this Note, together with the A Note: (a) merely reevidences such obligations, (b) is given in substitution for, and not in payment of, the Original Notes, and (c) is no way intended, and shall not be deemed or construed, to constitute a novation of the Original Notes. No person or entity liable to Holder for the payment of all or any part of the indebtedness evidenced by the Original Notes as so modified is intended to be released or discharged from such liability as a result of the execution and delivery of this Note.

To the extent that Borrower has granted liens, security interests, or other encumbrances on any of its properties or assets pursuant to any agreement or instrument to secure in favor of Holder the payment, performance or observances of all, or any part of the principal or interest on, the Loan evidenced by the Original Notes or any other obligations or liabilities of Borrower thereunder or under any other Loan Documents, Borrower hereby acknowledges, ratifies, confirms and reaffirms such grant of liens, security interests and other encumbrances and further acknowledges and agrees that all such liens, security interests and other encumbrances are intended, and shall be deemed and construed, to secure to the fullest extent set forth therein all now existing and hereafter arising obligations and liabilities created or arising under or evidenced by this Note and each of the other Loan Documents.

Payments of both principal and interest are to be made in lawful money of the United States of America.

This Note may only be prepaid in whole or in part in accordance with the terms of Section 2.4 of the Loan Agreement (or as otherwise expressly provided elsewhere in the Loan Agreement or the other Loan Documents). Any payments of the outstanding principal balance of the Loan evidenced by this Note, whether voluntary or involuntary, shall be accompanied by interest accrued to the date of prepayment and the Prepayment Premium, to the extent, if any, provided in Section 2.4 of the Loan Agreement (except to the extent any other provision of the Loan Agreement expressly provides otherwise).

EXCEPT AS OTHERWISE EXPRESSLY PERMITTED IN THIS NOTE OR THE OTHER LOAN DOCUMENTS, BORROWER HEREBY EXPRESSLY (i) WAIVES ANY RIGHTS IT MAY HAVE UNDER LAW TO PREPAY THIS NOTE, IN WHOLE OR IN PART, WITHOUT PENALTY, UPON ACCELERATION OF THE MATURITY DATE, AND (ii) AGREES THAT IF, FOR ANY REASON, A PREPAYMENT OF ALL OR ANY PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE IS MADE, INCLUDING, WITHOUT LIMITATION, UPON OR FOLLOWING ANY ACCELERATION OF THE MATURITY DATE BY HOLDER ON ACCOUNT OF ANY DEFAULT BY BORROWER, INCLUDING, WITHOUT LIMITATION, ANY TRANSFER, DISPOSITION, OR FURTHER ENCUMBRANCE PROHIBITED OR RESTRICTED BY THE LOAN AGREEMENT, THEN BORROWER SHALL BE OBLIGATED TO PAY CONCURRENTLY WITH SUCH PREPAYMENT THE PREPAYMENT PREMIUM TO THE EXTENT REQUIRED UNDER

SECTION 2.4 OF THE LOAN AGREEMENT. BY INITIALING THIS PROVISION IN THE SPACE PROVIDED BELOW, BORROWER HEREBY DECLARES THAT (1) EACH OF THE MATTERS SET FORTH IN THIS PARAGRAPH IS TRUE AND CORRECT, (2) HOLDER'S AGREEMENT TO MAKE THE LOAN EVIDENCED BY THIS NOTE AT THE INTEREST RATES AND FEES APPLICABLE TO COMPONENT A AND COMPONENT B OF THIS NOTE, ALL AS SET FORTH IN THE LOAN AGREEMENT AND FOR THE TERM SET FORTH IN THIS NOTE CONSTITUTES ADEQUATE CONSIDERATION FOR THIS WAIVER AND AGREEMENT, AND HAS BEEN GIVEN INDIVIDUAL WEIGHT BY BORROWER AND HOLDER, (3) BORROWER HAS RETAINED COMPETENT AND INDEPENDENT LEGAL COUNSEL, AND (4) BORROWER FULLY UNDERSTANDS THE EFFECT OF THIS WAIVER AND AGREEMENT.

The remedies of Holder, as provided in this Note, the Loan Agreement and the other Loan Documents, shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of Holder, and may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof. In any action, sale of collateral, or other proceedings to enforce this Note, the Loan Agreement or any other Loan Document, Holder need not file or produce the original of this Note, but only need file or produce a photocopy of this Note certified by Holder to be a true and correct copy of this Note.

In the event of any dispute, action or lawsuit regarding the terms hereof, subject to the provisions of the Loan Agreement, the prevailing party will have the right to recover from the other party all court costs, costs of collection, and reasonable attorneys' fees and disbursements incurred with respect thereto, in addition to all other applicable damages and costs, whether or not legal proceedings are commenced.

BORROWER AND ANY GUARANTOR OF THIS NOTE EACH WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, DILIGENCE, PRESENTMENT FOR PAYMENT, DEMAND, NOTICE OF DEMAND, NOTICE OF PROTEST, NOTICE OF NONPAYMENT OR DISHONOR, NOTICE OF INTENTION TO ACCELERATE, NOTICE OF ACCELERATION, PROTEST AND NOTICE OF PROTEST OF THIS NOTE, AND ALL OTHER NOTICES (OTHER THAN AS EXPRESSLY PROVIDED IN THE LOAN AGREEMENT OR OTHER LOAN DOCUMENTS) IN CONNECTION WITH THE DELIVERY, ACCEPTANCE, PERFORMANCE, DEFAULT OR ENFORCEMENT OF THE PAYMENT OF THIS NOTE. BORROWER FURTHER WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL VALUATION AND APPRAISEMENT PRIVILEGES, CLAIMS OF LACK OF DILIGENCE OR DELAYS IN COLLECTION OR ENFORCEMENT OF THIS NOTE, THE RELEASE OF ANY PARTY LIABLE, THE RELEASE OF ANY SECURITY FOR THE DEBT, THE TAKING OF ANY ADDITIONAL SECURITY AND ANY OTHER INDULGENCE OF FORBEARANCE.

Holder shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Holder, and then only to the extent specifically set forth in the writing. The acceptance by Holder of any payment hereunder which is less than payment in full of all amounts due and payable at the time

of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time or nullify any prior exercise of any such option without the express consent of Holder, except as and to the extent otherwise provided by law. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

PURSUANT TO SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BORROWER AND ANY GUARANTOR OF THIS NOTE EACH AGREES THAT THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES OF AMERICA AND THE LAWS OF THE STATE OF NEW YORK. IN ACCORDANCE WITH SECTION 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BORROWER AND ANY GUARANTOR EACH HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND IRREVOCABLY AGREES THAT, SUBJECT TO HOLDER'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS NOTE OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS.

Whenever used, the singular number shall include the plural, the plural shall include the singular, and the words "Holder" and "Borrower" shall be deemed to include their respective heirs, executors, successors and assigns.

All notices which Holder or Borrower may be required or permitted to give hereunder shall be made in the same manner as set forth in Section 11.5 of the Loan Agreement.

If any provision of this Note shall for any reason be determined by any court, governmental body or otherwise to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not in any instance affect the validity, legality, or enforceability of any other provision of this Note in any circumstance not controlled by such determination and this Note shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein, but only to the extent of such invalidity, illegality, or unenforceability; provided that the parties intend that each provision of this Note shall be given validity and effect to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

Borrower acknowledges that Holder may, in its sole discretion, sell all or any part of its interest in the Loan evidenced by this Note, including, without limitation, for purposes of effecting a Securitization.

Notwithstanding anything to the contrary contained in this Note or any other Loan Documents, to the fullest extent permitted by applicable law, the Holder's rights hereunder shall be reinstated and revived, and the enforceability of this Note and the other Loan Documents shall continue, with respect to any amount at any time paid on account of the Loan which thereafter shall be required to be restored by Holder pursuant to a court order or judgment (whether or not final or non-appealable), as though such amount had not been paid. The rights of Holder created or granted herein and the enforceability of the Loan Documents at all times shall, to the fullest

extent permitted by applicable law, remain effective to cover the full amount of the Loan even though the Loan, including any part thereof or any other security or guaranty therefor, may be or hereafter may become invalid or otherwise unenforceable as against any other party and whether or not any other party shall have any personal liability with respect thereto.

Borrower and Holder, by acceptance of this Note, hereby agree that the Loan Documents supersede any prior oral or written agreements of the parties; without limiting the generality of the foregoing, in the event of conflict between the terms of this Note and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

Time is of the essence for the performance of each and every covenant of the parties hereunder or under the other Loan Documents. No excuse, delay, act of God, or other reason, whether or not within the control of Borrower or Holder (as the case may be), shall operate to defer, reduce or waive Borrower's or Holder's (as the case may be) performance of any such covenant or obligation.

BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF BORROWER, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE HOLDER RELATING TO THE ADMINISTRATION OF THE LOAN OR ENFORCEMENT OF THIS NOTE AND AGREE THAT NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED, UNLESS SUCH ACTION MUST BE CONSOLIDATED PURSUANT TO CONTROLLING MANDATORY JOINDER DOCTRINE, PROVIDED THAT WITH RESPECT TO SUCH CONSOLIDATED CLAIM, THE PARTIES HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, AS PROVIDED ABOVE ANY RIGHT TO A JURY TRIAL. EXCEPT AS PROHIBITED BY LAW, THE BORROWER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. THE BORROWER CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE HOLDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE HOLDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR THE HOLDER TO ACCEPT THIS NOTE.

TO INDUCE HOLDER TO MAKE THE LOAN, BORROWER HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY AGREES THAT ALL ACTIONS ARISING DIRECTLY OR INDIRECTLY AS A RESULT OF THIS NOTE, OR ANY OTHER LOAN DOCUMENTS, SHALL BE INSTITUTED AND LITIGATED ONLY IN COURTS THAT HAVE SITUS IN THE COUNTY OF NEW YORK, STATE OF NEW YORK, AND BORROWER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT LOCATED AND HAVING SITUS IN SAID COUNTY OF NEW YORK, AND WAIVES ANY OBJECTION

BASED ON FORUM NON CONVENIENS. BORROWER HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS, AND CONSENTS THAT, AT HOLDER'S OPTION, ALL SUCH SERVICE OF PROCESS MAY BE MADE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO BORROWER AS SET FORTH IN SECTION 11.5 OF THE LOAN AGREEMENT.

ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT, INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE, REGARDLESS OF THE LEGAL THEORY UPON WHICH IT IS BASED. IN ORDER TO PROTECT BORROWER AND HOLDER FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENT BETWEEN BORROWER AND HOLDER COVERING SUCH MATTERS ARE CONTAINED IN THE LOAN AGREEMENT AND THE LOAN DOCUMENTS, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE PARTIES.

If, under any circumstance whatsoever, interest would otherwise be payable to Holder in excess of the maximum lawful amount, and if, under any circumstance, Holder shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of the principal of this Note and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal, such excess shall be refunded to Borrower. All interest paid or agreed to be paid to Holder shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal so that the interest hereon for such full period shall not exceed the maximum amount permitted by applicable law.

Borrower may not delegate all or any portion of its obligations under this Note without the prior written consent of Holder, which may be withheld in its sole and exclusive discretion, and any delegatee so approved by Holder shall be required to assume all obligations of Borrower under this Note.

This Note shall inure to the benefit of each successive Holder, and its respective heirs, legal representatives, successors and assigns, and shall bind Borrower, all guarantors and endorsers, and their respective heirs, legal representatives, successors and permitted assigns.

(END OF PAGE)

**IN WITNESS WHEREOF,** Borrower, intending to be legally bound hereby, has duly executed this Note the day and year first above written.

**BORROWER:**

**STEVENS AVIATION, INC.,**
a Delaware corporation

By: _____
Name: Neal McGrail
Its: COO/CEO

# EXHIBIT 14

Prepared by ~~and when recorded return to:~~

Katten Muchin Rosenman LLP
2900 K Street, NW
North Tower, Suite 200
Washington, DC 20007-5118
Attn: John Muir, Esq.

*Space For Recorder's Office:*

2011025340 AMEND/MTG
11 PGS
Book:MO 5115 Page:5788-5798
April 11, 2011 11:11:48 AM
Rec:$16.00 Cnty Tax:$0.00 State Tax:$0.00
FILED IN GREENVILLE COUNTY,SC

# AMENDMENT NO. 1 TO SOUTH CAROLINA LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS

from

**STEVENS AVIATION, INC.**, as Mortgagor

to

**iSTAR TARA LLC**, successor in interest to **SFT I, INC.**, as Lender

Dated: As of March 31, 2010

Greenville County, South Carolina

THIS INSTRUMENT IS TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS AS A FIXTURE FILING IN ACCORDANCE WITH SECTIONS 36-9-313 AND 36-9-402 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED AND CROSS-INDEXED IN THE REAL ESTATE RECORDS. THE NAMES OF THE DEBTOR AND THE SECURED PARTY, THE MAILING ADDRESS OF THE SECURED PARTY FROM WHICH INFORMATION CONCERNING THE SECURITY INTERESTS MAY BE OBTAINED, THE MAILING ADDRESS OF THE DEBTOR AND A STATEMENT INDICATING THE TYPES OR DESCRIBING THE ITEMS OF COLLATERAL, ARE AS DESCRIBED IN ARTICLE I, SECTION 5 OF THE ORIGINAL SOUTH CAROLINA LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS.

Return to:
Zonia N. Veal
First National Financial Title Services, Inc.
3237 Satellite Blvd, Bldg 300, Suite 450
Duluth, GA 30096
File No. H6131-14

**AMENDMENT NO. 1 TO**
**SOUTH CAROLINA LEASEHOLD MORTGAGE,**
**SECURITY AGREEMENT AND ASSIGNMENT OF RENTS**

(DONALDSON CENTER AIR INDUSTRIAL PARK,
GREENVILLE, SOUTH CAROLINA)

THIS **AMENDMENT NO. 1 TO SOUTH CAROLINA LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS** (hereinafter referred to as this "Amendment") is made as of March 31, 2011, from **STEVENS AVIATION, INC.**, a Delaware corporation with its chief executive offices at 600 Delaware Street, Greenville, South Carolina 29605 (hereinafter referred to as the "Mortgagor"), to **iSTAR TARA LLC**, a Delaware limited liability company and successor in interest to **SFT I, INC.**, a Delaware corporation having its principal place of business at 1114 Avenue of the Americas, 39th Floor, New York, New York 10036 ("Lender").

**RECITALS:**

A. On December 12, 2006, Mortgagor executed and delivered to Lender that certain South Carolina Leasehold Mortgage, Security Agreement and Assignment of Rents, dated as of December 12, 2006, recorded December 12, 2006, in Mortgage Book 4692, Page 258 of the Official Records of Greenville County, South Carolina (the "**Mortgage**"), encumbering a certain leasehold interest in real property described on Exhibit A attached hereto.

B. Mortgagor and Lender are also parties to that certain Loan and Security Agreement, dated as of December 12, 2006, by and between Borrower and Lender (the "**Original Loan Agreement**") and (ii) that certain Amendment No. 1 to Loan and Security Agreement and Other Loan Documents, dated as of the date hereof, by and between Borrower and Lender (the "**First Amendment**", and together with the Original Loan Agreement, as the same may be further amended, restated, replaced, supplemented or otherwise modified from time to time, collectively, the "**Loan Agreement**").

C. Mortgagor now desires to amend the Mortgage to memorialize the First Amendment.

**NOW, THEREFORE**, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor hereby agrees as follows:

Except as expressly set forth above, all terms and conditions of the Mortgage shall remain unchanged and in full force and effect.

1. Definitions. All capitalized terms and phrases shall, unless defined in this Amendment, have the meanings ascribed to them in the Mortgage.

2. Amendment. The Mortgage is hereby amended to secure the Loan Agreement. All references in the Mortgage to the Loan Agreement shall refer to the Original Loan Agreement as amended by the First Amendment.

3. Reaffirmation. Mortgagor hereby ratifies and reaffirms the obligations, waivers, indemnities, representations, warranties and covenants made by Mortgagor in the Mortgage, as amended hereby.

4. Continuing Effect. Except as expressly provided herein, all of the terms, provisions, debts, duties, obligations, liabilities, representations and warranties, rights, titles, security interests, liens, powers and privileges existing by virtue of the Mortgage, as amended or modified hereby, shall be and continue in full force and effect, and are hereby acknowledged by Mortgagor to be legal, valid, binding and enforceable in accordance with their terms.

5. Further Assurances. In addition to the documents, instruments and acts described in this Amendment which are to be executed, or delivered or taken pursuant to this Amendment, Mortgagor agrees to execute and deliver from time to time upon request by Lender such other documents and instruments, and take such other action, as Lender may request or require to more fully and completely evidence and carry out the transactions contemplated by this Amendment.

6. Counterparts. This Amendment may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement; but in making proof of this Amendment, it shall not be necessary to produce or account for more than one such counterpart.

7. No Novation. This Amendment will not constitute a novation or have the effect of discharging any liability or obligation evidenced by the Loan Documents.

8. Lease Covenants.

(a) If Mortgagor shall default, and, provided the right, if any, of Lender under the Lease to cure such default has not expired, such default continues after the expiration of any applicable notice and cure period or otherwise constitutes an "Event of Default" under the Lease, in the performance or observance of any term, covenant or condition of the Lease, as tenant thereunder, to be performed or observed, then, without limiting the generality of the other provisions of this Mortgage, and without waiving or releasing Mortgagor from any of Mortgagor's obligations hereunder, Lender shall have the right, but not the obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of the Lease on the part of Mortgagor, as tenant thereunder, to be performed or observed or to be promptly performed or observed on behalf of Mortgagor, to the end that the rights of Mortgagor in, to and under the Lease shall be kept unimpaired and free from default, even though the existence of such event of default or the nature thereof be questioned or denied by Mortgagor or by any party on behalf of Mortgagor, and Mortgagor hereby expressly authorizes and appoints Lender its attorney-in-fact to pay any such sums or to perform any such acts or take any such actions in the name of and on behalf of Mortgagor, which power of attorney shall be irrevocable and shall be deemed to be coupled with an interest. If

Lender shall make any payment or perform any act or take action in accordance with the preceding sentence, Lender will notify Mortgagor of the making of any such payment, the performance of any such act, or the taking of any such action. In any such event, subject to the rights of tenants, subtenants and other occupants under the Lease, Lender and any Person designated by Lender shall have, and are hereby granted, by Mortgagor, the right to peaceably enter upon the Mortgage Premises at any time and from time to time for the purpose of taking any such action. Lender may pay and expend such sums of money as Lender deems necessary for any such purpose and upon so doing shall be subrogated to any and all rights of the landlord under the Lease. Mortgagor hereby agrees to pay to Lender within five (5) Business Days after demand, any such sums so paid and expended by Lender, together with interest thereon from the day of such payment at the Default Rate. All sums so paid and expended by Lender and the interest thereon shall be secured by this Mortgage and shall constitute part of the Obligations. If Lessor or any other landlord under the Lease shall deliver to Lender a copy of any notice of default sent by Lessor or such other landlord to Mortgagor, as tenant under the Lease, such notice shall constitute full protection to Lender for any action taken or omitted to be taken by Lender, in good faith, in reliance thereon. Lessor shall accept performance by Lender of any term, covenant and condition of Mortgagor under the Lease with the same force and effect as though performed by Mortgagor.

(b) Mortgagor shall exercise each individual option, if any, to extend or renew the term of the Lease that is exercisable by Mortgagor prior to the payment and satisfaction of Mortgagor of all of the Obligations, upon demand by Lender, and Mortgagor hereby expressly authorizes and appoints Lender its attorney-in-fact to exercise any such option in the name of and upon behalf of Mortgagor, which power of attorney shall be irrevocable and shall be deemed to be coupled with an interest.

(c) Notwithstanding any provision of this Section or any other provision of this Mortgage or the other Loan Documents, (i) Mortgagor acknowledges and agrees that this Mortgage constitutes a "mortgage" under, if, or as defined in the Lease, that Lender constitutes a "mortgagee" under and as defined in the Lease, that Lender shall have all of the rights of a mortgagee under the Lease, and that obligations of the parties to a Mortgage, and the privileges afforded to a Lender, under the Lease shall run to the benefit of Lender, and (ii) Mortgagor acknowledges and agrees that Lender shall not be liable for any of the terms, covenants and conditions of Mortgagor under the Lease unless and until Lender becomes the tenant under the Lease and then only for so long as Lender is the tenant under the Lease.

(d) So long as any portion of the Obligations shall remain unpaid, unless Lender shall otherwise consent in writing, the fee title to the Mortgage Premises and the Mortgagor's leasehold estate in the Leased Premises shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Lessor, Mortgagor, Lender, or in any other Person by purchase, operation of law or otherwise. Lender reserves the right, at any time, to release portions of the Leased Premises from the lien of this Mortgage, with or without consideration, at Lender's election, without waiving or affecting any of its rights hereunder, the Note or the other Loan Documents and any such release shall not affect Lender's rights in connection with the portion of the Leased Premises not so released.

(e) In the event that Mortgagor, so long as any portion of the Obligations remain unpaid, shall be the owner and holder of the fee title to the Mortgage Premises, the lien of this Mortgage shall be spread to cover the fee title of Mortgagor to the Mortgage Premises. Mortgagor agrees, at its sole cost and expense, including, without limitation, Lender's reasonable, out-of-pocket attorneys' fees, to execute any and all documents or instruments necessary to subject their fee title to the Mortgage Premises to the lien of this Mortgage and to provide to Lender an endorsement to Lender's title insurance policy which states that the lien of this Mortgage remains a first and prior lien against the Mortgage Premises subject to no exceptions other than as approved by Lender. Notwithstanding the foregoing, if, while any portion of the Obligations are outstanding and unpaid, the Lease is for any reason whatsoever terminated prior to the natural expiration of its term, and if, pursuant to any provisions of the Lease or otherwise, Lender or its designee shall acquire from the Lessor another lease of the Mortgage Premises which is intended to be in substitution for and replacement of the Lease, Mortgagor shall have no right, title or interest in or to such other lease or the leasehold estate created thereby, unless and until the Obligations are paid in full, in which event Lender shall assign to Mortgagor all of its right, title and interest in, to and under such substitute lease.

(f) If the Lease is terminated for any reason in the event of the rejection or disaffirmance of the Lease pursuant to the Bankruptcy Code or any other law affecting creditor's rights, (i) Mortgagor, immediately after obtaining notice thereof, shall give notice thereof to Lender, (ii) Mortgagor, without the prior written consent of Lender, shall not elect to treat the Lease as terminated pursuant to Section 365(h) of the Bankruptcy Code or any comparable federal or state statute or law, and any election by Mortgagor made without such consent shall be void and (iii) this Mortgage and all the liens, terms, covenants and conditions of this Mortgage shall extend to and cover the possessory rights of Mortgagor under Section 365(h) of the Bankruptcy Code and to any claim for damages due to the rejection of the Lease or other termination of the Lease. In addition, Mortgagor hereby assigns to Lender the right of Mortgagor to treat the Lease as terminated pursuant to Section 365(h) of the Bankruptcy Code or to retain rights under the Lease or to offset rents under such Lease in the event any case, proceeding or other action is commenced by or against Lessor under the Bankruptcy Code or any comparable federal or state statute or law.

(g) Mortgagor hereby assigns to Lender, the right of Mortgagor to reject the Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Mortgagor under the Bankruptcy Code or comparable federal or state statute or law. Further, if Mortgagor shall desire to so reject the Lease, at Lender's request, Mortgagor shall assign its interest in the Lease to Lender in lieu of rejecting such Lease as described above, upon receipt by Mortgagor of written notice from Lender of such request together with Lender's agreement to cure any existing defaults of Mortgagor under such Lease.

(h) Mortgagor hereby assigns to Lender the right of Mortgagor to seek an extension of the sixty (60) day period within which Mortgagor must accept or reject the Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Mortgagor under the Bankruptcy Code or comparable federal or state statute or law.

(i) Mortgagor hereby agrees that if the Lease is terminated for any reason in the event of the rejection or disaffirmance of the Lease pursuant to the Bankruptcy Code or any other law affecting creditor's rights, any property not removed by the Mortgagor as permitted or required by the Lease, shall at the option of Lender be deemed abandoned by Mortgagor, provided that Lender may remove any such property required to be removed by Mortgagor pursuant to the Lease and all costs and expenses associated with such removal shall be paid by Mortgagor within five (5) Business Days of receipt by Mortgagor of an invoice for such removal costs and expenses.

(j) On the date hereof, Mortgagor shall deposit with Lender an amount equal to the amount that Lender estimates will be required to make the next payment of "annual rent" (as defined in the Lease) due under the Lease. If Mortgagor utilizes such deposit (or any subsequent deposit) to pay any such payment of annual rent, Mortgagor shall, within thirty (30) days following such utilization, deposit with Lender an amount equal to the amount that Lender estimates will be required to make the next payment of annual rent due under the Lease. The purpose of these provisions is to assure Lender that there will be sufficient funds to cover the annual rent prior to the date on which the same becomes due. If Lender, in its sole discretion, determines that the funds escrowed hereunder are, or will be, insufficient, Mortgagor shall upon demand pay such additional sums as Lender shall determine necessary. Provided no Event of Default exists hereunder, Lender will apply the amounts so deposited to the payment of annual rent when due, but in no event will Lender be liable for any deficiency or for any interest on any amount so deposited, and any amount so deposited may be held and commingled with Lender's own funds.

(k) Mortgagor acknowledges and agrees that Lender shall not be liable for any of the terms, covenants and conditions of Mortgagor under the Permitted Exceptions unless and until Lender becomes the owner of the Leased Premises and then only for so long as Lender is the owner of the Leased Premises.

9. Cross-Collateralization. Mortgagor acknowledges that the Obligations are secured by this Mortgage together with those additional mortgages, deeds of trust and deeds to secure debt encumbering real and personal property in the states of South Carolina, Ohio, Colorado, and Tennessee (collectively, the "Mortgages") given by Mortgagor to Lender pursuant to the Loan Agreement, together with the other Loan Documents securing or evidencing the Obligations, and encumbering the other Mortgaged Property (as defined in the Loan Agreement), all as more specifically set forth in the Loan Agreement. Upon the occurrence of an Event of Default, Lender shall have the right to institute a proceeding or proceedings for the total or partial foreclosure of this Mortgage and any or all of the other Mortgages whether by court action, power of sale or otherwise, under any applicable provision of law, for all of the Obligations or the portion of the Obligations allocated to the Mortgage Premises in the Loan Agreement, and the lien and the security interest created by the other Mortgages shall continue in full force and effect without loss of priority as a lien and security interest securing the payment of that portion of the Obligations then due and payable but still outstanding. Mortgagor acknowledges and agrees that the Mortgage Premises and the other Mortgaged Properties are located in one or more states and counties, and therefore Lender shall be permitted to enforce payment of the Obligations and the performance of any term, covenant or condition of the Note, this Mortgage, the Loan Documents or the other Mortgages and exercise any and all rights and remedies under

the Note, this Mortgage, the Loan Documents or the other Mortgages, or as provided by law or at equity, by one or more proceedings, whether contemporaneous, consecutive or both, to be determined by Lender, in its sole discretion, in any one or more of the states or counties in which the Mortgage Premises or any other Mortgaged Property is located. Neither the acceptance of this Mortgage, the Loan Documents or the other Mortgages nor the enforcement thereof in any one state or county, whether by court action, foreclosure, power of sale or otherwise, shall prejudice or in any way limit or preclude enforcement by court action, foreclosure, power of sale or otherwise, of the Note, this Mortgage, the other Loan Documents, or any other Mortgages through one or more additional proceedings in that state or county or in any other state or county. Any and all sums received by Lender under the Note, this Mortgage, and the Loan Documents shall be applied to the Obligations in such order and priority as Lender shall determine, in its sole discretion.

*(End of Text; Signature Follows)*

**IN WITNESS WHEREOF**, Mortgagor has duly caused this Amendment to be duly executed and delivered, and its corporate seal to be hereunto affixed and attested by its duly authorized officer as of the day and year first above written.

Witnesses:

Witness 1 Joyce E. Worley

Witness 2 James W. Williams, Jr.

**STEVENS AVIATION, INC.**

By:
Name: Neal McGrael
Its: COO/CFO

Attest:
Name: Neal McGrael
Its: Secretary

[CORPORATE SEAL]

**PROBATE**

STATE OF South Carolina §
§
COUNTY OF Greenville §

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named STEVENS AVIATION, INC. by its duly authorized Neal McGrail of COO/CFO, sign, seal and as the act of said corporation deliver the within written instrument and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Sworn to before me, this 31 day of March, 2011.

Joyce E. Worley
Witness 1 or Witness 2's signature
Joyce E. Worley

Sarah F. Miller
Notary Public for SC

My Commission Expires: 7-9-2013

[NOTARIAL SEAL]

## EXHIBIT A

## LEGAL DESCRIPTION OF PROPERTY

(Greenville County, South Carolina)

This being the same property leased to Mortgagor herein by Lessor pursuant to the agreements described on Exhibit B.

All that certain piece, parcel or lot of land situate, lying and being in the County of Greenville, State of South Carolina, located in Donaldson Center on Taxiway B-1 and containing 19.89 acres or 866,475 square feet, more or less, as shown on plat of survey entitled "Plat Prepared for Donaldson Development Commission of the Stevens Aviation Site", prepared by W. K. Dickson Engineers Planners Surveyors, dated November 4, 1997, recorded in the Office of the Register of Deeds for Greenville County in Plat Book 36-M at Page 57, and having, according to said plat, the following metes and bounds, to-wit;

BEGINNING at a p.k. nail set in concrete on the southerly side of Taxiway B-1, said p.k. nail having South Carolina grid coordinates of N. 1,067,218.63, E. 1,587,527.34; thence with a new line, the following eight courses and distances: N. 40-49-19 E. for a distance of 1,635.91 feet to a p.k. nail set in concrete; thence S. 49-16-05 E. for a distance of 257.35 feet to a 5/8" iron pin; thence S. 40-44-33 W. for a distance of 1,021.70 feet to a 5/8" iron pin; thence S. 49-16-05 E. for a distance of 480.60 feet to a 5/8" iron pin; thence with a non-tangent curve to the right, having a radius of 407.50 feet, an arc length of 349.40 feet, and a chord of S. 16-10-07 W. for a distance of 338.79 feet to a p.k. nail set in concrete; thence S. 41-00-56 W. for a distance of 399.87 feet to a p.k. nail set in the asphalt pavement; thence N. 49-16-15 W. for a distance of 778.36 feet to a 5/8" iron pin; thence with a curve to the left, having a radius of 107.50 feet, an arc length of 149.50 feet, and a chord of N. 6-19-38 W. for a distance of 137.74 feet to the point of beginning.

This being the same property leased to the Mortgagor herein pursuant to the terms of a Project Lease Agreement dated October 10, 1997, a Memorandum of which is recorded in the Office of the Register of Deeds for Greenville County in Book 1725 at Page 758 on November 6, 1997, as amended by First Amendment to Lease and Memorandum Thereof, dated December 12, 2006 and recorded in Book 2241 at Page 1112 on December 12, 2006.

## EXHIBIT B

### DESCRIPTION OF LEASES

1. That certain Project Lease Agreement dated as of October 10, 1997, between Lessor and Mortgagor and the leasehold estate created thereby, and Mortgagor's entire right, title and interest therein.

2. That certain Lease Agreement dated as of November 1, 1997, among Greenville County, South Carolina and City of Greenville, South Carolina (jointly, the "Bond Lessor"), and Mortgagor and the leasehold estate created thereby, and Mortgagor's entire right, title and interest therein.

3. Memorandum of Lease, dated as of November 6, 1997, with respect to the lease described in item 1 above, County of Greenville and City of Greenville and Stevens Aviation, Inc., recorded in the Office of the Register of Deeds for Greenville County in Book 1725 at Page 758 on November 6, 2006, as amended by First Amendment to Lease and Memorandum Thereof, dated December 12, 2006, and recorded in Book 2241 at Page 1112 on December 12, 2006.

Lessor is the record owner of the Land.

FILED FOR RECORD IN GREENVILLE COUNTY,SC ROD
2011025340 Book:MO 5115 Page:5788-5798
April 11, 2011 11:11:48 AM

Timothy J Kinney

Prepared by and when recorded return to:

Katten Muchin Rosenman LLP
2900 K Street, NW
North Tower, Suite 200
Washington, DC 20007-5118
Attn: John Muir, Esq.

*Space For Recorder's Office:*

MTG-2011-13392
Recorded 12 Pages on 4/13/2011 9:13:26 AM
Recording Fee: $18.00 Documentary Stamps: $0.00
Office of Register of Deeds, Spartanburg, S.C.
Dorothy Earle, Register

# AMENDMENT NO. 1 TO SOUTH CAROLINA LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS

from

**STEVENS AVIATION, INC.**, as Mortgagor

to

**iSTAR TARA LLC**, successor in interest to **SFT I, INC.**, as Lender

Dated: As of March 31, 2011

Spartanburg County, South Carolina

THIS INSTRUMENT IS TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS AS A FIXTURE FILING IN ACCORDANCE WITH SECTIONS 36-9-313 AND 36-9-402 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED AND CROSS-INDEXED IN THE REAL ESTATE RECORDS. THE NAMES OF THE DEBTOR AND THE SECURED PARTY, THE MAILING ADDRESS OF THE SECURED PARTY FROM WHICH INFORMATION CONCERNING THE SECURITY INTERESTS MAY BE OBTAINED, THE MAILING ADDRESS OF THE DEBTOR AND A STATEMENT INDICATING THE TYPES OR DESCRIBING THE ITEMS OF COLLATERAL, ARE AS DESCRIBED IN ARTICLE I, SECTION 5 OF THE ORIGINAL LEASEHOLD MORTGAGE AND SECURITY AGREEMENT.

41820047_Amendment to Spartanburg Leasehold Mortgage

Return to:
Zonia N. Veal
First National Financial Title Services, Inc.
3237 Satellite Blvd, Bldg 300, Suite 450
Duluth, GA 30096
File No. H61324W

**AMENDMENT NO. 1 TO**
**SOUTH CAROLINA LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS**

THIS **AMENDMENT NO. 1 TO SOUTH CAROLINA LEASEHOLD MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS** (hereinafter referred to as this "**Amendment**") is made as of March 31, 2011, from **STEVENS AVIATION, INC.**, a Delaware corporation with its chief executive offices at 600 Delaware Street, Greenville, South Carolina 29605 (hereinafter referred to as the "**Mortgagor**"), to **iSTAR TARA LLC**, a Delaware limited liability company and successor in interest to **SFT I, INC.**, a Delaware corporation having its principal place of business at 1114 Avenue of the Americas, 39th Floor, New York, New York 10036 ("**Lender**"),

**RECITALS:**

A. On December 12, 2006, Mortgagor executed and delivered to Lender that certain South Carolina Leasehold Mortgage, Security Agreement and Assignment of Rents, dated as of December 12, 2006, recorded December 12, 2006, in Mortgage Book 3800, Page 969 of the Official Records of Spartanburg County, South Carolina (the "**Mortgage**"), encumbering a certain leasehold interest in real property described on Exhibit A attached hereto.

B. Mortgagor and Lender are also parties to that certain Loan and Security Agreement, dated as of December 12, 2006, by and between Borrower and Lender (the "**Original Loan Agreement**") and (ii) that certain Amendment No. 1 to Loan and Security Agreement and Other Loan Documents, dated as of the date hereof, by and between Borrower and Lender (the "**First Amendment**", and together with the Original Loan Agreement, as the same may be further amended, restated, replaced, supplemented or otherwise modified from time to time, collectively, the "**Loan Agreement**").

C. Mortgagor now desires to amend the Mortgage to memorialize the First Amendment.

**NOW, THEREFORE**, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor hereby agrees as follows:

Except as expressly set forth above, all terms and conditions of the Mortgage shall remain unchanged and in full force and effect.

1. Definitions. All capitalized terms and phrases shall, unless defined in this Amendment, have the meanings ascribed to them in the Mortgage.

2. Amendment. The Mortgage is hereby amended to secure the Loan Agreement. All references in the Mortgage to the Loan Agreement shall refer to the Original Loan Agreement as amended by the First Amendment.

3. Reaffirmation. Mortgagor hereby ratifies and reaffirms the obligations, waivers, indemnities, representations, warranties and covenants made by Mortgagor in the Mortgage, as amended hereby.

4. Continuing Effect. Except as expressly provided herein, all of the terms, provisions, debts, duties, obligations, liabilities, representations and warranties, rights, titles, security interests, liens, powers and privileges existing by virtue of the Mortgage, as amended or modified hereby, shall be and continue in full force and effect, and are hereby acknowledged by Mortgagor to be legal, valid, binding and enforceable in accordance with their terms.

5. Further Assurances. In addition to the documents, instruments and acts described in this Amendment which are to be executed, or delivered or taken pursuant to this Amendment, Mortgagor agrees to execute and deliver from time to time upon request by Lender such other documents and instruments, and take such other action, as Lender may request or require to more fully and completely evidence and carry out the transactions contemplated by this Amendment.

6. Counterparts. This Amendment may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement; but in making proof of this Amendment, it shall not be necessary to produce or account for more than one such counterpart.

7. No Novation. This Amendment will not constitute a novation or have the effect of discharging any liability or obligation evidenced by the Loan Documents.

8. Lease Covenants.

(a) If Mortgagor shall default, and, provided the right, if any, of Lender under the Lease to cure such default has not expired, such default continues after the expiration of any applicable notice and cure period or otherwise constitutes an "Event of Default" under the Lease, in the performance or observance of any term, covenant or condition of the Lease, as tenant thereunder, to be performed or observed, then, without limiting the generality of the other provisions of this Mortgage, and without waiving or releasing Mortgagor from any of Mortgagor's obligations hereunder, Lender shall have the right, but not the obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of the Lease on the part of Mortgagor, as tenant thereunder, to be performed or observed or to be promptly performed or observed on behalf of Mortgagor, to the end that the rights of Mortgagor in, to and under the Lease shall be kept unimpaired and free from default, even though the existence of such event of default or the nature thereof be questioned or denied by Mortgagor or by any party on behalf of Mortgagor, and Mortgagor hereby expressly authorizes and appoints Lender its attorney-in-fact to pay any such sums or to perform any such acts or take any such actions in the name of and on behalf of Mortgagor, which power of attorney shall be irrevocable and shall be deemed to be coupled with an interest. If Lender shall make any payment or perform any act or take action in accordance with the preceding sentence, Lender will notify Mortgagor of the making of any such payment, the performance of any such act, or the taking of any such action. In any such event, subject to the rights of tenants, subtenants and other occupants under the Lease, Lender and any Person

designated by Lender shall have, and are hereby granted, by Mortgagor, the right to peaceably enter upon the Mortgage Premises at any time and from time to time for the purpose of taking any such action. Lender may pay and expend such sums of money as Lender deems necessary for any such purpose and upon so doing shall be subrogated to any and all rights of the landlord under the Lease. Mortgagor hereby agrees to pay to Lender within five (5) Business Days after demand, any such sums so paid and expended by Lender, together with interest thereon from the day of such payment at the Default Rate. All sums so paid and expended by Lender and the interest thereon shall be secured by this Mortgage and shall constitute part of the Obligations. If Lessor or any other landlord under the Lease shall deliver to Lender a copy of any notice of default sent by Lessor or such other landlord to Mortgagor, as tenant under the Lease, such notice shall constitute full protection to Lender for any action taken or omitted to be taken by Lender, in good faith, in reliance thereon. Lessor shall accept performance by Lender of any term, covenant and condition of Mortgagor under the Lease with the same force and effect as though performed by Mortgagor.

(b) Mortgagor shall exercise each individual option, if any, to extend or renew the term of the Lease that is exercisable by Mortgagor prior to the payment and satisfaction of Mortgagor of all of the Obligations, upon demand by Lender, and Mortgagor hereby expressly authorizes and appoints Lender its attorney-in-fact to exercise any such option in the name of and upon behalf of Mortgagor, which power of attorney shall be irrevocable and shall be deemed to be coupled with an interest.

(c) Notwithstanding any provision of this Section or any other provision of this Mortgage or the other Loan Documents, (i) Mortgagor acknowledges and agrees that this Mortgage constitutes a "mortgage" under, if, or as defined in the Lease, that Lender constitutes a "mortgagee" under and as defined in the Lease, that Lender shall have all of the rights of a mortgagee under the Lease, and that obligations of the parties to a Mortgage, and the privileges afforded to a Lender, under the Lease shall run to the benefit of Lender, and (ii) Mortgagor acknowledges and agrees that Lender shall not be liable for any of the terms, covenants and conditions of Mortgagor under the Lease unless and until Lender becomes the tenant under the Lease and then only for so long as Lender is the tenant under the Lease.

(d) So long as any portion of the Obligations shall remain unpaid, unless Lender shall otherwise consent in writing, the fee title to the Mortgage Premises and the Mortgagor's leasehold estate in the Leased Premises shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Lessor, Mortgagor, Lender, or in any other Person by purchase, operation of law or otherwise. Lender reserves the right, at any time, to release portions of the Leased Premises from the lien of this Mortgage, with or without consideration, at Lender's election, without waiving or affecting any of its rights hereunder, the Note or the other Loan Documents and any such release shall not affect Lender's rights in connection with the portion of the Leased Premises not so released.

(e) In the event that Mortgagor, so long as any portion of the Obligations remain unpaid, shall be the owner and holder of the fee title to the Mortgage Premises, the lien of this Mortgage shall be spread to cover the fee title of Mortgagor to the Mortgage Premises. Mortgagor agrees, at its sole cost and expense, including, without limitation, Lender's reasonable, out-of-pocket attorneys' fees, to execute any and all documents or instruments

necessary to subject their fee title to the Mortgage Premises to the lien of this Mortgage and to provide to Lender an endorsement to Lender's title insurance policy which states that the lien of this Mortgage remains a first and prior lien against the Mortgage Premises subject to no exceptions other than as approved by Lender. Notwithstanding the foregoing, if, while any portion of the Obligations are outstanding and unpaid, the Lease is for any reason whatsoever terminated prior to the natural expiration of its term, and if, pursuant to any provisions of the Lease or otherwise, Lender or its designee shall acquire from the Lessor another lease of the Mortgage Premises which is intended to be in substitution for and replacement of the Lease, Mortgagor shall have no right, title or interest in or to such other lease or the leasehold estate created thereby, unless and until the Obligations are paid in full, in which event Lender shall assign to Mortgagor all of its right, title and interest in, to and under such substitute lease.

(f) If the Lease is terminated for any reason in the event of the rejection or disaffirmance of the Lease pursuant to the Bankruptcy Code or any other law affecting creditor's rights, (i) Mortgagor, immediately after obtaining notice thereof, shall give notice thereof to Lender, (ii) Mortgagor, without the prior written consent of Lender, shall not elect to treat the Lease as terminated pursuant to Section 365(h) of the Bankruptcy Code or any comparable federal or state statute or law, and any election by Mortgagor made without such consent shall be void and (iii) this Mortgage and all the liens, terms, covenants and conditions of this Mortgage shall extend to and cover the possessory rights of Mortgagor under Section 365(h) of the Bankruptcy Code and to any claim for damages due to the rejection of the Lease or other termination of the Lease. In addition, Mortgagor hereby assigns to Lender the right of Mortgagor to treat the Lease as terminated pursuant to Section 365(h) of the Bankruptcy Code or to retain rights under the Lease or to offset rents under such Lease in the event any case, proceeding or other action is commenced by or against Lessor under the Bankruptcy Code or any comparable federal or state statute or law.

(g) Mortgagor hereby assigns to Lender, the right of Mortgagor to reject the Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Mortgagor under the Bankruptcy Code or comparable federal or state statute or law. Further, if Mortgagor shall desire to so reject the Lease, at Lender's request, Mortgagor shall assign its interest in the Lease to Lender in lieu of rejecting such Lease as described above, upon receipt by Mortgagor of written notice from Lender of such request together with Lender's agreement to cure any existing defaults of Mortgagor under such Lease.

(h) Mortgagor hereby assigns to Lender the right of Mortgagor to seek an extension of the sixty (60) day period within which Mortgagor must accept or reject the Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Mortgagor under the Bankruptcy Code or comparable federal or state statute or law.

(i) Mortgagor hereby agrees that if the Lease is terminated for any reason in the event of the rejection or disaffirmance of the Lease pursuant to the Bankruptcy Code or any other law affecting creditor's rights, any property not removed by the Mortgagor as permitted or required by the Lease, shall at the option of Lender be deemed abandoned by Mortgagor, provided that Lender may remove any such property required to be removed by Mortgagor

pursuant to the Lease and all costs and expenses associated with such removal shall be paid by Mortgagor within five (5) Business Days of receipt by Mortgagor of an invoice for such removal costs and expenses.

(j) On the date hereof, Mortgagor shall deposit with Lender an amount equal to the amount that Lender estimates will be required to make the next payment of "annual rent" (as defined in the Lease) due under the Lease. If Mortgagor utilizes such deposit (or any subsequent deposit) to pay any such payment of annual rent, Mortgagor shall, within thirty (30) days following such utilization, deposit with Lender an amount equal to the amount that Lender estimates will be required to make the next payment of annual rent due under the Lease. The purpose of these provisions is to assure Lender that there will be sufficient funds to cover the annual rent prior to the date on which the same becomes due. If Lender, in its sole discretion, determines that the funds escrowed hereunder are, or will be, insufficient, Mortgagor shall upon demand pay such additional sums as Lender shall determine necessary. Provided no Event of Default exists hereunder, Lender will apply the amounts so deposited to the payment of annual rent when due, but in no event will Lender be liable for any deficiency or for any interest on any amount so deposited, and any amount so deposited may be held and commingled with Lender's own funds.

(k) Mortgagor acknowledges and agrees that Lender shall not be liable for any of the terms, covenants and conditions of Mortgagor under the Permitted Exceptions unless and until Lender becomes the owner of the Leased Premises and then only for so long as Lender is the owner of the Leased Premises.

9. Cross-Collateralization. Mortgagor acknowledges that the Obligations are secured by this Mortgage together with those additional mortgages, deeds of trust and deeds to secure debt encumbering real and personal property in the states of South Carolina, Ohio, Colorado, and Tennessee (collectively, the "Mortgages") given by Mortgagor to Lender pursuant to the Loan Agreement, together with the other Loan Documents securing or evidencing the Obligations, and encumbering the other Mortgaged Property (as defined in the Loan Agreement), all as more specifically set forth in the Loan Agreement. Upon the occurrence of an Event of Default, Lender shall have the right to institute a proceeding or proceedings for the total or partial foreclosure of this Mortgage and any or all of the other Mortgages whether by court action, power of sale or otherwise, under any applicable provision of law, for all of the Obligations or the portion of the Obligations allocated to the Mortgage Premises in the Loan Agreement, and the lien and the security interest created by the other Mortgages shall continue in full force and effect without loss of priority as a lien and security interest securing the payment of that portion of the Obligations then due and payable but still outstanding. Mortgagor acknowledges and agrees that the Mortgage Premises and the other Mortgaged Properties are located in one or more states and counties, and therefore Lender shall be permitted to enforce payment of the Obligations and the performance of any term, covenant or condition of the Note, this Mortgage, the Loan Documents or the other Mortgages and exercise any and all rights and remedies under the Note, this Mortgage, the Loan Documents or the other Mortgages, or as provided by law or at equity, by one or more proceedings, whether contemporaneous, consecutive or both, to be determined by Lender, in its sole discretion, in any one or more of the states or counties in which the Mortgage Premises or any other Mortgaged Property is located. Neither the acceptance of this Mortgage, the Loan Documents or the other Mortgages nor the enforcement thereof in any

one state or county, whether by court action, foreclosure, power of sale or otherwise, shall prejudice or in any way limit or preclude enforcement by court action, foreclosure, power of sale or otherwise, of the Note, this Mortgage, the other Loan Documents, or any other Mortgages through one or more additional proceedings in that state or county or in any other state or county. Any and all sums received by Lender under the Note, this Mortgage, and the Loan Documents shall be applied to the Obligations in such order and priority as Lender shall determine, in its sole discretion.

(*End of Text; Signature Follows*)

**IN WITNESS WHEREOF**, Mortgagor has duly caused this Amendment to be duly executed and delivered, and its corporate seal to be hereunto affixed and attested by its duly authorized officer as of the day and year first above written.

Witnesses:

Witness 1 Joyce E. Worley

Witness 2 James W. Williams Jr.

**STEVENS AVIATION, INC.**

By: _____
Name: Neal McGraul
Its: COO/CFO

Attest: _____
Name: Neal McGraul
Its: Secretary

[CORPORATE SEAL]

REM 4455 PAGE 391

**PROBATE**

STATE OF South Carolina )
)
COUNTY OF Greenville )

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named STEVENS AVIATION, INC. by its duly authorized Neal McGrail of COO/CEO, sign, seal and as the act of said corporation deliver the within written instrument and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Joyce E. Worley
Witness 1 or Witness 2's signature
Joyce E. Worley

Sworn to before me, this
31 day of March, 2011.

Sarah F Miller
Notary Public for SC

My Commission Expires: 7-9-2013

[NOTARIAL SEAL]

## EXHIBIT A

## DESCRIPTION OF PROPERTY

(Spartanburg County, South Carolina)

PARCEL I:

All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 942; and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, THE TRUE POINT OF BEGINNING, thence running parallel to and 20 feet right of the centerline of Taxiway "B", N 32°55'08" E 1313.89 feet to a drill hole set in concrete, thence S 57°10'24" E 764.98 feet to an iron pin set 1/2" rebar, thence S 32°49'36" W 295.93 to an iron pin set 1/2" rebar, thence N 57°10'24" W 188.12 feet to a mag nail set, thence N 32°03'54" E 11.85 feet to a fence post, thence N 57°11'18" W 238.71 feet to a fence post, thence S 32°21'57" W 30.08 feet to a point on the face of building wood overhang, thence along the face of building wood overhang S 56°27'23" E 11.92 to the corner of wood overhang, thence S 33°02'29" W 18.83 to the corner of wood overhang, thence N 56°56'20" W 36.64 feet to the corner of wood overhang, thence S 33°04'17" W 48.48 feet to the corner of wood overhang, thence S 56°08'19" E 8.52 feet to the corner of wood overhang, thence S 32°58'08" W 50.29 feet to the corner of wood overhang, thence N 56°55'40" W 2.80 feet to a point on the face of wood overhang, thence leaving the face of wood overhang running S 33°04'20" W 6.86 feet to a fence post, thence N 57°00'51" W 14.56 feet to a fence post, thence S 32°19'51" W 94.72 feet to a fence post, thence S 57°39'57" E 6.50 to a fence post, thence S 33°22'35" W 15.31 feet to a point on face of building, thence running along the face of building S 57°08'03" E 73.32 feet to the building corner, thence leaving building and running S 57°08'03" E 144.52 feet to an iron pin set 1/2" rebar, thence S 32°55'16" W 986.69 feet to an iron pin found 5/8" solid rod, thence N 57°05'00" W 88.00 feet to an iron pin found 5/8" solid rod, thence N 32°55'19" E 221.01 feet to a drill hole set in concrete sidewalk, thence N 57°06'04" W 442.10 feet to the TRUE POINT OF BEGINNING, containing 16.735 acres more or less.

PARCEL II:

All that certain piece, parcel or tract of land located, lying and being in the County of Spartanburg, State of South Carolina, as shown on plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 20, 2006, last revised December 8, 2006, prepared by Bock & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at page 942; and having, according to said plat, the following metes and bounds, to-wit:

To find the true point of beginning, commence at a tack located in the centerline of Taxiway "B" at the Greenville-Spartanburg Airport, 900 feet right of the centerline station 150+55, thence run S 57°06'04" E 20.00 feet to an iron pin set 1/2" rebar, thence along a tie line S 27°33'51" E 1406.17 feet to a fence corner, the TRUE POINT OF BEGINNING, thence along a 6' chain link fence S 56°51'54" E 128.73 feet to a fence corner, thence S 17°55'21" E 110.32 feet to a fence corner, thence S 32°14'41" W 160.71 feet to a fence corner, thence N 56°59'25" W 215.93 feet to a fence corner, thence N 32°51'39" E 8.34 feet an iron pin set 1/2" rebar, thence N 57°05'00" W 26.20 feet to an iron pin set 1/2" rebar, thence N 32°55'00" E 200.00 feet to an iron pin set 1/2" rebar, thence S 57°47'54" E 26.01 feet to an iron pin set 1/2" rebar, thence N 32°51'39" E 21.84 feet to the TRUE POINT OF BEGINNING, containing 1.187 acres more or less.

This being the same property leased to Mortgagor herein by Lessor pursuant to the agreements described on Exhibit B.

**EXHIBIT B**

**DESCRIPTION OF LEASES**

1. General Aviation Lease and Facilities Agreement dated as of September 11, 2006, between Greenville-Spartanburg Airport District, a political subdivision of the State of South Carolina ("Lessor"), and Stevens Aviation, Inc., a South Carolina corporation ("Lessee").

2. Memorandum of Lease, dated as of December 12, 2006, recorded in the Office of the Register of Deeds for Spartanburg County in Book 87-J at page 951 on December 12, 2006.

Lessor is the record owner of the Land.

# EXHIBIT 15

iStar Tara LLC
c/o iStar Financial Inc.
1114 Avenue of the Americas
39th Floor
New York, New York 10036
*Phone 212/930-9400 | Fax 212/930-9494*

March 6, 2015

VIA FACSIMILE AND OVERNIGHT DELIVERY

Stevens Aviation, Inc.
Donaldson Center Air Park
600 Delaware Street
Greenville, South Carolina 29605
Attention: Neil McGrail
Facsimile: (864) 678-6041

RE: Notice of Maturity, Event of Default, Acceleration and Reservation of Rights; iStar Loan No.: M00138001; Loan from iStar Tara LLC to Stevens Aviation, Inc.

Ladies and Gentlemen:

We refer to that certain (i) Loan and Security Agreement, dated December 12, 2006 (as amended, the "Loan Agreement"), between Stevens Aviation, Inc., as Borrower (the "Borrower"), and iStar Tara LLC, as successor in interest to SFT I, Inc. (together with its successors and assigns, the "Lender") and (ii) Notice of Maturity Date, dated January 22, 2015 (the "Notice of Maturity Date"). All capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

As you are aware, and as further advised in the Notice of Maturity Date, the Maturity Date of the Tranche A Note occurred on March 1, 2015 (the "Maturity Date"). Pursuant to Section 2.4(B) of the Loan Agreement, the Borrower is required to repay the outstanding principal balance of the Tranche A Note, all accrued and unpaid interest thereon and all other sums owing to Lender pursuant to the Loan Documents on the Maturity Date. As of the date hereof, the entire outstanding principal balance of the Tranche A Note together with any and all outstanding and unpaid interest and other amounts due thereunder, have not been paid and are now delinquent.

This letter constitutes notice that, pursuant to Section 9.1(A) of the Loan Agreement, an Event of Default has occurred and is continuing under the Loan Documents (the "Maturity Event of Default") as a result of Borrower's failure to repay in full all amounts due under the Tranche A Note on or before the Maturity Date, which entitles Lender to immediately exercise any or all of its rights and remedies under the Loan Documents.

Pursuant to Section 9.2(A) of the Loan Agreement, based on the Maturity Event of Default, Lender hereby declares that all Obligations evidenced by the Loan Documents, including Borrower's Obligations under the Tranche B Note, are immediately due and payable. This letter is formal notice to you of such acceleration of the Tranche B Note and demand that you pay immediately all of the outstanding principal and accrued and unpaid interest under the Loan, in its entirety, together with all applicable charges and all costs, expenses and attorneys' fees incurred by Lender in connection with the collection of the Indebtedness evidenced by the Note, and any other amounts lawfully due and payable under the terms of the Loan Documents.

Pursuant to Section 2.2(A) of the Loan Agreement, as a result of the Maturity Event of Default, the principal amount of the Loan (including compounded interest) shall bear interest at the Default Rate. Further, late charges and interest at the Default Rate will accrue on unpaid amounts in accordance with the terms of the Loan Documents. As of the Maturity Date, the total outstanding principal balance of the Loan plus unpaid accrued interest is $29,015,395.77. Borrower should contact the undersigned for the precise payoff amount owed to Lender.

Pursuant to Section 2.3(D) of the Loan Agreement, so long as an Event of Default exists and the Note and Obligations remain outstanding, no payment of Management Fees is permitted and no Distribution may be made (except for Distributions contemplated by the last sentence of Section 7.12). In addition, Lender is entitled to pursue, without any further notice to Borrower, various rights and remedies under the Loan Agreement and the other Loan Documents, including, without limitation, the exercise of remedies under the Loan Documents, including foreclosure of Lender's security interests and liens in any Collateral. Lender's election to not take any such action at the present time shall not constitute a waiver of the Maturity Event of Default or any other Event of Default that may exist now or at any time in the future or of the right of Lender to pursue any of its rights and remedies at any time in the future.

Additionally, this letter shall constitute notice that Borrower is liable for all attorneys' fees, costs and expenses incurred by Lender in connection with the enforcement of Lender's rights and remedies under the Loan Documents and/or under applicable law.

The foregoing does not constitute and is not intended to constitute a complete listing of all Defaults or Events of Default that may exist under the Loan Documents. Nothing contained in this letter or in any discussions, either before or after the date of this letter, with Borrower or any of its respective representatives, (a) constitutes an amendment of, or agreement to amend, any of the Loan Documents or a termination or waiver of any of the terms and provisions of the Loan Documents, (b) constitutes an extension of any of the time periods for Borrower's performance of its respective obligations under the Loan Documents or an extension of the Maturity Date, (c) constitutes a waiver of any Event of Default or Default under the Loan Documents, including, without limitation, the Maturity Event of Default, or (d) is intended to

limit, nor shall it be deemed to limit or in any way affect, any of Lender's rights or remedies under the Loan Documents with respect to any past, present or future Default or Event of Default under the Loan Documents, including, without limitation, the Maturity Event of Default. Nothing contained herein, nor any failure by Lender to exercise any of its rights or remedies under the Loan Documents with respect to any past, present or future Default or Event of Default under any of the Loan Documents (including, without limitation, the Maturity Event of Default), shall be deemed to constitute, nor is it intended to constitute, a waiver of any Default or Event of Default under the Loan Documents, or an amendment of, or an agreement to amend, any of the terms of the Loan Documents. The Loan Documents may only be modified in writing as provided in the Loan Agreement. Lender hereby reserves all rights and remedies available to it under the Loan Documents and under applicable law. Lender further reserves its right at any time and from time to time to take any action available to it in connection with the foregoing which it deems appropriate under the circumstances in its sole discretion, including without limitation the right to declare an Event of Default by reason of any other fact or circumstances constituting a Default or Event of Default under the Loan Documents.

Sincerely,

**iStar Tara LLC**, as Lender

By: **iStar Financial, Inc.**, its sole member

By: _____
Name: Samantha Garbus
Its: Senior Vice President

cc: Dechert LLP
1775 I Street, N.W.
Washington, D.C. 20006-2401
Attention: David E. Schulman, Esq.
Facsimile: (202) 261-3334

Wells Fargo Bank, N.A.
301 S. College Street
D1053-05G
Charlotte, North Carolina 28202
Attention: Relationship Manager – Stevens Aviation
Facsimile: (704) 383-8068

102174035

Katten Muchin Rosenman LLP
575 Madison Avenue
New York, New York
Attention: Matthew W. Olsen
Telephone: (212) 940-6472
Facsimile: (212) 894-5503

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

| | |
|---|---|
| **iSTAR TARA LLC, a Delaware limited liability company,**<br><br>**Plaintiff,**<br><br>**vs.**<br><br>**STEVENS AVIATION, INC., a Delaware corporation; GREENVILLE COUNTY, SOUTH CAROLINA, and CITY OF GREENVILLE, SOUTH CAROLINA**<br><br>**Defendants.** | **Civil Action No.: 2015-CP-23-** 06023<br><br>**LIS PENDENS** |

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 OCT 2 PM 3 58

NOTICE IS HEREBY GIVEN that an action has been or will be commenced in this Court upon complaint of the above-named Plaintiff against the Defendant Stevens Aviation, Inc.("Stevens") for causes of action including the foreclosure of a certain leasehold mortgage of real estate given by Stevens to SFT I, LLC dated December 12, 2006 and recorded in the Office of the Register of Deeds for Greenville County, South Carolina on December 12, 2006 at Book 4692, page 258. This Mortgage was assigned to iSTAR TARA LLC by assignment dated March 1, 2009 and recorded on March 23, 2009 in Book 5030, page 3398.

The premises covered and affected by the said mortgage and by the foreclosure thereof are, at the time of the filing of this Notice, being:

(a) all of Stevens' leasehold rights in the land described in **Exhibit A** hereto created by that certain Project Lease Agreement, dated as of October 10, 1997, between Greenville County, South Carolina and the City of Greenville, South Carolina, and Stevens Aviation, Inc., a South Carolina corporation, and the Memorandum of Lease, dated as of November 6, 1997, recorded in the Office of the Register of Deeds for Greenville County in Book 1725 at Page 758 on November 6, 2006, as amended by First Amendment to Lease and Memorandum Thereof, dated December 12, 2006, and recorded in Book 2241 at Page 1112 on December 12, 2006, and Stevens' entire right, title and interest therein;

(b) all modifications, extensions, renewals, amendments, rights to renew or extend, and other options, privileges, and rights of Stevens under or with respect to the foregoing;

(c) all credits or deposits of Stevens under the foregoing, and

2015LP280 1226

(d) all easements, rights, appurtenances, hereditaments, and other rights and privileges of every kind whatsoever of, affecting or benefitting the foregoing.

This the 2nd day of October, 2015.

Rivers Stilwell, S.C. Bar No. 2108
rivers.stilwell@nelsonmullins.com
**NELSON MULLINS RILEY & SCARBOROUGH LLP**
Poinsett Plaza, Suite 900
104 South Main Street
Greenville, SC 29601-2122
(864) 250-2217
(864) 250-2284

*Attorneys for Plaintiff*

## EXHIBIT A

All that certain piece, parcel or tract of land located, lying and being in the County of Greenville, State of South Carolina, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Stevens Aviation Project" dated November 28, 2006, prepared by Beck & Clark's National Surveyors Network, recorded in the Office of the Register of Deeds for Greenville County in Flat Book 1026 at page 46-47 and having, according to said plat, the following metes and bounds, to wit:

Beginning at a nail set (Labeled as P.O.B.) on the southerly side of Taxiway B-l, having South Carolina Grid Coordinates (NAD 83) of N. 1,067,218.63, E. 1,587,527.34; said point of beginning is located N 73"19'01" W 2393.23 feet (grid) from NGS Monument 23-046, thence N 40"49'19" E 1635.91 feet to a mag nail set, thence S 49"13'30" E 256.85 feet to an iron pin found 1/2" rebar, located on the northwestern right-of-way of Delaware Street (60' total r/w), thence running along the northwestern. right-of-way of Delaware Street, S 40"42'52" W 347.20 feet to an iron pin set 1/2" rebar, thence along a curve to the left, having an are length of 413.82 feet, a radius of 488.00 feet, a chord bearing and distance of S 16"25'16" W 401.53 feet to an iron pin set 1/2" rebar, thence S 07"52'20" E 446.32 feet to an iron pin set 1/2" rebar, thence running along a curve to the right, having an are length of 354.31 feet, a radius of 415.00 feet, a chord bearing and distance of S 16"25'18" W 343.64 feet to an iron pin set 1/2" rebar, thence S 40"52'46" W 505.87 feet to an iron pin set 1/2" rebar (leaving the right-of-way of Delaware Street at point located at approximately 472 feet), thence N 48"56'23" W 61.79 feet to a fence corner, thence N 40"39'36" E 23.86 feet to an iron pin set 1/2" rebar, thence N 49"44'48" W 145.27 feet to an iron pin set 1/2" rebar, thence N 17"06'15" W 74.31 feet to a fence corner, thence N 40"23'24" E 34.87 feet to a fence comer, thence running N 49"13'52" W 528.79 feet to a nail set, thence running along a curve to the left, having an are length of 149.48 feet, a radius of 107.50 feet, a chord bearing and distance of N 06"19'41" W 137.73 feet to the point of beginning, containing 23.550 acres more or less.

STATE OF SOUTH CAROLINA )
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE )

iSTAR TARA LLC )
Plaintiff(s) )

vs. )

STEVENS AVIATION, INC., a Delaware corporation; GREENVILLE COUNTY, SOUTH CAROLINA, and CITY OF GREENVILLE, SOUTH CAROLINA )
Defendant(s) )

CIVIL ACTION COVERSHEET

2015-CP - 23- 06023

FILED-CLERK OF COURT
2015 OCT 2 PM 3 58
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER


Submitted By: Rivers S. Stilwell
Address: Nelson Mullins Riley & Scarborough LLP
104 South Main Street, Suite 900
Greenville, SC 29601-2122

SC Bar #: 2108
Telephone #: (864) 250-2217
Fax #: (864) 250-2284
Other:
E-mail: rivers.stilwell@nelsonmullins.com


NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

## DOCKETING INFORMATION (*Check all that apply)*

***If Action is Judgment/Settlement do not complete*

☐ **JURY TRIAL** demanded in complaint. ☒ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

## NATURE OF ACTION (*Check One Box Below*)

**Contracts**
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Fraud/Bad Faith (150)
- ☐ Failure to Deliver/ Warranty (160)
- ☐ Employment Discrim (170)
- ☐ Employment (180)
- ☐ Other (199)

**Torts - Professional Malpractice**
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)

Previous Notice of Intent Case # 20____-NI-_____-_____
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

**Torts – Personal Injury**
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Assault/Battery (370)
- ☐ Slander/Libel (380)
- ☐ Other (399)

**Real Property**
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☒ Other (499) **Breach of Promissory Note, Foreclosure, Appointment of Receiver**

**Inmate Petitions**
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

**Administrative Law/Relief**
- ☐ Reinstate Drv. License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899)

**Judgments/Settlements**
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Other (799)

**Appeals**
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

**Special/Complex /Other**
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)

☐ Sexual Predator (510) ☐ Pre[redacted] Discovery (670)

**Submitting Party Signature:** _____ **Date:** 10/2/15

**Note:** Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**FOR MANDATED ADR COUNTIES ONLY**

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

**You are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)

4. Cases are exempt from ADR only upon the following grounds:

    a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

    b. Requests for temporary relief;

    c. Appeals

    d. Post Conviction relief matters;

    e. Contempt of Court proceedings;

    f. Forfeiture proceedings brought by governmental entities;

    g. Mortgage foreclosures; and

    h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note:** **You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE COUNTY
PAUL D. WICKENSIMER
2015 DEC 1 AM 9 41

IN THE CIRCUIT COURT

Case No. 2015-CP-23-06023

iStar Tara LLC, a Delaware limited liability company,

Plaintiff,

vs.

Stevens Aviation, Inc., a Delaware corporation; Greenville County, South Carolina, and City of of Greenville, South Carolina,

Defendants.

**ANSWER AND COUNTERCLAIMS OF DEFENDANT STEVENS AVIATION, INC.**

**(JURY TRIAL DEMANDED)**

Stevens Aviation, Inc. ("Stevens"), by and through its undersigned counsel, hereby answers the Complaint (the "Complaint") of Plaintiff iStar Tara LLC ("iStar") and pleads its counterclaims against iStar as follows:

**FIRST DEFENSE**
**(General Denial)**

1. Stevens denies all allegations of the Complaint except as specifically admitted, modified or explained herein, and demands strict proof of all allegations of the Complaint not admitted herein.

**SECOND DEFENSE**
**(Answer to Factual Allegations)**

2. Stevens lacks sufficient knowledge and information upon which to determine the truth and accuracy of the allegations of Paragraph 1 of the Complaint and, therefore, denies the same and demands strict proof thereof.

3. Stevens admits the allegations in Paragraphs 2, 3, and 4 of the Complaint.

4. Stevens admits so much of the allegations of Paragraph 5 of the Complaint that the City of Greenville, South Carolina and Greenville County, South Carolina are the record

owners of the Donaldson Property (as defined in the Complaint). The remaining allegations in Paragraph 5 of the Complaint state iStar's legal conclusions to which no response is required; however, to the extent these allegations are construed as requiring a response, Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the allegations and, therefore, denies them.

5. The allegations in Paragraph 6 of the Complaint state iStar's legal conclusions to which no response is required; however, to the extent these allegations are construed as requiring a response, Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the allegations and, therefore, denies them.

6. Stevens admits the allegations in Paragraphs 7, 8, and 9 of the Complaint.

7. In response to the allegations of Paragraph 10 of the Complaint, Stevens admits the existence of the Loan and Security Agreement between Stevens and SFT I, LLC (the "Original Lender"), and that obligations under such Loan and Security Agreement are secured by leasehold mortgages on the GSP Property and the Donaldson Property (as such properties are defined in the Complaint); however, Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the other allegations of Paragraph 10 and, therefore, denies them.

8. Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the allegations of Paragraph 11 of the Complaint and, therefore, denies them.

9. Stevens admits the allegations in Paragraph 12 of the Complaint.

10. Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the allegations of Paragraphs 13 and 14 of the Complaint and, therefore, denies them.

11. In response to the allegations in Paragraph 15 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement (as defined in the Complaint), which document speaks for itself, and Stevens specifically craves reference to such document.

12. In response to the allegations in Paragraph 16 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Promissory Notes (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

13. In response to the allegations in Paragraph 17 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Mortgages (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

14. In response to the allegations in Paragraph 18 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Financing Statements (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents. Stevens would further show unto the Court that the plain language of the Financing Statements did not create a lien on any personal property that Stevens owns or which is located in or around the Donaldson Property or the GSP Property (as defined in the Complaint).

15. In response to the allegations in Paragraph 19 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Assignments (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

16. No response is necessary to the allegations in Paragraph 20 of the Complaint.

17. In response to the allegations in Paragraph 21 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the assignments of the Mortgages recorded in the Register of Deeds offices for Greenville County and Spartanburg County, which documents speak for themselves, and Stevens specifically craves reference to such documents. Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the remaining allegations of Paragraph 21 and, therefore, denies the same and demands strict proof thereof.

18. In response to the allegations in Paragraph 22 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Amendment (as defined in the Complaint), which document speaks for itself, and Stevens specifically craves reference to such document.

19. In response to the allegations in Paragraph 23 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Amended Promissory Notes (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

20. In response to the allegations in Paragraph 24 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Mortgage Amendments (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

21. No response is necessary to the allegations in Paragraph 25 of the Complaint.

22. In response to the allegations in Paragraphs 26, 27, 28, 29, and 30 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Amendment

and the Amended Promissory Notes (as both terms are defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

23. Stevens admits the allegations of Paragraphs 31, 32, 33 and 34 of the Complaint.

24. In response to the allegations in Paragraph 35 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Management Agreement (as defined in the Complaint), which document speaks for itself, and Stevens specifically craves reference to such document.

25. In response to the allegations in Paragraph 36 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the NTC Loan Agreement (as defined in the Complaint), which document speaks for itself, and Stevens specifically craves reference to such document.

26. In response to the allegations in Paragraphs 37, 38, 39, and 40 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement and the Amendment (as defined in the Complaint), which documents speaks for themselves, and Stevens specifically craves reference to such documents.

27. Stevens admits so much of the allegations of Paragraph 41 of the Complaint that the conditions precedent to payment of the Existing Foley Loan (as defined in the Complaint) and the Pre-Amendment Management Fees (as defined in the Complaint) pursuant to the Amendment and the Loan Agreement have not occurred. Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the remaining allegations of Paragraph 41 of the Complaint and, therefore, denies the same and demands strict proof thereof. Stevens would further show unto the Court that it has made no payments related to the Existing Foley Loan or the Pre-Amendment Management Fees since March 31, 2011.

28. In response to the allegations in Paragraphs 42 and 43 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement and the Amendment (as defined in the Complaint), which documents speaks for themselves, and Stevens specifically craves reference to such documents.

29. In response to the allegations in Paragraph 44 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement and the Amendment (as defined in the Complaint), which documents speaks for themselves, and Stevens specifically craves reference to such documents. Stevens admits so much of the allegations of Paragraph 44 of the Complaint that the Cash Availability Trigger Event (as defined in the Complaint) has not occurred since March 31, 2011. Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the remaining allegations of Paragraph 44 and, therefore, denies them. Stevens would further show unto the Court that it has made no payments related to the Existing Foley Loan or the Pre-Amendment Management Fees since March 31, 2011.

30. In response to the allegations in Paragraph 45 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement and the Amendment (as defined in the Complaint), which documents speaks for themselves, and Stevens specifically craves reference to such documents.

31. Stevens denies the allegations in Paragraph 46 of the Complaint and demands strict proof thereof. Stevens would further show unto the Court that it has made no payments related to the Existing Foley Loan or the Pre-Amendment Management Fees since March 31, 2011.

32. In response to the allegations in Paragraphs 47, 48 and 49 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement and the

Amendment (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents. Stevens would further show unto the Court that it has not made any payments in violation of the provisions referenced in Paragraphs 47, 48 and 49 of the Complaint.

33. No response is necessary to the allegations in Paragraph 50 of the Complaint.

34. In response to the allegations in Paragraph 51 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Joinder (as defined in the Complaint), which document speaks for itself, and Stevens specifically craves reference to such document.

35. In response to the allegations in Paragraph 52 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement and the Amendment (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

36. Stevens denies the allegations in Paragraph 53 of the Complaint and demands strict proof thereof. Stevens would further show unto the Court that iStar breached a contract between Stevens and iStar prior to iStar's filing of this case that would have fully and finally satisfied the indebtedness at issue in this case.

37. In response to the allegations in Paragraph 54 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement and the Amendment (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

38. Stevens admits so much of the allegations of Paragraph 55 of the Complaint that iStar sent Stevens the Default Notice (as defined in the Complaint). Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the remaining allegations of

Paragraph 55 of the Complaint and, therefore, denies them.

39. In response to the allegations in Paragraphs 56 and 57 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Loan Agreement and the Amendment (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents. In further response, Stevens denies that it defaulted under the terms of the Loan Agreement and the Amendment and demands strict proof thereof.

40. Stevens denies the allegations of Paragraph 58 of the Complaint and demands strict proof thereof.

**FOR A THIRD DEFENSE**
**(Denial of Breach of Promissory Note Cause of Action)**

41. In response to Paragraph 59 of the Complaint, Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

42. Stevens denies the allegations of Paragraphs 60, 61, 62, and 63 of the Complaint and demands strict proof thereof.

**FOR A FOURTH DEFENSE**
**(Denial of Judicial Foreclosure Cause of Action)**

43. In response to Paragraph 64 of the Complaint, Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

44. Stevens admits so much of the allegations in Paragraph 65 of the Complaint that the Loan (as defined in the Complaint) is secured by Stevens' leasehold interest in the Donaldson Property (as defined in the Complaint). Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the remaining allegations of Paragraph 65 of the Complaint and, therefore, denies them.

45. Stevens denies the allegations in Paragraphs 66 and 67 of the Complaint and demands strict proof thereof.

46. Stevens admits so much of the allegations in Paragraph 68 of the Complaint that it executed the Donaldson Mortgage (as defined in the Complaint). Stevens further responds that it denies any and all allegations inconsistent with the terms of the Donaldson Mortgage, which document speaks for itself, and Stevens specifically craves reference to such document.

47. Stevens denies the allegations in Paragraphs 69, 70, 71, and 72 of the Complaint and demands strict proof thereof.

**FOR A FIFTH DEFENSE**
**(Denial of Claim and Delivery of Personal Property Cause of Action)**

48. In response to Paragraph 73 of the Complaint, Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

49. Stevens denies the allegations in Paragraph 74 of the Complaint and demands strict proof thereof. Stevens would further show unto the Court that none of the documents alleged and included in the Complaint grant iStar a security interest in any personal property owned by Stevens or located in or around the Donaldson Property or GSP Property (as defined in the Complaint).

50. Stevens denies the allegations of Paragraphs 75, 76 and 77 of the Complaint.

51. In response to the allegations of Paragraphs 78 and 79 of the Complaint, Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the allegations and, therefore, denies them.

**FOR A SIXTH DEFENSE**
**(Answer to Request for Appointment of a Receiver)**

52. In response to Paragraph 80 of the Complaint, Stevens incorporates herein all of

the previous paragraphs of this Answer as if stated verbatim.

53. Stevens admits so much of the allegations of Paragraph 81 of the Complaint that the Loan (as defined in the Complaint) is secured by the Mortgages (as defined in the Complaint) and the Assignments (as defined in the Complaint). Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the remaining allegations of Paragraph 81 of the Complaint and, therefore, denies them.

54. Stevens denies the allegations in Paragraphs 82 and 83 of the Complaint.

55. In response to the allegations in Paragraphs 84 and 85 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Donaldson Mortgage (as defined in the Complaint), which document speaks for itself, and Stevens specifically craves reference to such document.

56. Stevens denies the allegations in Paragraphs 86, 87, 88 and 89 of the Complaint.

**FOR A SEVENTH DEFENSE**
**(Denial of Specific Performance Cause of Action)**

57. In response to Paragraph 90 of the Complaint, Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

58. Stevens admits so much of the allegations of Paragraph 91 of the Complaint that the Loan (as defined in the Complaint) is secured by the Mortgages (as defined in the Complaint) and the Assignments (as defined in the Complaint). Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the remaining allegations of Paragraph 91 of the Complaint and, therefore, denies them.

59. Stevens denies the allegations in Paragraphs 92 and 93 of the Complaint.

60. In response to the allegations in Paragraphs 94 and 95 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Assignment of Contracts and

Assignment of Licenses (as both are defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

61. Stevens denies the allegations in Paragraphs 96 and 97 of the Complaint.

**FOR AN EIGHTH DEFENSE**
**(Answer to Request for Accounting)**

62. In response to Paragraph 98 of the Complaint, Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

63. In response to the allegations in Paragraphs 99, 100, and 101 of the Complaint, Stevens denies any and all allegations inconsistent with the terms of the Amendment and the Loan Agreement (as defined in the Complaint), which documents speak for themselves, and Stevens specifically craves reference to such documents.

64. Stevens lacks sufficient knowledge and information to determine the truth and accuracy of the allegations of Paragraph 102 of the Complaint and, therefore, denies them. Stevens would further show unto the Court that it has fully complied with the Affiliate Payment Restrictions (as defined in the Complaint).

65. Stevens denies the allegations in Paragraph 103 of the Complaint.

66. In response to the allegations of Paragraph 104 of the Complaint, Stevens denies that a reservation of rights by iStar is proper and would show that iStar should be deemed to have elected its remedies as stated in its Complaint.

**FOR A NINTH DEFENSE**
**(Failure to State a Claim)**

67. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

68. The Complaint, and each and every cause of action alleged therein, fail to state a

claim upon which relief may be granted and should, therefore, be dismissed pursuant to SCRCP 12(b)(6).

**FOR A TENTH DEFENSE**
**(Failure to Mitigate Damages)**

69. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

70. iStar failed to mitigate its damages, if any, by its breach of a contract between Stevens and iStar that would have fully and finally satisfied the indebtedness at issue in this case.

**FOR AN ELEVENTH DEFENSE**
**(Actions Reasonable)**

71. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

72. Stevens's actions related to iStar were at all times reasonable, lawful, legitimate, and made in good faith.

**FOR A TWELFTH DEFENSE**
**(Equitable Defenses)**

73. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

74. The Complaint, and each and every cause of action alleged therein, are barred by the doctrines of waiver, laches, consent, unclean hands, and/or estoppel.

**FOR A THIRTEENTH DEFENSE**
**(No Lien on Personal Property/Claim and Delivery Not Warranted)**

75. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

76. As reflected in the plain language of the Financing Statements (as defined in the

Complaint), iStar was not granted a security interest in personal property owned by Stevens or located in or around the Donaldson Property or the GSP Property (as defined in the Complaint), except for fixtures and certain contracts and rights relating to the leasing or occupancy of the Donaldson Property or the GSP Property, and, therefore, iStar is not entitled to the relief sought in its cause of action for claim and delivery of personal property.

**FOR A FOURTEENTH DEFENSE**
**(Default Interest, Late Charges, Attorneys' Fees and Costs Inappropriate)**

77. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

78. Any award of default interest, late charges, or attorneys' fees to iStar would not be factually, legally, contractually or equitably appropriate.

**FOR A FIFTEENTH DEFENSE**
**(Reservation of Rights)**

79. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

80. Stevens reserves the right to assert and rely upon such other affirmative defenses as the evidence may show through the course of discovery, and reserves the right to amend this Answer to assert any such defenses.

**FOR A SIXTEENTH DEFENSE**
**AND BY WAY OF STEVENS' FIRST COUNTERCLAIM**
**(Breach of Contract)**
**(Jury Trial Demanded)**

81. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

82. Beginning in January 2015, Stevens and iStar entered into negotiations to fully

and finally satisfy the outstanding indebtedness at issue in this case. The result of the negotiations was an oral contract between Stevens and iStar (the "Discounted Payment Contract") pursuant to which (i) Stevens would make payment of $8,000,000.00 to iStar by the end of August 2015, and (ii) iStar would receive the right to 50% of the proceeds from a sale of Stevens' equity if such sale were to occur within four years after such payment, in full and complete satisfaction of the indebtedness which is the subject of this case.

83. The Discounted Payment Contract was capable of being performed, and was by its terms to be performed, within less than one year from its inception. Stevens was to make the $8,000,000.00 payment and grant the right to the 50% payment to iStar within less than one year's time, whereupon the indebtedness was to be deemed fully and finally satisfied.

84. In making the Discounted Payment Contract, iStar knew or should have known that Stevens would expend substantial time and resources in arranging for the funding for the $8,000,000.00 payment to be made to iStar in or before August 2015.

85. In reliance upon the Discounted Payment Contract, and as performance of its part of the Discounted Payment Contract, From March 2015 to July 2015, Stevens did in fact expend substantial time and resources seeking to obtain the financing to make the $8,000,000.00 contractual payment to iStar. By mid-July 2015, Stevens had obtained commitments for financing sufficient to make the contractual payment to iStar.

86. Stevens notified iStar that Stevens had successfully arranged the financing for the $8,000,000.00 payment to iStar and that Stevens was then ready to consummate the payment, and grant the right to 50% of equity sale proceeds described above, in satisfaction of the indebtedness to iStar pursuant to the Discounted Payment Contract. However, upon iStar's receipt of such notification, iStar sought to add previously undiscussed and unreasonable terms

and conditions to the Discounted Payment Contract, including, but not limited to, rights to Stevens' internal cash flow and restrictions on Stevens' ability to pay certain other creditors post-settlement, both of which would render the $8,000,000.00 unfinanceable..

87. Stevens refused to accept the addition of the attempted new terms and conditions by iStar, whereupon iStar refused to accept the $8,000,000.00 payment and the grant of the right to 50% of equity sale proceeds for four years in satisfaction of the indebtedness to it pursuant to the Discounted Payment Contract. iStar then refused to engage in further discussions to resolve the matter.

88. iStar breached the Discounted Payment Contract by (i) its refusal to accept the $8,000,000.00 payment and the grant of the right to 50% of sale proceeds described above from Stevens in full and final satisfaction of the indebtedness to it, (ii) iStar's refusal to honor the terms of the Discounted Payment Contract unless certain additional, unreasonable terms were added to the contract, and (iii) iStar's failure and refusal to discuss and reasonably attempt to resolve the issue of its refusal to comply with the terms of the Discounted Payment Contract, and (iv) iStar's initiation of this action after its refusal to accept the $8,000,000.00 contractual payment.

89. As a proximate result of iStar's breach of the Discounted Payment Contract, Stevens has incurred damages in an amount to be determined by a jury. Such damages include, but are not limited to, all amounts iStar seeks through the Complaint over and above the $8,000,000.00 agreed upon discounted payment amount, approximately $250,000.00 of fees and expenses associated with obtaining the financing, lost business opportunities, and Stevens' reasonable attorneys' fees and costs in defending this action.

**FOR AN SEVENTEENTH DEFENSE**
**AND BY WAY OF STEVENS' SECOND COUNTERCLAIM**
**(Negligent Misrepresentation)**
**(Jury Trial Demanded)**

90. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

91. Stevens alleges and maintains that the parties entered into the Discounted Payment Contract as set forth in Stevens' first counterclaim hereinabove; however, in the event that it were determined that a binding contract did not exist, Stevens alleges that iStar is liable to Stevens based upon negligent misrepresentation as set forth below.

92. In or around January 2015, iStar unambiguously represented (the "Representation") to Stevens that iStar would accept $8,000,000.00 and a four-year 50% participation right to proceeds from a sale of Stevens in full and final satisfaction of the indebtedness at issue in this case, if such payment was made by the end of August 2015.

93. The Representation was false in that iStar knew that it would not accept the $8,000,000.00 payment and the grant of the four-year 50% participation right to equity sale proceeds in satisfaction of the indebtedness which is the subject of this case.

94. iStar had a pecuniary interest in making the Representation, in that it sought to maximize the payment and value that it received from Stevens.

95. iStar owed a duty of care to Stevens to communicate truthful information to Stevens in regard to the proposed payment and settlement between the parties, as it knew that Stevens would expend significant time, incur costs and make necessary arrangements in obtaining financing for the $8,000,000.00 payment for the settlement.

96. iStar breached its duty of care to Stevens by failing to exercise the care of a reasonable person under the circumstances, in that iStar should have advised Stevens that the

Representation was false so that Stevens would not incur the expenses, expend the time and make arrangements for financing for the $8,000,000.00 payment, all to Stevens' detriment.

97. Stevens justifiably relied on the Representation.

98. Stevens has suffered a pecuniary loss as a direct and proximate result of reliance upon the Representation, by and through expenses it incurred, by time and resources used and by arrangements it made to obtain the financing for the $8,000,000.00 payment.

99. As a proximate result of Stevens' reliance upon the iStar Representation, Stevens has incurred damages including, but not limited to, all amounts iStar seeks through the Complaint over and above the $8,000,000.00 agreed upon discounted payment amount, approximately $250,000.00 of fees and expenses to obtain the financing, lost business opportunities, and Stevens' reasonable attorneys' fees and costs in defending this action.

**FOR AN EIGHTEENTH DEFENSE**
**AND BY WAY OF STEVENS' THIRD COUNTERCLAIM**
**(Promissory Estoppel)**

100. Stevens incorporates herein all of the previous paragraphs of this Answer as if stated verbatim.

101. In or around January 2015, iStar unambiguously represented to Stevens that iStar would accept $8,000,000.00 and a four-year 50% participation right to proceeds from a sale of Stevens in full and final satisfaction of the indebtedness at issue in this case, if such payment was made by the end of August 2015.

102. In reliance upon iStar's promise, Stevens expended considerable time and resources between March and July 2015 obtaining financing to make the $8,000,000.00 payment to iStar within the stated time. By mid-July 2015, Stevens had obtained sufficient financing to

make the $8,000,000.00 payment to iStar. Stevens further reasonably relied upon iStar's promise to accept $8,000,000.00 in full and final satisfaction of the indebtedness by not making other financial arrangements between March and July 2015 that it would have otherwise made if it had known that iStar would renege on its promise.

103. Stevens' reliance on iStar's promise was expected and foreseeable by iStar, as evidenced in part by iStar's knowledge that Stevens was expending considerable time and resources to obtain financing to enable it to make the $8,000,000.00 payment and by Stevens' presentation of the $8,000,000.00 payment to iStar in July 2015.

104. Stevens suffered injury when iStar reneged on its promise by (i) iStar's refusal to accept Stevens' $8,000,000.00 payment and the grant of the 50% right to sale proceeds described above in full and final satisfaction of the indebtedness at issue in this case, and (ii) iStar's initiation of this action after its refusal to accept the $8,000,000.00 payment in satisfaction of the indebtedness.

105. As a proximate result of Stevens' reliance upon iStar's promise, Stevens has incurred damages including, but not limited to, all amounts iStar seeks through the Complaint over and above the $8,000,000.00 agreed upon discounted payment amount, approximately $250,000.00 of fees and expenses to obtain the financing, lost business opportunities, and Stevens' reasonable attorneys' fees and costs in defending this action.

WHEREFORE, Stevens prays that the Court (a) dismiss iStar's Complaint, (b) order that Stevens is entitled to relief against iStar upon Stevens' counterclaims for breach of contract and promissory estoppel, (c) order that Stevens is entitled to compensatory damages and its attorneys' fees and costs, and (d) grant such other and further relief as the Court may find just and proper in this case.

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Attorneys for Defendant Stevens Aviation, Inc.

November 25, 2015

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 DEC 1 AM 9 41

IN THE CIRCUIT COURT

iStar Tara LLC, a Delaware limited liability company,

Plaintiff,

vs.

Stevens Aviation, Inc., a Delaware corporation; Greenville County, South Carolina, and City of of Greenville, South Carolina,

Defendants.

Case No. 2015-CP-23-06023

**CERTIFICATE OF SERVICE**

I, Deborah Watford, an employee of Nexsen Pruet, LLC, do hereby certify that a copy of the **ANSWER AND COUNTERCLAIMS OF DEFENDANT STEVENS AVIATION, INC.** in the above matter has been served upon parties of record by placing the same in the United States mail, first class postage prepaid, addressed to the following as shown below this 25th day of November, 2015, at Columbia, South Carolina.

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Columbia, South Carolina
November 25, 2015

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
DOCKET NO.: 2015-CP-23-06023

**iSTAR TARA LLC, a Delaware limited liability company,**

**Plaintiff,**

**vs.**

**STEVENS AVIATION, INC., a Delaware corporation; GREENVILLE COUNTY, SOUTH CAROLINA, and CITY OF GREENVILLE, SOUTH CAROLINA**

**Defendants.**

**PLAINTIFF'S MOTION TO DISMISS AND REPLY TO COUNTERCLAIMS**

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENSIMER
2016 JAN 8 PM 3 45

Plaintiff iStar Tara, LLC ("iStar"), by and through undersigned counsel, hereby moves to dismiss and replies to the counterclaims of Defendant Stevens Aviation, Inc. ("Stevens") as follows:

## FIRST DEFENSE AND MOTION TO DISMISS

In its counterclaims, Stevens alleges that iStar and Stevens entered into an oral "Discounted Payment Contract," under which Stevens would perform certain conditions, including paying iStar a discounted payoff, in order to satisfy its obligations under the Loan Agreement. The purported oral Discounted Payment Agreement is thus a modification of the Loan Agreement, which is governed by New York law. Stevens' counterclaims are wholly dependent upon the enforceability of the purported oral Discounted Payment Agreement. The Loan Agreement, which is attached to and incorporated by reference into iStar's Complaint, expressly provides that it can only be modified in writing signed by both parties. Because the purported oral Discounted Payment Agreement is not in writing signed by both parties, it is not



ENTERED COMPUTER

effective to modify the Loan Agreement. Stevens has thus failed to state a claim against iStar, and its counterclaims should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**SECOND DEFENSE AND REPLY**

1. Paragraphs 1 through 66 are admissions and denials of iStar's allegations against Stevens that do not require a reply. To the extent a reply is required, iStar incorporates by Paragraphs 1 through 66 of the Complaint and denies Paragraphs 1 through 66 of Stevens answer to the extent inconsistent with the corresponding allegations of the Complaint.

2. Paragraphs 67 through 80 are defenses to iStar's claims against Stevens that do not require a reply. To the extent a reply is required, iStar denies Paragraphs 67 through 80.

**FIRST COUNTERCLAIM**
**(Breach of Contract)**

3. Paragraph 81 does not require a reply. To the extent a reply is required, iStar denies Paragraph 81.

4. Replying to Paragraph 82, iStar admits that from time to time, Stevens and iStar negotiated potential resolutions to satisfy Stevens' debt to iStar, but that such negotiations never resulted in a final, binding contract. Except as admitted, iStar denies the allegations of Paragraph 82.

5. iStar denies Paragraph 83.

6. iStar denies Paragraph 84.

7. Replying to Paragraph 85, iStar denies that it entered into a "Discounted Payment Contract" with Stevens and denies that Stevens obtained commitments for financing sufficient to pay iStar $8,000,000.00. Any remaining allegations of paragraph 85 are denied for lack of sufficient knowledge or information to form a belief as to the truth or falsity thereof.

8. iStar denies Paragraph 86.

9. iStar denies Paragraph 87.

10. iStar denies Paragraph 88.

11. iStar denies Paragraph 89.

**SECOND COUNTERCLAIM**
**(Negligent Misrepresentation)**

12. Paragraph 90 does not require a reply. To the extent a reply is required, iStar denies Paragraph 90.

13. Paragraph 91 recites Stevens' allegations and does not require a reply. To the extent a reply is required, iStar denies Paragraph 91.

14. iStar denies Paragraph 92.

15. iStar denies Paragraph 93.

16. iStar denies Paragraph 94.

17. iStar denies Paragraph 95.

18. iStar denies Paragraph 96.

19. iStar denies Paragraph 97.

20. iStar denies Paragraph 98.

21. iStar denies Paragraph 99.

**THIRD COUNTERCLAIM**
**(Promissory Estoppel)**

22. Paragraph 100 does not require a reply. To the extent a reply is required, iStar denies Paragraph 100.

23. iStar denies Paragraph 101.

24. iStar denies Paragraph 102.

25. iStar denies Paragraph 103.

26. iStar denies Paragraph 104.

27. iStar denies Paragraph 105.

WHEREFORE, iStar prays that the Court:

a) Dismiss Stevens' Counterclaims, with prejudice; and

b) Grant such other and further relief as the Court deems proper.

This the 9 day of January, 2016.

RS Stilwell for RLF

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*Attorneys for Plaintiff*

## CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for iStar Tara LLC, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Plaintiff's Motion to Dismiss and Reply to Counterclaims

Counsel Served:

Julio E. Mendoza, Jr.
Suzanne Taylor Graham Grigg
Kyle A. Brannon
Nexsen Pruet, LLC
PO Drawer 2426
Columbia, SC 29202

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Jeffrey D. Wile
County of Greenville
301 University Ridge, Suite 2400
Greenville, SC 29601

Ann Pollard
Administrative Assistant

Jan 8, 2016

STATE OF SOUTH CAROLINA )
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE ) THIRTEENTH JUDICIAL CIRCUIT
)
) CASE NO.: 2015-CP-23-06023
)
iStar Tara LLC, ) **MOTION AND ORDER INFORMATION**
Plaintiff, ) **FORM AND COVERSHEET**
vs. )
)
Stevens Aviation, Inc., Greenville County, SC and City of Greenville, SC, )
Defendant. )

FILED-CLERK OF COURT
GREENVILLE S.C.
PAUL B. WICKENSIMER
2016 JAN 8 PM 3 46

| Plaintiff's Attorney: | Defendant's Attorney: |
|---|---|
| Rivers S. Stilwell, Bar No. 2108<br>Address:<br>PO Box 10084, Greenville, SC 29603<br>Phone: 8642502300Fax 8642322925<br>E-mail: rivers.stilwell@nelsonmullins.com<br>Other: _ | Julio E. Mendoza, Jr., Bar No. _____<br>Address:<br>PO Drawer 2426, Columbia, SC29202<br>Phone: 8035402026 Fax8037271478<br>E-mail: rmendoza@nexsenpruet.comOther: _ |

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

**SECTION I: Hearing Information**

Nature of Motion: Plaintiff's Motion to Dismiss and Reply to Counterclaims
Estimated Time Needed: 30 mins. Court Reporter Needed: ☒ YES/☐ NO

**SECTION II: Motion/Order Type**

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

R S Stilwell
Signature of Attorney for ☒ Plaintiff /☐ Defendant

January 8, 2016
Date submitted

**SECTION III: Motion Fee**

☒ PAID – AMOUNT: $_____
☐ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other: _____

| JUDGE'S SECTION | |
|---|---|
| ☐ Motion Fee to be paid upon filing of the attached order.<br>☐ Other: _____ | JUDGE CODE _____<br>Date: _____ |

**CLERK'S VERIFICATION**

Collected by: TW Date Filed: _____
☒ MOTION FEE COLLECTED: $ 25.00 #807846 Nelson, Mullins
☐ CONTESTED – AMOUNT DUE: $ _____

FILED-CLERK OF COURT
GREENVILLE C.C. S.C.
PAUL B. WICKENSIMER
2016 MAR 9 PM 2 12

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE CIRCUIT COURT

iStar Tara LLC, a Delaware limited liability company,

Plaintiff,

vs.

Stevens Aviation, Inc., a Delaware corporation; Greenville County, South Carolina; and City of Greenville, South Carolina,

Defendants.

Case No. 2015-CP-23-06023

**STEVENS AVIATION, INC.'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIMS**

Defendant Stevens Aviation, Inc. ("Stevens"), by and through its undersigned counsel, respectfully submits this Memorandum in Opposition to iStar Tara, LLC's ("iStar") Motion to Dismiss and Reply to Counterclaims (the "Motion to Dismiss") filed in this case.

## PROCEDURAL POSTURE AND FACTUAL BACKGROUND

Stevens asserted three counterclaims against the Plaintiff in its Answer and Counterclaims: (1) breach of contract; (2) negligent misrepresentation; and (3) promissory estoppel. Each of Stevens' counterclaims are based upon that certain oral Discounted Payment Contract (as defined in the Answer and Counterclaims) between Stevens and iStar and those certain representations made by iStar to Stevens related thereto.

Specifically, in its Answer and Counterclaims Stevens alleges, in pertinent part, that in January 2015, Stevens and iStar entered into negotiations that resulted in the oral Discounted Payment Contract, pursuant to which (1) Stevens would make payment of $8,000,000.00 to iStar by the end of August 2015, and (2) iStar would receive the right to 50% of the proceeds from a sale of Stevens' equity if such sale were to occur within four years after such payment, in full and final satisfaction of the indebtedness at issue in this case. (Answer & Countercls. ¶ 65.) In

ENTERED COMPUTER

reliance upon the Discounted Payment Contract, and as performance of the terms thereof, from March 2015 through July 2015 Stevens did in fact expend substantial time and resources seeking to obtain financing to make the $8,000,000.00 payment to iStar. By mid-July 2015, Stevens secured commitments for financing sufficient to make the contractual payments to iStar. (Answer & Countercls. ¶ 68.) Shortly thereafter, Stevens notified iStar that it had successfully arranged the financing to make the $8,000,000.00 payment to iStar and that Stevens was ready to consummate the payment and grant the right to 50% of equity sale proceeds described above. However, upon receipt of this notification, iStar sought to add previously undiscussed and unreasonable terms and conditions to the Discounted Payment Contract, including, but not limited to, rights to Stevens' internal cash flow and restrictions on Stevens' ability to pay other creditors, both of which would render the $8,000,000.00 unfinanceable. (Answer & Countercls. ¶ 69.) Stevens refused to accept the addition of these attempted new terms, whereupon iStar refused to accept the $8,000,000.00 payment and the grant of the right to 50% of the equity proceeds for four years. (Answer & Countercls. ¶ 70.) These facts, along with Stevens' reliance on representations made by iStar related to the Discounted Payment Contract, give rise to Stevens' counterclaims for breach of contract, negligent misrepresentation, and promissory estoppel against iStar.

In the Motion to Dismiss, iStar asserts that Stevens' counterclaims should be dismissed pursuant to Rule 12(b)(6), SCRCP, for failure to state a cause of action upon which relief can be granted. iStar contends in the Motion to Dismiss that Stevens' counterclaims must be dismissed because the initial Loan Agreement (as defined in the Complaint) entered into by and between Stevens and iStar in December 2006 contained an integration clause precluding any *modifications* to the Loan Agreement unless in writing signed by both parties.

As stated in the Answer and Counterclaims, Stevens does not deny the existence of the Loan Agreement (*See* Answer and Countercls. ¶ 10.); however, Stevens' counterclaims are not based on a *modification* to the Loan Agreement. Instead, Stevens' counterclaims are based squarely on the separate oral Discounted Payment Contract entered into between Stevens and iStar in 2015 and iStar's representations made related thereto. The Loan Agreement's integration clause does not preclude Stevens and iStar from entering into a separate contract over eight years later.

## STANDARD OF REVIEW

"A motion to dismiss pursuant to Rule 12(b)(6) must be based solely on the allegations set forth in the complaint and [the Court] must presume all well-pled facts to be true." *Gressette v. S.C. Elec. and Gas Co.*, 370 S.C. 377, 378-79, 635 S.E.2d 538, 538-39 (2006). "The motion will not be sustained if the facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to relief on any theory of the case. A judgment on the pleadings is considered to be a drastic procedure by our courts. Therefore, pleadings in a case should be construed liberally and the Court must presume all well pled facts to be true so that substantial justice is done between the parties." *Overcash v. S.C. Elec. And Gas Co.*, 364 S.C. 569, 572, 614 S.E.2d 619, 620 (2005) (internal citations omitted) (quoting *Russell v. City of Columbia*, 305 S.C. 86, 89, 406 S.E.2d 338, 339 (1991)) (citing *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987); *Stroud v. Riddle*, 260 S.C. 99, 102, 194 S.E.2d 235, 237 (1973)). This standard requires that every doubt be resolved in favor of Stevens' allegations in order to determine whether any valid claim for relief exists. *Dye v. Gainey*, 320 S.C. 65, 68, 463 S.E.2d 97, 99 (Ct. App. 1995) ("The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action.").

## ARGUMENT

As stated above, Stevens does not deny the existence of the December 2006 Loan Agreement, that the Loan Agreement contains a choice of law provision requiring the Loan Agreement to be governed by New York Law, or that the Loan Agreement contains an integration clause. However, it is critical to note that Stevens' counterclaims are not based upon a modification to the Loan Agreement, but on the separate Discounted Payment Contract entered into by the parties over eight years later, in 2015. Because the Discounted Payment Contract is a separate contract, it is not governed by New York law and must be governed by the common law choice of law principles. "[A] contract is controlled by the laws of the State in which it is made and is to be performed." *Doctors Hosp. of Augusta, LLC v. CompTrust AGC Workers' Comp. Trust Fund*, 371 S.C. 5, 9, 636 S.E.2d 862, 864 (2006) (quoting *Murphy v. Equitable Life Assurance Soc'y of the United States*, 197 S.C. 393, 407, 15 S.E.2d 646, 651 (1941)). Because Stevens is a corporation with its principal place of business in South Carolina, the leased real and personal property at issue in this case is situated in South Carolina, and all of Stevens' operations necessary for performance under the Discounted Payment Contract took place in South Carolina, Stevens asserts that South Carolina law shall apply to the Discounted Payment Contract. *See Witt v. Am. Trucking Assocs., Inc.*, 860 F. Supp. 295, 300-01 (D.S.C. 1994).

Oral contracts are expressly allowed under South Carolina law. "A contract is an obligation which arises from actual agreement of the parties manifested by words, oral or written, or by conduct." *Armstrong v. Collins*, 366 S.C. 204, 222-23, 621 S.E.2d 368, 377 (Ct. App. 2005) (quoting *Roberts v. Gaskins*, 327 S.C. 478, 483, 486 S.E.2d 771, 773 (Ct. App. 1997)). "With certain exceptions, a contract need not be in writing to be enforceable." *Id.* While South Carolina does have a statute of frauds, requiring certain contracts to be in writing,

no provisions of that statute of frauds are applicable to the Discounted Payment Contract at issue. *See* S.C. Code Ann. § 32-3-10 (1976, as amended).

As stated in the Answer and Counterclaims, iStar agreed to accept $8,000,000.00 from Stevens as a result of contract negotiations that began in January 2015, and Stevens secured commitments for financing and was ready to perform under the contract by mid-July 2015. (Answer & Countercls. ¶ 68.) Therefore, the only provision of the statute of frauds that could apply, performance within one year of the making of the contract, does not require that the Discounted Payment Contract be in writing in this case because performance not only could have taken plan within one year, but Stevens was ready to perform within such time.

Alternatively, even if the Court were to find that New York law were to apply, New York law is also clear that oral contracts can be binding upon the parties. *See Cron v. Hargo Fabrics, Inc.*, 694 N.E.2d 56, 58 (N.Y. 1998); N.Y. Gen. Oblig. Law § 5-701 (McKinney 1963) (New York Statute of Frauds). Moreover, New York law allows subsequent oral modifications of contracts in spite of an integration clause "where there has been (1) partial performance or (2) reliance – but only where the subsequent performance or reliance is 'unequivocally referable to the modification.'" *John Street Leasehold LLC v. FDIC*, 196 F.3d 379, 382 (2d Cir. 1999) (quoting *Towers Charter & Marine Corp. v. Cadillac Ins. Co.*, 894 F.2d 516, 521-22 (2d Cir. 1990)) (applying New York law). Stevens' allegations fit squarely within these two exceptions. Therefore, in the event that the Court determines that New York law applies to the Discounted Payment contract or that the Discounted Payment Contract is a modification to the Loan Agreement, which Stevens denies, the Discounted Payment Contract remains a valid legal basis upon which Stevens' counterclaims may be grounded.

## CONCLUSION

Taking the allegations in Stevens' counterclaims as true, as the Court must under Rule 12(b)(6), SCRCP, Stevens has pled facts sufficient to set forth causes of action for breach of contract, negligent misrepresentation, and promissory estoppel. iStar's sole basis for dismissing the counterclaims is the integration clause contained in the 2006 Loan Agreement; however, that clause does not prohibit the parties from entering into a separate oral contract over eight years later. Alternatively, even if the Court did view the Discounted Payment Contract as a modification of the Loan Agreement, which Stevens denies, the facts present in this case fit squarely within the exceptions under New York law that allow oral modifications to contracts in spite of an integration clause. Accordingly, iStar's Motion to Dismiss should be denied.

RESPECTFULLY SUBMITTED, on this 4th day of March, 2016.

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Kyle A. Brannon
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sgrigg@nexsenpruet.com
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Attorneys for Defendant Stevens Aviation, Inc.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE CO. S.C.

IN THE CIRCUIT COURT

PAUL B. WICKENSIMER
2016 MAR 9 PM 2 12

Case No. 2015-CP-23-06023

iStar Tara LLC, a Delaware limited liability company,

Plaintiff,

vs.

Stevens Aviation, Inc., a Delaware corporation; Greenville County, South Carolina, and City of of Greenville, South Carolina,

Defendants.

**CERTIFICATE OF SERVICE**

I, Jane E. Brown, an employee of Nexsen Pruet, LLC, do hereby certify that a copy of the **STEVENS AVIATION, INC.'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIMS** in the above matter has been served upon parties of record by placing the same in the United States mail, first class postage prepaid, addressed to the following as shown below this 4th day of March, 2016, at Columbia, South Carolina.

Michael Stuart Pitts, Esquire
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Jane E. Brown
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*Attorneys for Stevens Aviation, Inc.*

Columbia, South Carolina
March 4, 2016

ELECTRONICALLY FILED - 2016 May 06 3:28 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF GREENVILLE | IN THE CIRCUIT COURT |
| iStar Tara LLC,<br>Plaintiff,<br>vs.<br>Stevens Aviation, Inc., Greenville County, South Carolina, and City of Greenville, South Carolina,<br>Defendants. | Case No. 2015-CP-23-06023<br>**STEVENS AVIATION, INC.'S MOTION TO RECONSIDER, ALTER OR AMEND ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS COUNTERCLAIMS** |

Defendant Stevens Aviation, Inc. ("Stevens"), by and through its undersigned counsel, respectfully moves before the Court, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, to reconsider, alter or amend the Order Granting Plaintiff's Motion to Dismiss Counterclaims (the "Order") filed with the Greenville County Clerk of Court on April 26, 2016. Stevens received written notice of the Court's execution of the Order on April 26, 2016. The grounds for the motion are as follows:

1. As stated more specifically in Stevens' Memorandum in Opposition to Plaintiff's Motion to Dismiss Counterclaims and by Stevens' counsel at the hearing before the Honorable Perry H. Gravely on March 14, 2016, Stevens' counterclaims are fact intensive regarding specific communications that transpired between the Plaintiff and Stevens.

2. "[I]t is better practice – and in most cases common practice – as well as beneficial to the judicial process for a trial judge to articulate relevant findings and conclusions of law in an order." *Woodson v. DLI Props., LLC*, 406 S.C. 517, 527, 753 S.E.2d 428, 433 (2014). Stevens asserts that this proposition applies equally in an order granting dismissal under Rule 12(b)(6).

ELECTRONICALLY FILED - 2016 May 06 3:28 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

3. Moreover, the absence of detailed findings of fact and conclusions of law in the Order may preclude Stevens from making certain arguments in the event of an appeal of the Order.

4. Stevens asserts that the Order contains insufficient findings of fact and conclusions of law. Stevens' Answer contained three counterclaims consisting of factual allegations spanning twenty-five paragraphs. Stevens asserts that the three paragraphs in the Order are insufficient to detail the Court's findings of fact and conclusions of law with respect to Stevens' allegations and the arguments made upon them.

5. This Motion is based on the pleadings, the record in this case and any supplemental memorandum of law or affidavits served prior to or at the hearing on this matter.

NOW, THEREFORE, Stevens respectfully moves that the Court:

a) Reconsider its ruling in the Order and revive Stevens' counterclaims through entry of an Order denying the Plaintiff's Motion to Dismiss Stevens' counterclaims;

b) In the alternative, altering or amending the Order by adding findings of fact and conclusions of law to elaborate on the Court's decision to dismiss Stevens' counterclaims.

**[SIGNATURE BLOCK ON FOLLOWING PAGE]**

s/Kyle A. Brannon

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Suzanne Taylor Graham Grigg
Kyle A. Brannon
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May 6, 2016

Columbia, South Carolina

Attorneys for Defendant Stevens Aviation, Inc.

ELECTRONICALLY FILED - 2016 May 06 3:28 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

ELECTRONICALLY FILED - 2016 May 06 4:21 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2306023

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE CIRCUIT COURT

iStar Tara LLC, a Delaware limited liability company,

Plaintiff,

vs.

Stevens Aviation, Inc., a Delaware corporation; Greenville County, South Carolina, and City of of Greenville, South Carolina,

Defendants.

Case No. 2015-CP-23-06023

**CERTIFICATE OF SERVICE**

I, Shawn S. Wingo, of Nexsen Pruet, LLC, do hereby certify that a copy of ***Stevens Aviation, Inc.'s Motion to Reconsider, Alter or Amend Order Granting Plaintiff's Motion to Dismiss Counterclaims*** in the above matter has been served upon parties of record by placing the same in the United States mail, first class postage prepaid, addressed to the following as shown below this 6th day of May, 2016, at Columbia, South Carolina.

Michael Stuart Pitts, Esquire
City of Greenville
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Nelson Mullins Riley & Scarborough, LLP
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*Attorneys for Stevens Aviation, Inc.*

Columbia, South Carolina
May 6, 2016

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | |
| | ) | COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE | ) | |
| iStar Tara, LLC | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | Case No. 15-CP-23-06023 |
| | ) | |
| Stevens Aviation, Inc., *et. al.*, | ) | |
| | ) | |
| Defendants. | ) | |

# TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on March 14, 2016, before The Honorable Perry H. Gravely, in Courtroom 7 of the Greenville County Courthouse, 305 East North Street, Greenville, South Carolina; attended by counsel as follows:

APPEARANCES:

Rivers Stilwell, Esq.
NELSON MULLINS RILEY SCARBOROUGH
104 South Main Street, Suite 900
Greenville, South Carolina 29701
-and-
Rebecca Lindahl, Esq.
KATTEN MUCHIN ROSENMAN
550 South Tryon Street, Suite 2900
Charlotte, North Carolina 28202
Appearing for Plaintiff

Julio E. Mendoza, Esq.
NEXSEN PRUET
P O Drawer 2426
Columbia, South Carolina 29202
Appearing for Defendant

Deborah Garrison
*Circuit Court Reporter – 13th Judicial Circuit*
P O Box 27145
Greenville, South Carolina 29616
dgarrison@sccourts.org

THE COURT: All right, we are here for iStar Tara, L.L.C. versus Stevens Aviation, *et. al.*

We've got a Motion to dismiss and a Motion to strike jury trial. Is that correct?

MR. STILWELL: Judge, I'm Rivers Stilwell. I'm here for iStar. Becky Lindahl is here from the Katten Firm in Charlotte. She's going to argue the Motions.

I've got some good news for you. The first one resolved, ---

THE COURT: Which one is that?

MR. STILWELL: --- which was the Motion to strike the jury trial.

MR. MENDOZA: That's correct, Your Honor. I did not file a response to it. I, frankly, meant to send a letter saying that we were not going to oppose that.

THE COURT: Okay. So that has been resolved.

MR. STILWELL: So we're halfway there.

THE COURT: Okay.

MR. STILWELL: Becky and her

partner, Richard, are both members of the South Carolina Bar, so she's going to work today and I'm going to watch her.

THE COURT: All right.

MS. LINDAHL: Good afternoon, Your Honor. Becky Lindahl here on behalf of iStar.

This is a foreclosure action, Your Honor. iStar is -- made a twenty-five million dollar loan to Stevens Aviation.

Stevens Aviation performs aviation and airplane maintenance, avionics, other airplane-related work at the Greenville-Spartanburg Airport and the Donaldson Airport.

The loan that iStar made to Stevens is secured by leasehold mortgages on portions of those two airports as well as an airport in Daytona, Ohio and an airport in Nashville, Tennessee.

The loan in the original principal amount of twenty-five million dollars was secured by two -- or evidenced by two promissory Notes. It was modified in March of 2011 to reduce the aggregate principle

amount of the loan down to just under twenty-five million dollars, still evidenced by two promissory Notes.

The Notes matured by their terms on March 1st of 2015, so there is currently a maturity default on those two Notes.

iStar filed the incident action in Greenville to try to foreclose the lien on the leasehold mortgage as well as take back some other collateral that secures the loan. Because there is property sitting in both Greenville and Spartanburg counties, we actually filed the same action in Spartanburg but the parties have agreed to stay that action and proceed in Greenville.

In response to iStar's Complaint seeking to foreclose the leasehold mortgages, Stevens filed a counterclaim and we are here today on a Motion to dismiss that counter-claim.

The basic allegations of the counterclaim are that Stevens and iStar, sometime in the beginning of 2015, began to negotiate what Stevens calls a discounted payment contract. So Stevens alleges that

iStar and Stevens entered into an oral modification of the twenty-five million dollar loan agreement, under which Stevens was going to be permitted to make a reduced payment of eight million dollars to iStar in August 2015; then iStar would also receive the right to fifty percent of the proceeds of any sale of Stevens' equity if Stevens were to sell itself within a particular amount of time.

Stevens contends that is a separate stand-alone agreement and that iStar breached it by not carrying it out and satisfying the debt, or by changing the terms before the agreement was consumed is essentially what their argument is. iStar's contention is that was not a separate stand-alone agreement but that any negotiations leading up to a modification would have been a modification of the original loan agreement rather than a separate stand-alone agreement.

Stevens has moved to dismiss this counterclaim because the terms of the loan agreement are crystal clear that oral modifications of the loan agreement are not

acceptable. Any modification of the loan agreement has to be done in writing, signed by both parties and isn't effective until it is signed by both parties.

So iStar's position is that there was no modification because there was never a separate writing that was signed by both parties.

We submitted a brief last week in which we quoted the relevant portion of the loan agreement, so I'm not going to walk through all of that unless Your Honor ---

THE COURT: I actually reviewed that. I received that and reviewed it.

MS. LINDAHL: Okay. As set forth in the agreement, it is very straightforward -- the language is very straightforward about oral modification being enforceable.

This agreement, the Loan Agreement is unequivocally governed by New York law. So in order to determine whether this discounted contract is a separate stand-alone contract or whether it is an attempted oral modification of the Loan Agreement, we have to look to New York law. We cited some cases

in our brief, Your Honor, that explain that under New York law if the original agreement is altered by subsequent agreement or attempt to agree that it is a modification rather than a new contract. We cited a couple of cases that I have copies of if Your Honor would like them.

But essentially the rule in New York is that you look at the substance of the amendment itself, not the form. So if you have a subsequent agreement between the parties that changes a key term of the agreement, such as the payment terms, that is one contract that has been modified. It's not two separate, stand-alone contracts.

The discounted payment agreement, functionally what it does is it changes the payment terms under the loan agreement. Instead of having to pay twenty-five million dollars to iStar on March 1st, 2015, had the discounted payment contract been consummated and performed, Stevens would have had to pay eight million dollars by August 2015 and then also give iStar a percentage of the proceeds of its equity if Stevens were to sell itself.

That is not a separate stand-alone agreement. That is just changing the payment terms under the loan agreement. So it's an amendment of the loan agreement. Because it's an attempted amendment of the loan agreement, in order for it to be effective it has to abide by the terms of the loan agreement; which provide that in order for an amendment to be binding that it has to be in writing and that it has to be signed by both parties. That just didn't happen here.

It's sort of an alternate argument. Stevens said, 'well, if it's an oral amendment, New York law will allow oral amendments under a certain exception', which I refer to in iStar's brief as the Towers Charter exception. What the Towers Charter exception says under New York law is that if you have a contract provision that says that you can't modify an agreement except in writing, signed by all parties, that you can get around that provision if either you've partially performed an oral or attempted oral modification or one party relied on the promise that there would be a modification.

Both of those exceptions are subject to the following condition: the performance or the reliance, so whatever the action was that was done in furtherance of the purported modification, it has to be utterly opposite to what the terms of the agreement to be amended would say. So, in other words you have to take an action that either was prohibited by the earlier agreement or was just entirely inconsistent with. That's the only way that you can apply the Towers Charter exception.

So here what Stevens is saying is that the agreement was amended, the loan agreement was amended orally to allow Stevens to pay eight million dollars instead of twenty-five million dollars and that they were also going to give fifty percent of the proceeds. Then they went out and took some action to try to arrange for the financing of eight million dollars.

Well, the problem is -- and the reason why the Towers Charter exception doesn't apply is that the only action that they took in furtherance of this purported

oral modification was to go out and try to get money to pay to iStar. The loan agreement always required Stevens to pay money to iStar. So the conduct that they purportedly took to advance this supposedly oral modification is not utterly consistent with the loan agreement. In fact, it's entirely consistent with the loan agreement. So they're not entitled to invoke this Towers Charter exception that says that if they've relied or performed an oral modification that they don't have to abide by the contract terms that say that modification has to be in writing, signed by both parties.

THE COURT: Towers Charter, is that applying New York law?

MS. LINDAHL: It's New York law, Your Honor, (affirmative nod).

The question of whether it's appropriate at this stage in the case to dismiss is addressed by a case that we cited in our brief. That is the *Charleston County School District v. Laidlaw Transit Company*. In that case, Charleston County and a school bus company agreed to a contract where

Laidlaw was going to provide transportation services to the School District. The contract laid out the scope of work and it laid out the terms of payment.

Then the transportation company did some work outside of the scope of work and filed equitable claims against the County (School District) asking to be paid for the extra work that it did. The agreement in Laidlaw had clearly provided that 'there are specific types of remedies of payment that you're entitled to under this contract, you're not entitled to anything else.'

So County moved to dismiss on a Rule 12(b)(6) Motion just like iStar is doing today. The contract in that case was attached to the pleadings. Everybody agreed that it existed and said what it said. The court said that, 'I don't have to agree with your bare assertions on what you contend is extra contractual work because the contract which sets forth the scope of work and the payment terms is attached to the pleadings and everybody agrees that it is what it is, therefore a dismissal under Rule 12(b)(6) is

appropriate.'

That's exactly where we are today. What we have in our loan agreement are very clear terms that provide that provide that modifications to the loan agreement have to be in writing, signed by both parties.

We attached a copy of the Loan Agreement as Exhibit 1 to the Complaint. In the Answer -- Stevens did answer and counterclaimed. So in the Answer, Stevens says, 'we deny this paragraph to the extent that you're saying anything different than what the Loan Agreement is saying.' So we're all agreeing that the loan agreement says what it says, it was attached to the Complaint.

But then they go on to say, 'even though the Loan Agreement is attached here and it has terms that provide how it is to be modified, we have modified it a different way.'

So this is just like *Charleston County v. Laidlaw* where Laidlaw said 'even though the contract said that I'm only to be paid for certain things in certain amounts,

in certain ways, I acted outside of the contract and now I want a remedy.' That's the same thing that Stevens is doing here. So it's entirely appropriate, even though it is in early stages of litigation, under *Charleston v. Laidlaw*, to dismiss the counterclaim, because it's allegations are contrary to the loan agreement that everybody agrees says what it says.

THE COURT: All right. Yes, I'd be glad to hear from you.

MR. MENDOZA: Thank you, Your Honor. I'm Rick Mendoza on behalf of Stevens Aviation.

Your Honor, it seems that their position is that this is a separate contract, not a modification. Most of the argument made by the plaintiff in this case relates to modification, modification, modification.

But if you look at the counterclaim actually agree that there is a breach of contract, one for negligent misrepresentation and one for promissory estoppel; but I understand that their -- that the plaintiff's position is that the contract integration

clause blocked all three, so I am not suggesting that removes that. I understand that and accept that as their argument.

But, Your Honor, it comes back around that there was a situation where a loan had fully matured, a debt existed. So the parties met to discuss what could be done about this debt. We maintain that the loan was not modified in any way, the loan terms were not modified, the payment -- the loan balance was not modified, the collateral was not modified. Instead the parties reached an agreement that involved a payment, a lump sum payment plus the right to share in equity if the company were sold within four years, as a means to address this debt.

Now, that's not the same thing as paying the loan, Your Honor, because the payment was agreed. Eight million dollars is substantially -- was not even half of the balance claimed due on the loan.

Your Honor, the parties reached this agreement in part because it was going to require considerable effort on the defendant's, Steven Aviation's, part to go

out and raise money. So it went out and was successful in raising money by the stipulated date and tendered the payment. Of course, we maintain that it was a breach of contract, under our theory, by the plaintiff in refusing to accept that payment.

Your Honor, again, we maintain that it was not a modification but a separate agreement. The debt already existed, the loan had fully matured, the balance was due. There was no attempt to even try to pay that loan balance because it was so substantial, so the parties reached an agreement as to what would be an acceptable means to discharge this debt. The discharge of the debt would be by the payment of eight million dollars plus sharing fifty percent of the equity in the company if it were sold within the four years. We maintain that was a separate contract.

I know Your Honor is very familiar with the case law, the authorities saying that at this stage must meet all the allegations in the -- this is a counterclaim instead of a complaint -- in the counterclaim

as if they are true and to find, in order to dismiss a case, that there are no circumstances under which relief could be granted on the counterclaim. We maintain that that -- that our claims, that our counterclaims, are in fact -- if taken as true, that we do have right to relief.

Your Honor, there are a couple of points that I'd also make with regard to the application of New York law. New York law applies only if this new agreement is actually deemed to be a modification of the loan agreement, because if it is a separate contract there is no choice of law provisions indicating New York law.

I would also note that the *Laidlaw* case that Ms. Lindahl was citing was a bit different in many respects. That involved the School Board and the School District contracting with someone who was trying to claim charges beyond the contract. It was still all centered on that contractual relationship and the charges that would be due for the work performed by the party trying to make those claims. That is a very

different situation than we have here.

Again, we maintain that this is a separate contract. It related to discharging the loan indebtedness but in no way actually focused on the loan. It was just a debt that was owed and the parties were trying to reckon with how it would be addressed.

THE COURT: You're saying all that is thrown out? That the original contract is thrown out and this is a totally separate ---

MR. MENDOZA: Well, Your Honor, we're saying that the contract was there but this was an agreement where if Stevens Aviation paid eight million dollars by August -- I've forgotten the exact date -- by August 2015 and then it would -- that the debt would be discharged. Because there was a second provision -- which I think is another indication why it was a separate agreement, that in addition iStar, the plaintiff, would be entitled to share in fifty percent of any equity if the company were sold within four years. It was an agreement in this manner, on the payment of eight million dollars and

the sharing of equity provision that -- that the debt would be discharged. It was a discharge of the debt. It wasn't a focus on paying the loan because the loan balance was more than double the amount of the payment.

THE COURT: But how can you argue that it was not a modification when you just made the statement -- or from what I am understanding, 'here is the amount of the loan and all the money that we're going to get is what we work out as far as the payment back and what you already owe.'

MR. MENDOZA: Well, Your Honor, because the loan had fully matured, we maintain that it was not a modification of the loan. There is some -- I understand that it is not as clean a distinction as I would like to make, I will concede that. But the fact is that you have a debt which is fully matured and due. What are you going to do with it? Well, you come to the contract of 'if you go out and raise this money and make this payment' but that is not changing the maturity date, that's not changing the amount that is due under the loan, that is not

changing the interest rate or charges accruing on the loan. It doesn't change the collateral/security of the loan. It is just a matter that if that payment is made, plus the provision for fifty percent of the equity if sold within four years, that the debt will be discharged. We maintain that is a separate contract.

THE COURT: All right. Assuming that it is a modification, what is your position on whether you are allowed -- why shouldn't I grant -- assuming that, and I realize that you are not going to concede that. Assuming that, why should I not grant their Motion to dismiss, if in fact it is a modification?

MR. MENDOZA: Well, Your Honor, as we've put in our papers, ---

THE COURT: I don't think I have your papers.

MR. MENDOZA: Well, we filed it. We actually mailed it on -- if I may hand up ---

THE COURT: Yeah, I'll be glad to.

MR. MENDOZA: This was filed last

week, (tendering).

THE COURT: Thank you.

MR. MENDOZA: We actually mailed it before that, we mailed it about -- I think it was ten days ago or so. But it actually made its way to the Clerk's Office for filing on the 9th. I'm sorry, I would have e-mailed it directly to you but I thought we'd allowed enough lead time so that it would get to you.

But -- Ms. Lindahl pointed out that under New York law that while there can be oral modifications, uh, -- but the modification cannot be doing something that you are already required to do. So I understand that she is saying that the payment was due.

But, Your Honor, there was at least one change -- there was a provision of paying the eight million dollars but there was also the sharing of fifty percent of the equity in the company if sold within four years. Now, that's not something that would have been required under the loan documents. So that would be a new provision, so that would be an oral modification if -- again, if you were to

rule ---

THE COURT: But it has to be inconsistent with what you already agreed to -- with the original agreement?

MR. MENDOZA: Your Honor, I ---

THE COURT: That's a new term but something "inconsistent" with what you ---

MR. MENDOZA: I agree, Your Honor, but I don't -- the fifty percent sharing, I think, would be not -- well, I don't know if it is consistent. I think the notion is that -- and I've forgotten what the case is, again I apologize. But I think they're talking in terms of that if you're modifying doing something that you are already obligated to do, then of course that is not the kind of modification that you could make orally because you're not -- it's almost like you're not giving due consideration for it, is the way that I am construing it.

But I do believe that by agreeing to share fifty percent of the equity in the company if it is sold within four years, that is something that was not required already, then that was something that is an additional

provision that had not been part of the loan agreement prior to that time.

THE COURT: Let me ask you this, are y'all in agreement that everything rises and falls as to all counterclaims or -- do you agree -- let me ask you this, and I think you said this first but I just want to be sure. Are you saying that either all counterclaims stay or they all go?

MR. MENDOZA: Well, Your Honor, of course we don't like to make that concession.

THE COURT: Yeah.

MR. MENDOZA: But I believe what she is saying is that if the representations were all deemed to be a loan modification, then I would have to acknowledge on that finding that it would render the alleged representations as being ---

THE COURT: All right.

MR. MENDOZA: --- outside the ---

THE COURT: Okay. I thought that was where we were going. I just wanted clarification.

All right, anything else you want to

put on the record?

MS. LINDAHL: Just very briefly.

THE COURT: Sure.

MS. LINDAHL: Mr. Mendoza has already mentioned -- if it is clear that there was a separate contract, which I think is really elevating form over substance, all of the negotiations or the performance or onus is under this purported contract, it all hinges on the fact that there is a contractual loan agreement between iStar and Stevens. If there had never been a loan agreement there would never have been any reason for this discount. So just as a matter of common sense, you know, a separate stand-alone agreement that operates to fully and finally discharge the debt, that's not a separate agreement. That's a modification of the existing agreement.

For example, there were other executory provisions of the loan agreement, so there are negative covenants which prevent Stevens from taking certain actions or making certain distributions. I don't think that Stevens would stand up here and say, 'well,

we agreed to this payment but -- we paid it but, you know, there is still this separate agreement over here in the loan agreement so we're not allowed to make any distributions to our affiliates because that agreement is still standing.' I don't think that's at all what the parties were contemplating if what Mr. Mendoza alleges in his counterclaim is true. They were negotiating a contract that would fully and finally satisfy all of the executory provisions of the loan agreement.

And then with respect to the last point that Mr. Mendoza made, about the equity sharing being a different term that wasn't in the Loan Agreement. The sharing of the equity is not a separate executory provison that was negotiated for any reason other than to pay down the debt. It's a source of funding, it is not a new requirement that was put in for any reason other than to pay off the balance of the debt.

But I also -- the allegation in the counterclaim about what Stevens did and why its actions should fall under this Towers

Charter exception relate to funding the eight million dollars. There aren't any allegations that they actually took any efforts to try to sell the equity of Stevens to get that source of funding.

THE COURT: All right. I'm going to look at your memo. It is downstairs, I know. It just hadn't made it into the file by the time it got to my office. So I want to review that and review the two cases, primarily, that you've cited.

Did you have something to say, Mr. Stilwell?

MR. STILWELL: I was just going to say, Your Honor, that the first Motion will be a Form 4.

THE COURT: Okay. Yes. All right. I'll let y'all know something gin the next day or two. Thank you.

(HEARING CONCLUDED)

STATE OF SOUTH CAROLINA )
) CERTIFICATE
COUNTY OF GREENVILLE )

I, the undersigned Deborah Garrison, Circuit Court Reporter for the 13th Judicial Circuit, hereby certify that the foregoing is a complete and accurate transcript of the hearing held in the within action heard on March 14, 2016, before The Honorable Perry H. Gravely;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

_____

Deborah Garrison

Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Hon. Perry H. Gravely, Circuit Court Judge

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Appellate Case No. 2016-001691
Case No. 2015-CP-23-06023

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iStar Tara, LLC, ..... Respondent,

v.

Stevens Aviation, Inc., Greenville County, South Carolina, and City of Greenville, South Carolina, ..... Defendants,

Of whom

Stevens Aviation, Inc., is the ..... Appellant.

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**CERTIFICATE OF COUNSEL**

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The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

April 3, 2017

Respectfully submitted,

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