

PLAN EXHIBIT B

**THIS PLAN EXHIBIT REMAINS SUBJECT TO FURTHER NEGOTIATION (INCLUDING,
WITHOUT LIMITATION, WITH RESPECT TO THE BRACKETED TEXT).**

AMENDED AND RESTATED LOAN AGREEMENT

Dated as of February [], 2006

Among

**ATA AIRLINES, INC.,
as Borrower,**

**ATA HOLDINGS INC.
AND ITS SUBSIDIARIES FROM
TIME TO TIME PARTY HERETO,**

**AIR TRANSPORTATION STABILIZATION BOARD,
as Tranche A Lender,**

**CITIBANK, N.A.,
as Tranche B Lender,**

**CITIBANK, N.A.,
as Collateral Agent,**

and

**CITIBANK, N.A.,
as Agent**

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- Exhibit A - Form of Assignment and Acceptance
- Exhibit B-1 - Form of Tranche A Note
- Exhibit B-2 - Form of Tranche B Note
- Exhibit C - Form of Affiliate Guarantee
- Exhibit D - Certain Economic Terms
- Exhibit E - Form of Intellectual Property Security Agreement
- Exhibit F - Form of Subsidiary Joinder Agreement

AMENDED AND RESTATED LOAN AGREEMENT, dated as of February [], 2006, among **ATA AIRLINES, INC.**, an Indiana corporation (formerly known as American Trans Air, Inc., the "Borrower"); **ATA HOLDINGS INC.**, a Delaware corporation (the "Parent"); the other direct and indirect Subsidiaries of the Parent parties hereto from time to time, **AIR TRANSPORTATION STABILIZATION BOARD**, created pursuant to Section 102 of the Act referred to below (the "Board"), in its capacity as a lender in respect of Tranche A (as defined herein) (together with its successors and assigns, the "Tranche A Lender"); **CITIBANK, N.A.**, in its capacity as a lender in respect of Tranche B (as defined herein) (in such capacity, together with its successors and assigns, the "Tranche B Lender"); **CITIBANK, N.A.**, in its capacity as collateral agent hereunder (together with its successors and permitted assigns, the "Collateral Agent"); and **CITIBANK, N.A.**, as agent for the Lenders (in such capacity, together with its successors and permitted assigns, the "Agent").

W I T N E S S E T H:

WHEREAS, the Borrower, ATA Holdings Corp. ("Pre-Petition Parent"), the Board, the lenders and agents referred to therein, and BearingPoint, Inc., as Loan Administrator, are parties to that certain Loan Agreement dated as of November 20, 2002 (as amended, supplemented or otherwise modified through the date hereof, the "Original Loan Agreement") pursuant to which the lenders thereunder made a single term loan to the Borrower in the principal amount of \$168,000,000;

WHEREAS, on October 26, 2004, the Borrower, Pre-Petition Parent and certain of their affiliates (the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division (the "Bankruptcy Court"), jointly administered Case No. 04-19866 (the "Bankruptcy Case");

WHEREAS, pursuant to that certain demand, dated December 6, 2004, delivered by the Agent under the Board Guarantee (as defined in the Original Loan Agreement), the Board paid to Govco Incorporated on February 4, 2005 the Guaranteed Amount (as defined in such Board Guarantee) in full and became the holder of Tranche A (as defined in the Original Loan Agreement);

WHEREAS, the Plan of Reorganization (as defined below) in the Bankruptcy Case contemplates, among other things, the reinstatement of the ATSB Secured Claim (as defined in the Plan of Reorganization) together with an amount (not to exceed \$2,500,000) in respect of the fees and expenses incurred by the Lenders (as defined below), the Participants (as defined below), the Agent and the Collateral Agent during the Bankruptcy Case, in each case upon the terms and conditions set forth herein and therein;

WHEREAS, as of the Effective Date (as defined below), the outstanding amount of the ATSB Secured Claim is \$[] and the amount of fees and expenses of the Lenders, the Participants, the Agent and the Collateral Agent is \$[], resulting in an aggregate reinstated principal amount of \$[] (such aggregate amount, the "Loan");

WHEREAS, the Plan of Reorganization provides that the Original Loan Agreement shall be amended and restated as provided herein; and

WHEREAS, the Lenders are willing to reinstate the Loan and amend and restate the Original Loan Agreement upon the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein, the parties hereto hereby agree to amend and restate the Original Loan Agreement as follows:

ARTICLE I

DEFINITIONS, INTERPRETATION AND ACCOUNTING TERMS

Section 1.1. Defined Terms. As used in this Agreement, the following terms have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“Acquisition” has the meaning specified in **Section 6.5(a)**.

“Act” means the Air Transportation Safety and System Stabilization Act, P.L. 107-42, as the same may be amended from time to time.

“Affiliate” means, with respect to any Person, any other Person which, directly or indirectly, controls, is controlled by or is under common control with such Person. For the purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Affiliate Guarantee” means the Affiliate Guarantee dated as of the date hereof made by the Guarantors, in substantially the form of Exhibit C.

“Affiliate Transaction” has the meaning specified in **Section 6.7(a)**.

“Agent” has the meaning specified in the preamble to this Agreement.

“Aggregate Amounts Due” has the meaning specified in **Section 9.6**.

“Agreement” means this Amended and Restated Loan Agreement.

“Air Mobility Command” means the Headquarters Air Mobility Command unit of the United States Department of the Air Force.

“Air Mobility Command Agreement” means that certain agreement identified as contract number FA4428-05-D-0005 between the Air Mobility Command and the Federal Express Charter Programs Team Arrangement (of which the Borrower is a member), including any amendment, restatement, renewal, replacement, successor or modification thereof or thereto.

“Aircraft Related Equipment” means the aircraft, aircraft engines, airframes, propellers and appliances installed thereon, spare aircraft engines, propellers, Spare Parts, aircraft parts, simulators and passenger loading bridges or other flight or ground equipment owned by each Obligor from time to time.

“Alliance Agreements” means business alliance agreements entered into by the Obligors from time to time that include, but are not limited to, code-sharing, frequent flyer, ground handling and marketing agreements that are entered into in the ordinary course of business, including, without

limitation, the Amended and Restated Codeshare Agreement dated [_____] between Southwest Airlines, Co. and the Borrower.

“AMC Team Agreements” means the (i) Contractor Team Arrangement Agreement, dated as of March 9, 2005 among Federal Express Corporation, the Borrower, Atlas Air, Inc., Northwest Airlines, Inc., Gemini Air Cargo, Inc., Omni Air International, Inc., Polar Air Cargo Inc. and Air Transport International LLC, and (ii) Contractor Team Arrangement Operating Agreement, dated March 2005 among Federal Express Corporation, the Borrower, Atlas Air, Inc., Northwest Airlines, Inc., Gemini Air Cargo, Inc., Omni Air International, Inc., Polar Air Cargo Inc. and Air Transport International LLC, any amendments, restatements, renewals, replacements, successors or modifications of such agreements, together with any other agreements among the contractor team arrangement of which the Borrower is a member in respect of the services provided by such contractor team arrangement under the Air Mobility Command Agreement.

“Applicable Interest Rate” means, for any Interest Period, a rate per annum equal to LIBOR for such Interest Period plus 8.00% per annum.

“Appraisal Report” means a desktop appraisal (or, if applicable, pursuant to [Section 5.13](#), an inspection report) in form and substance satisfactory to the Requisite Lenders and prepared by an Appraiser, which certifies, at the time of determination, the fair market value and the liquidation value of the Obligor’s Spare Parts inventory; provided that the terms “fair market value” and “liquidation value” shall be as defined in that certain appraisal report of Sage Popovich, Inc. dated July 15, 2005.

“Appraiser” means Sage Popovich, Inc. or any other firm of nationally recognized, independent appraisers as may be agreed by the Borrower and the Requisite Lenders.

“Asset Sale” means any sale, transfer or other disposition (including by way of merger, consolidation, exchange of assets or sale-leaseback transactions), in one transaction or a series of related transactions, by any Obligor to any Person (other than another Obligor) of (i) all or any of the Capital Stock of any Obligor other than Parent, (ii) all or substantially all of the property and assets of an operating unit or business of any Obligor or (iii) any other property and assets of any Obligor outside of the ordinary course of business of such Obligor (it being understood that sales of Spare Parts made for the purpose of conforming the Obligor’s Spare Parts inventory to the size of the Obligor’s aircraft fleet shall be deemed to be sales outside of the ordinary course of business); provided, that sales of Aircraft Related Equipment (other than Spare Parts) as part of a sale-leaseback transaction in connection with the acquisition of such Aircraft Related Equipment by the Borrower or another Obligor and entered into within eighteen (18) months after such acquisition shall not be included within the meaning of “Asset Sale.”

“Assignment and Acceptance” means an assignment and acceptance entered into by a Lender and an assignee lender, and accepted by the Agent, in substantially the form of [Exhibit A](#).

“Available Cash Amount” means, as of any date, (x) the aggregate amount of Pledged Cash less (y) the sum of the following (to the extent included in Pledged Cash):

- (i) the amount by which all outstanding advances to the Obligor by credit card processors exceeds twenty percent (20%) of the Obligor’s aggregate outstanding air traffic liability as of such date in respect of such credit card purchases (as determined in accordance with GAAP, and, for the avoidance of doubt, excluding air traffic liability associated with the Obligor’s frequent flyer, affinity card and like programs);

(ii) [(a) the aggregate amount (but in any event no less than [\$ _____]) which would be necessary to (1) satisfy the obligations of the Obligors under or in respect of the Trust Agreements as of such date and (2) which the Obligors would be required to pay or post as collateral as of such date to Persons performing clearinghouse services for the Obligors (including, without limitation IATA, ARC and ACH) to fully secure amounts that may be owed to each such Person in connection with such Person's performance of clearinghouse services for the Obligors, less (b) the Pre-Funded Amount as of such date;]

(iii) the amount of any checks issued or payments made by the Obligors from Pledged Cash which have not cleared as of such date; and

(iv) the amount of any Equipment Purchase Reserves.

“Bankruptcy Case” has the meaning specified in the recitals to this Agreement.

“Bankruptcy Code” means Title 11 of the United States Code as now and hereafter in effect, or any successor statute.

“Bankruptcy Court” has the meaning specified in the recitals to this Agreement.

“BATA Joint Venture” means the joint venture pursuant to the limited liability company agreement of BATA Leasing, LLC, dated as of March 13, 2001, between MDLC Equipment Leasing Corporation, the Borrower and the other parties from time to time a party thereto, and documents executed in connection therewith.

“BCLC Participant” means Boeing Capital Loan Corporation, a Delaware corporation, and its successors and permitted assigns.

“Board” has the meaning specified in the preamble to this Agreement.

“Borrower” has the meaning specified in the preamble to this Agreement.

“Business Day” means a day of the year on which banks are not required or authorized to close in New York, New York or Indianapolis, Indiana and, if the applicable Business Day relates to notices, determinations, fundings and payments in connection with LIBOR, a day on which dealings in Dollar deposits are also carried on in the London interbank market.

“Capital Lease” means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is required to be accounted for as a capital lease on the balance sheet of that Person, and the amount of Indebtedness represented by such lease shall be the capitalized amount of the obligations evidenced thereby determined in accordance with GAAP.

“Capital Stock” means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of such Person's capital stock, or corresponding equity rights in any partnership, limited liability company or other entity, whether now outstanding or issued after the date of this Agreement, including, without limitation, all Common Stock.

“Card Liquidity Event” has the meaning specified in [Section 2.5\(d\)](#).

“Cash” means money, currency or a credit balance.

“Cash Equivalents” means, as at any date of determination, (i) marketable securities (a) issued or directly and unconditionally guaranteed as to interest and principal by the United States government or (b) issued by any agency or instrumentality of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one year after such date; (ii) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any instrumentality thereof, in each case maturing within one year after such date and having, at the time of the acquisition thereof, the highest rating obtainable from either S&P or Moody’s; (iii) commercial paper not issued by any Obligor maturing no more than one year after such date and having, at the time of the acquisition thereof, a rating of at least A-2 from S&P or at least P-2 from Moody’s; (iv) certificates of deposit or bankers’ acceptances maturing within one year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia that (a) is at least “adequately capitalized” (as defined in the regulations of its primary Federal banking regulator) and (b) has Tier 1 capital (as defined in such regulations) of not less than \$500,000,000; and (v) shares of any money market mutual fund that (a) has at least 95% of its assets invested continuously in the types of investments referred to in clauses (i) and (ii) above, (b) has net assets of not less than \$500,000,000, and (c) has the highest rating obtainable from either S&P or Moody’s.

“Cash Proceeds” means, with respect to any Asset Sale, the proceeds of such Asset Sale in the form of Cash and Cash Equivalents, including payments of deferred payment obligations when received in the form of Cash or Cash Equivalents and proceeds from the conversion of other property received when converted to Cash or Cash Equivalents.

“Change in Control” means (i) the acquisition at any time by any Person (other than MP or its Affiliates) of “beneficial ownership” (within the meaning of Section 13(d) under the Exchange Act and the rules and regulations promulgated thereunder) in excess of [35%] of the total voting power of the Voting Stock of the Borrower, the Parent or [*new intermediate holding companies*]; (ii) the sale, lease, transfer or other disposition, of all or substantially all of the assets of the Borrower, the Parent or [*new intermediate holding companies*] to any Person as an entirety or substantially as an entirety in one transaction or a series of related transactions; (iii) the merger or consolidation of the Borrower, the Parent or [*new intermediate holding companies*], with or into another corporation, or the merger of another corporation into the Borrower, the Parent or [*new intermediate holding companies*], or any other transaction, with the effect that a Person acquires as a result of such transaction “beneficial ownership” in excess of [35%] of the total voting power of the Voting Stock of the Borrower, the Parent or [*new intermediate holding companies*], or (if any of the Borrower, the Parent or [*new intermediate holding companies*] is not the surviving corporation in such transaction) such other corporation (including, in any such case, indirect ownership through another Person); (iv) the liquidation or dissolution of the Borrower, the Parent or [*new intermediate holding companies*], other than a liquidation or dissolution in which another Obligor acquires all of the assets of the liquidating or dissolving entity; or (v) if a majority of the board of directors of the Borrower or the Parent shall no longer be composed of individuals (a) who were members of said board on the Effective Date (after giving effect to the Consummation of the Plan), (b) whose election or nomination to said board was approved by individuals referred to in clause (a) above constituting at the time of such election or nomination at least a majority of said board, (c) whose election or nomination to said board was approved by individuals referred to in clauses (a) and (b) above constituting at the time of such election or nomination at least a majority of said board or (d) in the case of individuals nominated by MP under the Investment Agreement, who were nominated or proposed by MP; provided, however, that (x) notwithstanding the provisions of clauses (i) through (v) above, the Consummation of the Plan and the implementation of the transactions contemplated thereby shall not constitute a Change in Control hereunder, and [(y) notwithstanding the provisions of clauses (i) through

(iii) above, no Change of Control shall be deemed to have occurred under such clauses so long as MP or its Affiliates has “beneficial ownership” in excess of 50% of the total voting power of the Voting Stock of the Borrower, the Parent, and each of [*new intermediate holding companies*] at the time any such acquisition, merger or consolidation referred to therein is consummated.] For purposes of this definition, the term Person includes a “person” or “group” within the meaning of Rule 13d-3 under the Exchange Act but does not include any other Obligor.

“Closing Date” means November 20, 2002.

“Collateral” means all of the properties and assets that are (or are purported to be) from time to time, beginning on and after the Effective Date, subject to the Liens granted to the Collateral Agent pursuant to the Security Documents as security for the Obligations but not including Excluded Property.

“Collateral Agent” has the meaning set forth in the preamble to this Agreement.

“Collateral Value” means, as of any date of determination, the aggregate value of the following Collateral: (i) the Available Cash Amount, (ii) the amount of the Obligors’ outstanding accounts receivable arising under the Air Mobility Command Agreement, (iii) an amount, not to exceed \$[_____], of the Obligors’ other outstanding accounts receivable which are owed by the United States government (or any agency or instrumentality thereof the obligations of which are backed by the full, faith and credit of the United States government) which arise out of or relate to airlift services provided by the Obligors to the United States government (or any agency or instrumentality thereof), (iv) 70% of the fair market value (based on the Current Appraisal Report) of the Obligors’ Spare Parts, and (v) Equipment Purchase Reserves; provided, that none of the following ineligible assets shall be included in the computation of Collateral Value: (a) property or assets not subject to a first priority perfected Lien in favor of the Collateral Agent under the Security Documents (subject to Permitted Liens), including, without limitation, any property or assets that may no longer be owned by an Obligor as a result of an Asset Sale or otherwise; and (b) property or assets subject to any event of loss, damage or other casualty that has materially and adversely affected the value of such Collateral, whether insured or not, and in the event that any ineligible assets are excluded from the computation of the Collateral Value based on this proviso, the Collateral Value computed in accordance with the foregoing method shall be adjusted to exclude such ineligible assets.

“Commodity Agreement” means any agreement or arrangement the value of which fluctuates based on the value of a commodity.

“Common Stock” means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of such Person’s common stock, whether now outstanding or issued after the date of this Agreement, including, without limitation, all series and classes of such common stock.

“Confirmation Order” means the order of the Bankruptcy Court, dated [_____], 2006, confirming the Plan of Reorganization pursuant to Section 1129 of the Bankruptcy Code.

“Consolidated EBITDAR” means, with respect to any Person, for any period, (a) the sum of (i) the operating income of such Person for such period, (ii) rental expenses of such Person for such period under Operating Leases of aircraft, aircraft engines [and Spare Parts], (iii) amortization, depreciation, non-cash stock compensation expenses, non-cash impairment charges and non-cash extraordinary charges that were deducted in arriving at the amount of such operating income for such period, and (iv) rental expenses of such Person for such period under each synthetic lease that would

appear on the balance sheet of such Person if such lease were treated as a Capital Lease, less (b) the aggregate maintenance expense payments made by such Person during such period primarily related to C-checks, D-checks and engine overhauls (other than to the extent such maintenance expenses were deducted in arriving at the amount of such operating income for such period), all as determined on a consolidated basis in accordance with GAAP.

“Consolidated Fixed Charges” means, with respect to any Person, for any period, the sum of (a) the aggregate gross interest expense of such Person for such period (calculated without regard to any limitations on the payment thereof), including that portion of Capital Lease obligations of such Person representing the interest factor for such period, and (b) the actual amount of rental expenses of such Person for such period under any Operating Lease of personal property, all determined on a consolidated basis in accordance with GAAP.

“Consummation of the Plan” means substantial consummation of the Plan of Reorganization within the meaning of Section 1101(2) of the Bankruptcy Code.

“Contractual Obligation” means, as applied to any Person, any provision of any equity security issued by that Person or of any indenture, mortgage, deed of trust, contract, lease, license, 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.

“Control Agreement” has the meaning specified in [Section 5.15](#) hereof.

“Currency Agreement” means any foreign exchange contract, currency swap agreement, futures contract, option contract, synthetic cap or other similar agreement or arrangement.

“Current Appraisal Report” means, as of any date, the Appraisal Report most recently delivered pursuant to [Section 5.13\(a\)](#); provided, that prior to the delivery of the first Appraisal Report under [Section 5.13\(a\)](#), the appraisal report of Sage Popovich, Inc. dated July 15, 2005 shall be the “Current Appraisal Report.”

“Debtors” has the meaning specified in the recitals to this Agreement.

“Default” means any condition or event which with the passing of time or the giving of notice or both would, unless cured or waived, become an Event of Default.

“Disclosure Statement” means the First Amended Disclosure Statement with respect to the First Amended Joint Chapter 11 Plan for Reorganizing Debtors which was approved by the Bankruptcy Court on December 14, 2005, together with any amendments, supplements or modifications thereto that have been approved by the Bankruptcy Court prior to the Effective Date.

“Dollars” and the sign “\$” each mean the lawful money of the United States of America.

“Effective Date” has the meaning specified in [Section 3.1](#).

“Environmental Claim” means any investigation, written request for information, notice, claim, suit, proceeding, demand or order, by any Governmental Authority or any Person arising in connection with any alleged or actual violation of Environmental Laws or with any liability related to Hazardous Materials Activity, or any actual or alleged property damage or harm to human health, safety or the environment.

“Environmental Laws” means any and all applicable statutes, ordinances, orders, rules, regulations, guidance documents (to the extent compliance therewith is required by any Governmental Authority), judgments, Governmental Authorizations, or any other requirement of any Governmental Authority relating to (a) the prevention or control of pollution or protection of the environment, (b) the presence, generation, handling, treatment, storage, disposal, discharge, Release, emission or transportation of Hazardous Materials, or (c) exposure to Hazardous Materials. “Environmental Laws” shall include, but not be limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Toxic Substances Control Act (49 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 3007 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 et seq.), the Occupational Safety and Health Act (29 U.S.C. 641 et seq.), and the equivalent statutes in effect in the State of Indiana.

“Equipment Purchase Reserves” means, at any time, the aggregate amount of (i) Net Cash Proceeds from an Asset Sale of Spare Parts retained by the Obligor pursuant to **Section 2.5(b)(ii)** to replace the assets from which such Net Cash Proceeds derived and (ii) the Net Insurance Proceeds and Net Condemnation Proceeds retained by the Obligor pursuant to **Section 2.5(c)** to repair, restore or replace the assets from which such Net Insurance Proceeds and Net Condemnation Proceeds derived; it being understood that any such proceeds shall no longer constitute Equipment Purchase Reserves at such time as such proceeds are used to repay the Loan or applied to repair, restore or replace (as applicable) the assets from which such proceeds derived.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute.

“ERISA Affiliate” means, as applied to any Obligor, (i) any corporation which is, or was at any time, a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which such Obligor is a member; (ii) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which such Obligor is a member; and (iii) solely for purposes of Section 302 of ERISA and Section 412 of the Internal Revenue Code any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which such Obligor, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the thirty (30) day notice period is waived); (b) the existence with respect to any Plan of an “accumulated funding deficiency” (as defined in Section 412 of the Internal Revenue Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(d) of the Internal Revenue Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by any Obligor or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the incurrence by any Obligor or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; (f) the receipt by any Obligor or any ERISA Affiliate from the Pension Benefit Guaranty Corporation or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; or (g) the receipt by any Obligor or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from any Obligor or any ERISA Affiliate of any notice, concerning the

imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“Event of Default” has the meaning specified in [Section 7.1](#).

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

“Excluded Cash” means Cash and Cash Equivalents maintained in accounts that are not subject to Control Agreements to the extent that such accounts or Cash and Cash Equivalents are any of the following:

(i) subject to Liens arising or granted in the ordinary course of business in favor of Persons performing credit card processing services, travel charge processing services or clearinghouse services for any Obligor, including US Bank, IATA, Diners Club, Discover Card, NPC, ARC and American Express, so long as such Liens are on Cash and Cash Equivalents that are subject to holdbacks by, or are pledged (in lieu of such holdbacks) to, such Persons to secure amounts that may be owed to such Persons under the Obligors’ agreements with them in connection with their provision of credit card processing, travel charge processing or clearinghouse services to the Obligors; being Liens of the type described in clause (iii)(B) of the definition of “Permitted Encumbrances”;

(ii) subject to Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business; being Liens of the type described in clause (v) of the definition of “Permitted Encumbrances”;

(iii) subject to Liens incurred or deposits made in each case required under or in connection with the Trust Agreements (not including the Obligors’ residuary interest in, claims to or refunds of any such trust funds); being Liens of the type described in clause (ix) of the definition of “Permitted Encumbrances”;

(iv) subject to Liens securing reimbursement and fee obligations in respect of letters of credit issued for the account of any Obligor in the ordinary course of business and consistent with past practice, so long as the aggregate amount of such Cash and Cash Equivalents does not exceed 115% of the maximum available amount under the secured letters of credit; being Liens of the type described in [Section 6.1\(a\)\(ix\)\(A\)](#);

(v) subject to Liens securing reimbursement or other margin requirements in connection with, in the case of Liens contemplated in this clause (v), (x) transactions designed to hedge against fluctuations in fuel costs, entered into in the ordinary course of business, consistent with past business practice or then current industry practice, and not entered into for speculative purposes, (y) transactions designed to hedge interest rates entered into with respect to notional amounts not to exceed actual or anticipated Indebtedness, not entered into for speculative purposes and (z) transactions designed to hedge against risks associated with fluctuations in currencies entered into in the ordinary course of business; being Liens of the type described in [Section 6.1\(a\)\(ix\)\(B\)](#);

(vi) subject to Liens incurred or deposits (other than with respect to the Plans described in [Section 4.12](#)) made in the ordinary course of business in connection with workers’ compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds, reimbursement obligations and chargeback rights of

Persons performing services for an Obligor (including Liens securing Trade Payables arising from the Obligors' use in the ordinary course of business, consistent with past practice, of credit advance facilities to purchase goods and services) and other similar obligations (exclusive of obligations for the payment of borrowed money); being Liens of the type described in clause (iii)(A) of the definition of "Permitted Encumbrances"; or

- (vii) referred to in any of clauses (i) through (iii) of **Section 5.15**.

"Excluded Former Affiliates" means Pre-Petition Parent, Ambassador Travel Club, Inc., Amber Travel, Inc., C8 Airlines, Inc., Washington Street Aviation, LLC, Washington Assurance Ltd., American Trans Air Training Corporation, Amber Holdings, Inc., AATC Holding, Inc. (owns Keytours, Inc.), and West 63rd Street Land Holding, LLC.

"Excluded Property" means the following assets and properties of the Obligors:

- (i) any lease or other written agreement under which an Obligor leases real property (other than Gate Leases) and (A) that requires such Obligor to pay annual rentals of \$10,000,000 or more but where the grant of a Lien in favor of the Collateral Agent would violate such lease or other written agreement, provided, that if requested by the Requisite Lenders, such Obligor has used commercially reasonable efforts to obtain the consent of the lessor to the grant of a Lien on such lease or other agreement in favor of the Collateral Agent, (B) that requires such Obligor to pay annual rentals of less than \$10,000,000, or (C) that the Requisite Lenders have agreed in writing in their sole discretion is not material;

- (ii) Gate Leases;

- (iii) any property (other than Collateral) which is subject to a Lien of the type described in **Section 6.1(a)(ii), (iii), (iv), (vi) or (xii)** but only while subject to such Lien;

- (iv) any right in any agreement (A) the grant of a security interest in which would violate the agreement under which such right arises except to the extent provided under Sections 9-406 and 9-407 of the UCC of the State of New York, if such Obligor has failed to obtain a waiver or other relief from such provision, but provided that such Obligor has, if requested by the Requisite Lenders, used commercially reasonable efforts (without obligation to incur more than immaterial costs or expenses in connection with such commercially reasonable efforts) to obtain such waiver or other relief or (B) to the extent that the pledge or assignment of such agreement requires the consent of any third party, unless such third party has consented thereto, except to the extent provided under Sections 9-406 and 9-407 of the UCC of the State of New York, so long as such Obligor has, if requested by the Requisite Lenders, used commercially reasonable efforts (without obligation to incur more than immaterial costs or expenses in connection with such commercially reasonable efforts) to obtain such consent;

- (v) Excluded Cash;

- (vi) subject to the terms of the Security Agreement, 35% of the voting Capital Stock of each Subsidiary of the Obligors that is a "controlled foreign corporation" under Section 957 of the Internal Revenue Code;

- (vii) all beneficiary interests of third parties in the trusts created by or pursuant to the Trust Agreements (which does not include the Obligors' residuary interest in, claims to or refunds of any trust funds in respect of such trusts);

(viii) any lease or other written agreement under which an Obligor leases airframes, aircraft, aircraft engines, propellers, Spare Parts and appliances which by its terms is not assignable or which prohibits the Obligor-lessee from granting any Lien thereon; and

(ix) aircraft purchase agreements which by their terms are not assignable;

provided that if an Obligor nonetheless pledges to the Collateral Agent assets that otherwise would constitute Excluded Property absent this proviso, unless or until the Lien with respect to such assets is released in accordance with this Agreement and the applicable Collateral Document, such assets shall constitute Collateral for all purposes under this Agreement and under the other Loan Documents and shall not be treated as Excluded Property.

“FAA” means the Federal Aviation Administration of the United States or any successor thereto.

“Facilities” means any and all real property now, hereafter or heretofore owned, leased or operated by any Obligor and any of their respective predecessors.

“Facility Agent” has the meaning specified in [Section 8.1](#).

“Fair Market Value” means, with respect to any asset, the price that could be obtained for such asset by a seller at the time of determination in an arm’s-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer, as determined in good faith by the board of directors of the Obligor making such determination, taking into consideration market conditions at the time of determination.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System, or any successor thereto.

“Fiscal Year” means the fiscal year of the Parent referenced in the financial statements to be delivered by the Obligors pursuant to [Section 5.1\(b\)](#).

“Fixed Cash Amount” has the meaning specified in [Section 6.4\(a\)](#).

“Future Issuance” means each (i) borrowing of any Indebtedness by any Obligor from any source (other than Trade Payables and accrued expenses arising in the ordinary course of business or borrowings from any other Obligor), including in the debt capital markets or from commercial bank lenders after the Effective Date, and (ii) issuance of any Capital Stock or any warrants, options or other rights that are convertible into or exercisable for Capital Stock by any Obligor (other than to another Obligor) or the exercise after the Effective Date of any warrants, options or other rights to acquire Capital Stock of any Obligor (other than exercise by another Obligor), other than (x) the issuance of restricted stock or the exercise or issuance of options or similar rights, in each case as compensation by or to existing or former officers, directors or employees of an Obligor or (y) cashless exercise of warrants issued by any Obligor; provided, however, that none of the following shall not constitute a Future Issuance: (a) any borrowing, issuance of Capital Stock or exercise or issuance of any warrants, options or other rights to acquire Capital Stock (including any Capital Stock issued pursuant to the terms of such Capital Stock, warrants, options or other rights to acquire Capital Stock) in each case, effected (1) on or around the Effective Date or otherwise in connection with the Consummation of the Plan including, without limitation, the issuance of shares of Common Stock of Parent pursuant to the Investment Agreement or the Warrants, the issuance of rights, or of Common Stock of the Parent in exercise of such rights, in the Rights Offering, and the borrowing of the MP Loan or (2) from time to time on or after the

Effective Date upon exercise of the Warrants for Common Stock of the Parent, and (b) equity investments in the Parent made by (1) MP or its Affiliates or (2) shareholders of the Parent (including MP) pursuant to an offer made on a pro rata basis.

“GAAP” means, subject to the limitations on the application thereof set forth in **Section 1.3**, generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession in the United States or as may be mandated by applicable law.

“Gate Leases” means all right, title and interest of each Obligor, now existing or hereafter acquired, in and to any airport facility use, operation or occupancy lease, license or other agreement with respect to arrival and departure gates, aircraft parking spaces, passenger lounges, ticket counters, terminal common areas, baggage handling areas, carousels and other facilities, crew briefing areas, club lounges, kiosks, flight simulator buildings and other related properties and rights with respect to airports at which any Obligor lands, takes off or otherwise conducts operations or maintains property.

“GECC” means General Electric Capital Corporation, a Delaware corporation.

“GECC Participant” means AFS Investments XII, Inc., a Delaware corporation, and its successors and permitted assigns.

“Governmental Authority” means any nation or government, any state or other political subdivision thereof and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Governmental Authorization” means any permit, license, certificate, authorization, plan, directive, consent order or consent decree issued, promulgated or entered into by or with any Governmental Authority pursuant to any Environmental Law.

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such first Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation of such other Person (whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise); (ii) entered into for purposes of assuring in any other manner the obligee of such Indebtedness or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); or (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of such other Person so as to enable such Person to pay such Indebtedness. The term “Guarantee” used as a verb has a corresponding meaning.

“Guarantor” means the Parent, each Person that is a direct or indirect Subsidiary of Parent as of the Effective Date (other than the Borrower) and each other Subsidiary of Parent that becomes a party to the Affiliate Guarantee pursuant to **Section 5.14**. As of the Effective Date the Guarantors are [_____]. For the avoidance of doubt, none of the Excluded Former Affiliates are or shall be deemed to be a direct or indirect Subsidiary of the Parent as of the Effective Date.

“Hazardous Materials” means (i) any petroleum or petroleum products (including, without limitation, gasoline, crude oil, or any fraction thereof), radioactive materials or wastes, radon, asbestos in any form, urea formaldehyde foam insulation and polychlorinated biphenyls and (ii) any other chemical, material, substance or waste that in relevant form or concentration is prohibited, limited or regulated, or is defined, listed or classified as a hazardous or toxic substance, under any Environmental Law.

“Hazardous Materials Activity” means any past or current use, storage, Release, threatened Release, generation, treatment, remediation, proposed remediation or transportation of any Hazardous Material caused by, or undertaken by or on behalf of, any Obligor, any of its Subsidiaries or any of their respective predecessors or Affiliates.

“ILFC Participant” means International Lease Finance Corporation, a California corporation, and its successors and permitted assigns.

“Indebtedness” means, with respect to any Person at any date of determination (without duplication):

- (i) all indebtedness of such Person for borrowed money;
- (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (iii) all obligations of such Person in respect of letters of credit (except, with respect to determining compliance with the provisions in **Section 6.4(b)**, to the extent such letters of credit are cash collateralized by the Parent or the Borrower) or other similar instruments (including reimbursement obligations with respect thereto);
- (iv) all obligations of such Person to pay the deferred and unpaid purchase price of property or services, which purchase price is due more than six (6) months after the date of placing such property in service or taking delivery and title thereto or the completion of such services;
- (v) all Capital Lease obligations of such Person (the amount of the Indebtedness in respect of Capital Lease obligations to be determined as provided in the definition of Capital Lease in this **Section 1.1**);
- (vi) all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided, that the amount of such Indebtedness shall be the lesser of (A) the Fair Market Value of such asset at such date of determination and (B) the stated principal amount of such Indebtedness;
- (vii) all Indebtedness of other Persons Guaranteed by such Person to the extent such Indebtedness is Guaranteed by such Person, including Indebtedness described in the preceding clause (vi) which is recourse to such guarantor;
- (viii) to the extent not otherwise included in this definition and to the extent treated as a liability under GAAP, obligations under Currency Agreements, Interest Rate Agreements and Commodity Agreements;

(ix) the capitalized amount of remaining lease payments owing by such Person under synthetic leases that would appear on the balance sheet of such Person if such lease were treated as a Capital Lease;

(x) the aggregate amount of uncollected accounts receivable of such Person subject at such time to a sale of receivables (or similar transaction) to the extent such transaction is effected with recourse to such Person (whether or not such transaction would be reflected on the balance sheet of such Person in accordance with GAAP);

(xi) solely for purposes of determining compliance with [Section 6.4\(b\)](#), all Operating Lease obligations of such Person with respect to Aircraft Related Equipment (the amount of Indebtedness in respect of Operating Lease obligations to be determined as provided in the definition of Operating Lease in this [Section 1.1](#)); and

(xii) the Indebtedness of any partnership or unincorporated joint venture in which such Person is a general partner or a joint venturer to the extent such Indebtedness is recourse to such Person;

provided that the term “Indebtedness” shall not include (A) Trade Payables and accrued expenses arising in the ordinary course of business, or (B) agreements providing for indemnification, purchase price adjustments or similar obligations incurred or assumed in connection with the acquisition or disposition of assets or Capital Stock. The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and the maximum liability, upon the occurrence of the contingency giving rise to the obligation, of any contingent obligations at such date; provided that the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with GAAP.

“Indemnified Liabilities” has the meaning specified in [Section 9.4](#).

“Indemnified Taxes” has the meaning specified in [Section 2.11\(a\)](#).

“Indemnitees” has the meaning specified in [Section 9.4](#).

“Insured Amount” means the amount specified therefor on [Exhibit D](#).

“Intellectual Property Security Agreement” means that certain Intellectual Property Security Agreement dated as of the date hereof among the Obligors party thereto and the Collateral Agent, in substantially the form of [Exhibit E](#).

“Intercreditor Agreement” means that certain Intercreditor Agreement dated as of the date hereof by and among the Borrower, the Guarantors, the Collateral Agent and [_____], as [collateral agent] under the MP Loan Agreement.

“Interest Payment Date” means each March 31, June 30, September 30 and December 31; provided, however, that:

(i) the Loan Maturity Date shall be an Interest Payment Date;

(ii) if any Interest Payment Date would otherwise fall on a day which is not a Business Day, such Interest Payment Date shall fall on the next succeeding Business Day, unless such

next succeeding Business Day shall fall in another calendar month, in which event such Interest Payment Date shall fall on the immediately preceding Business Day; and

(iii) following a Default or an Event of Default, each “Interest Payment Date” shall be the last day of each Interest Period occurring during such period in which such Default or Event of Default exists.

“Interest Period” means (a) initially, the period commencing on the Effective Date and ending on but excluding the next succeeding Interest Payment Date and (b) thereafter, each successive period commencing on and including the immediately preceding Interest Payment Date and ending on but excluding the next succeeding Interest Payment Date; provided, that following a Default or Event of Default, each Interest Period shall be for such duration of one month or less as shall be selected by the Agent by notice to the Borrower, each Lender, each Participant and the Loan Administrator on or prior to the restart of such Interest Period (and in the absence of any such notice or selection, the applicable Interest Period shall be determined as provided above without regard to this proviso).

“Interest Rate Agreement” means any interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended to the date hereof and from time to time hereafter.

“Investment” means with respect to any Person, any direct or indirect advance, loan (other than advances to customers in the ordinary course of business consistent with past practices that are recorded as accounts receivable on the balance sheet of such Person or its Subsidiaries) or other extension of credit or capital contribution or other equity investment by such Person to any other Person, including by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others, any Guarantee (including any support for a letter of credit issued on behalf of such Person) incurred for the benefit of such Person or any purchase or acquisition by such Person of Capital Stock (or warrants, options or any other rights convertible into or exercisable for Capital Stock), bonds, notes, debentures or other similar instruments issued by any other Person; provided that advances or loans by any Obligor to any other Obligor, Guarantees (including any support for a letter of credit issued on behalf of another Obligor) incurred by any Obligor for the benefit of any other Obligor, capital contributions or other equity investments by an Obligor in any other Obligor and deposits made by any Obligor in connection with the purchase by an Obligor of Aircraft Related Equipment or other property shall not constitute an “Investment.”

“Investment Agreement” means the Investment Agreement dated as of [_____] between MP, [the Borrower and the Pre-Petition Parent].

“IRS” means the Internal Revenue Service of the United States or any successor thereto.

“Lender” means the Tranche A Lender and/or the Tranche B Lender (including their respective successors and permitted assigns), as the context may require, and the term “Lenders” means the Tranche A Lender and the Tranche B Lender (including their respective successors and permitted assigns) collectively.

“Lending Office” means, with respect to any Lender, the office of such Lender specified as its “Lending Office” opposite its name on Annex B or on the Assignment and Acceptance by which it

became a Lender or such other office of such Lender as such Lender may from time to time specify to the Borrower and the Agent.

“LIBOR” means, with respect to any Interest Period, the offered rate in the London interbank market for deposits in Dollars of amounts equal or comparable to the then unpaid principal amount of the Loan offered for a term comparable to such Interest Period, as currently shown on the Bridge/Telerate page 3750 as of 11:00 a.m., London time, two (2) Business Days prior to the first day of such Interest Period; provided, however, that (a) LIBOR for the initial Interest Period shall be []% per annum, (b) if more than one offered rate as described above appears on such Bridge/Telerate page, the rate used to determine LIBOR will be the arithmetic average (rounded upward, if necessary, to the next higher 1/100 of 1%) of such offered rates and (c) if no such offered rates appear, the rate used for such Interest Period will be the arithmetic average (rounded upward, if necessary, to the next higher 1/100 of 1%) of rates quoted by the Reference Banks at approximately 10:00 a.m., New York time, two (2) Business Days prior to the first day of such Interest Period for deposits in Dollars offered to leading European banks for a period comparable to such Interest Period in an amount comparable to the unpaid principal amount of the Loan. If the Agent ceases generally to use such Bridge/Telerate page for determining interest rates based on eurodollar deposit rates, a comparable internationally recognized interest rate reporting service shall be used to determine such offered rates.

“Lien” means any lien, mortgage, pledge, assignment for security, security interest, charge, hypothecation, lease or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof, any easement, right-of-way or other encumbrance on title to real property, and any agreement to give any security interest).

“Loan” has the meaning specified in the recitals to this Agreement.

“Loan Administration Agreement” means that certain Loan Administration Agreement dated as of the date hereof among the Loan Administrator, the Borrower, Parent and the Lenders.

“Loan Administrator” means [Capstone Advisory Group, LLC, a New Jersey limited liability company].

“Loan Documents” means, collectively, this Agreement, the Notes, the Affiliate Guarantee, the Participation Agreements, the Security Documents, the Loan Administration Agreement and each other certificate, agreement or document executed by any Obligor and delivered to the Agent, the Collateral Agent or the Lenders in connection with or pursuant to this Agreement.

“Loan Maturity Date” means September 30, 2009, except that if such date is not a Business Day, then the Loan Maturity Date shall be the immediately succeeding Business Day.

“Loan Prepayment Percentage” means, with respect to any mandatory prepayment required to be made by the Borrower pursuant to **Section 2.5**, the fraction, expressed as a percentage, whose numerator is the outstanding principal amount of the Loan as of the date of such prepayment and whose denominator is the sum of (a) the outstanding principal amount of the Loan and (b) the outstanding principal amount of the MP Loan, in each case as of such date.

“Loss Payee Amount” means the amount specified therefor on Exhibit D.

“Mandatory Prepayment Date” has the meaning specified in **Section 2.5(f)**.

“Margin Stock” has the meaning assigned to that term in Regulation T, U or X of the Board of Governors of the Federal Reserve System as in effect from time to time.

“Material Adverse Effect” means (a) a material adverse effect on (i) the business condition (financial or otherwise), operations, performance, prospects, assets or properties of the Obligors, taken as a whole (excluding any material adverse effect resulting from changes or conditions generally affecting (i) the U.S. economy or financial markets or (ii) any of the segments of the airline industry in which any of the Obligors operate (to the extent such changes or conditions do not disproportionately impact the Obligors)), or (ii) the legality, validity, binding effect or enforceability against any Obligor of any Loan Document, or the rights and remedies of the Agent, the Collateral Agent or any Lender under any Loan Document, or (b) any material adverse effect on or material impairment of (i) the ability of any Obligor to perform its payment or other obligations under the Loan Documents or (ii) the value of, or the validity and priority of the Liens on, the Collateral.

“Minimum Liability Insurance Amount” means the amount specified therefor on Exhibit D.

“Moody’s” means Moody’s Investors Service, Inc., and any successor thereto that is a nationally recognized rating agency.

“MP” means [_____].

“MP Loan” means the “Loan” under and as defined in the MP Loan Agreement.

“MP Loan Agreement” means that certain Loan Agreement dated as of the date hereof among [_____].

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

“NASDAQ” means The Nasdaq Stock Market, an electronic securities market operated by The Nasdaq Stock Market, Inc., a wholly owned subsidiary of the National Association of Securities Dealers, Inc.

“Net Cash Proceeds” means, with respect to any Asset Sale, the Cash Proceeds of such Asset Sale, net of (i) reasonable and customary brokerage commissions and other reasonable and customary fees and expenses (including reasonable fees and expenses of counsel and investment bankers) related to such Asset Sale, (ii) provisions for all taxes payable as a result of such Asset Sale taking into account the consolidated results of operations of the Obligors, taken as a whole (as estimated in good faith by the Chief Financial Officer or the Chief Accounting Officer of the Parent), (iii) payments made to repay Indebtedness or any other obligation outstanding at the time of such Asset Sale that (A) is secured by a Lien on the property or assets sold and (B) is required by its terms to be paid as a result of such Asset Sale, and (iv) appropriate amounts to be provided by any Obligor as a reserve against any liabilities associated with such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, all as determined in conformity with GAAP, but limited to the period of the required reserve.

“Net Condemnation Proceeds” means an amount equal to: (i) any cash payments or proceeds received by any Obligor as a result of any condemnation or other taking or temporary or permanent requisition of any property, any interest therein or right appurtenant thereto, or any change of

grade affecting any property, as the result of the exercise of any right of condemnation or eminent domain by a Governmental Authority (including a transfer to a Governmental Authority in lieu or anticipation of a condemnation), minus (ii) (a) any actual and reasonable costs incurred by any Obligor in connection with any such condemnation or taking, (b) any taxes payable in connection therewith, taking into account the consolidated results of operations of the Obligors, taken as a whole (as estimated in good faith by the Chief Financial Officer or the Chief Accounting Officer of the Parent), (c) the amount of any Indebtedness secured by a Lien on any property subject to such condemnation or taking and any related expenses of third parties, in each case required by the documentation related to such Lien to be discharged or paid from the proceeds thereof and (d) any amounts required to be paid to any Person (other than another Obligor) owning a beneficial interest in the property subject to such condemnation or taking.

“Net Insurance Proceeds” means an amount equal to: (i) any Cash payments or proceeds received by an Obligor under any casualty insurance policy in respect of a covered loss thereunder with respect to tangible, real or personal property, minus (ii) (a) any actual and reasonable costs incurred by an Obligor in connection with the adjustment or settlement of any claims in respect thereof, (b) any taxes payable in connection therewith, taking into account the consolidated results of operations of the Obligors, taken as a whole (as estimated in good faith by the Chief Financial Officer or the Chief Accounting Officer of the Parent), (c) the amount of any Indebtedness secured by a Lien on any property subject to such covered loss and required to be discharged from the proceeds thereof and (d) any amounts required to be paid to any Person (other than another Obligor) owning a beneficial interest in the property subject to such loss.

“Net Issue Proceeds” means, with respect to any Future Issuance, the proceeds of such Future Issuance in the form of Cash and Cash Equivalents, net of (i) any reasonable and customary brokers’ and advisors’ fees, any underwriting discounts and commissions and other costs incurred in connection with such transaction (provided that evidence of such fees, discounts, commissions and costs is provided to the Agent if requested), (ii) provisions for all taxes payable as a result of such transaction taking into account the consolidated results of operations of the Obligors, taken as a whole (as estimated in good faith by the Chief Financial Officer or the Chief Accounting Officer of the Parent), and (iii) payments made to repay Indebtedness or any other obligation outstanding at the time of such Future Issuance that is secured by a Lien on the property or assets pledged to secure such Future Issuance.

“Non-U.S. Person” means a Person that is not a United States person as defined in section 7701(a)(30) of the Internal Revenue Code.

“Notes” has the meaning specified in [Section 2.3\(d\)](#).

“Obligations” means all payment and performance obligations of every nature of any Obligor from time to time owed to the Agent, the Collateral Agent, the Lenders, the Loan Administrator or the Participants (together with their respective permitted successors and assigns), or any of their respective Affiliates, officers, directors, employees, agents and advisors in, under or in respect of this Agreement, any Note or any other Loan Document, whether for principal, interest, fees, expenses, indemnification or otherwise.

“Obligor” means each of the Borrower, the Parent and each other Guarantor, together with their respective successors and permitted assigns.

“Obsolete Parts Cap” means the amount specified therefor on [Exhibit D](#).

“Officer” means, as applied to any corporation, each Responsible Officer, the Chairman of the Board (if an officer), President, Controller, Assistant Treasurer, Secretary or Assistant Secretary.

“Officer’s Certificate” means, as applied to any corporation, a certificate executed on behalf of such corporation by its Chairman of the Board (if an officer), President, one of its Vice Presidents, Chief Financial Officer, Controller, Treasurer or Assistant Treasurer or an Assistant Secretary; provided, that every Officer’s Certificate shall include (i) a statement that the officer acting in such capacity making or giving such Officer’s Certificate has read such condition and any definitions or other provisions contained in this Agreement relating thereto, (ii) a statement that, in the opinion of the signer, s/he has made or has caused to be made such examination or investigation as is necessary to enable her/him to express an informed opinion as to whether or not such condition has been complied with, and (iii) a statement as to whether, in the opinion of the signer, such condition has been complied with.

“Operating Lease” means, as applied to any Person, any lease (including, without limitation, leases that may be terminated by the lessee at any time) of any property (whether real, personal or mixed) under which such Person is lessee, that is not a Capital Lease. For purposes of determining compliance with [Section 6.4\(b\)](#), the amount of Indebtedness in respect of any Operating Lease at the end of any fiscal quarter shall be an amount equal to the product of (x) six (6) and (y) the total amount of all lease payments in respect of such Operating Lease for the four most recently ended fiscal quarters (or in the case of the fiscal quarter ending on March 31, 2007, the three fiscal quarters ending on such date).

“Original Loan Agreement” has the meaning specified in the recitals to this Agreement.

“Other Taxes” has the meaning specified in [Section 2.11\(b\)](#).

“Overdue Rate” means the rate specified therefor on [Exhibit D](#).

“Parent” has the meaning specified in the preamble to this Agreement.

“Participants” means collectively the ILFC Participant, the BCLC Participant and the GECC Participant.

“Participation Agreements” means, collectively, (i) the Participation Agreement dated as of the Closing Date among the ILFC Participant, the Tranche B Lender and the Agent, (ii) the Participation Agreement dated as of the Closing Date among the BCLC Participant, the Tranche B Lender and the Agent and (iii) the Participation Agreement dated as of the Closing Date among the GECC Participant, GECC, the Tranche B Lender and the Agent.

“Participations” means the participations purchased by the Participants on the Closing Date pursuant to the Participation Agreements.

“Payment Restriction” means, with respect to a Subsidiary of any Person, any encumbrance, restriction or limitation, whether by operation of the terms of its charter or by reason of any agreement or instrument, on the ability of (i) such Subsidiary to (a) pay dividends or make other distributions on its Capital Stock or make payments on any obligation, liability or Indebtedness owed to such Person or any other Subsidiary of such Person, (b) make loans or advances to such Person or any other Subsidiary of such Person, or (c) transfer any of its property or assets to such Person or any other Subsidiary of such Person, or (ii) such Person or any other Subsidiary of such Person to receive or retain any such (a) dividend, distributions or payments, (b) loans or advances, or (c) property or assets.

“Permitted Encumbrances” means the following types of Liens (other than any such Lien imposed pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or by ERISA) as applied to property:

(i) Liens for taxes, assessments or governmental charges or claims the payment of which is either (a) not delinquent for a period of more than thirty (30) days or (b) being contested in good faith by appropriate proceedings, if such reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made therefor;

(ii) statutory Liens of landlords and Liens of carriers, vendors, warehousemen, repairmen, mechanics and materialmen and other Liens imposed by law incurred in the ordinary course of business for sums either (a) not delinquent for a period of more than thirty (30) days or (b) being contested in good faith by appropriate proceedings, if such reserve or other appropriate provision, if any, as required by GAAP shall have been made therefor;

(iii) (A) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds (other than bonds related to judgments and litigations), reimbursement obligations and chargeback rights of Persons performing services for any Obligor and other similar obligations (exclusive of obligations for the payment of borrowed money) and (B) Liens arising or granted in the ordinary course of business in favor of Persons performing credit card processing services, travel charge processing services or clearinghouse services for any Obligor, including US Bank, IATA, Diners Club, Discover Card, NPC, ARC and American Express, so long as such Liens are on Cash and Cash Equivalents that are subject to holdbacks by, or are pledged (in lieu of such holdbacks) to, such Persons to secure amounts that may be owed to such Persons under the Obligors' agreements with them in connection with their provision of credit card processing, travel charge processing or clearinghouse services to any of the Obligors;

(iv) easements, rights-of-way, restrictions, minor defects, encroachments or irregularities in title and other similar charges or encumbrances not interfering in any material respect with the ordinary conduct of the business of any Obligor;

(v) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(vi) any interest or title of a lessor in property leased by an Obligor under any Capital Lease obligation or Operating Lease which, in each case, is not prohibited under this Agreement (disregarding for this purpose [Section 6.1](#));

(vii) Liens in favor of collecting or payor banks having a right of setoff, revocation, refund or chargeback with respect to money or instruments of any Obligor on deposit with or in possession of such bank;

(viii) Liens of creditors of any Person to whom the assets of any Obligor are consigned for sale in the ordinary course of business;

(ix) Liens incurred or deposits made in connection with the Trust Agreements;

(x) any licensing or sublicensing of intellectual property in the ordinary course of business of the Obligors;

(xi) Liens arising from precautionary UCC and similar financing statements relating to Operating Leases not otherwise prohibited under any Loan Document; and

(xii) any renewal of or substitution for any Lien permitted by any of the preceding clauses; provided that the Indebtedness secured is not increased nor the Lien extended to any additional assets.

“Permitted Liens” has the meaning specified in [Section 6.1\(a\)](#) hereof.

“Permitted Refinancing Indebtedness” means Indebtedness of any Obligor the Cash proceeds of which are used to refinance (for purposes of this definition, “Refinancing Indebtedness”) then outstanding Indebtedness (for purposes of this definition, “Old Indebtedness”) (including by way of an extension, renewal or replacement of, or substitution for, such Old Indebtedness) in an amount not to exceed the then outstanding principal amount of the Old Indebtedness, plus accrued and unpaid interest, premiums, fees and expenses; provided that: (a) if the Old Indebtedness is subordinated in right of payment to the Loan, the Refinancing Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which it is outstanding, is expressly made subordinate in right of payment to the Loan, (b) the Refinancing Indebtedness does not have a final scheduled maturity prior to the final scheduled maturity of the Old Indebtedness, (c) the average life of the Refinancing Indebtedness calculated as of the consummation of the refinancing is not less than the remaining average life of the Old Indebtedness, (d) if the Old Indebtedness is secured by Liens on the assets or properties of the Obligors, the Refinancing Indebtedness is secured only by Liens on the same assets or properties of the Obligors which secured the Old Indebtedness, and (e) if the Liens securing the Old Indebtedness are subordinated to the Liens securing the Loan, the Liens securing the Refinancing Indebtedness, by their terms or by the terms of any agreement or instrument pursuant to which they are granted, are expressly made subordinate to the Liens securing the Loan.

“Person” means an individual, partnership, corporation (including a business trust), joint stock company, estate, trust, limited liability company, unincorporated association, joint venture or other entity, or a Governmental Authority.

“Plan” means any “employee pension benefit plan” as defined in section 3(2) of ERISA in respect of which any Obligor or any ERISA Affiliate is (or if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA, other than a Multiemployer Plan.

“Plan Effective Date” means [_____], 2006, being the date upon which Consummation of the Plan occurs.

“Plan of Reorganization” means the First Amended Joint Chapter 11 Plan for Reorganizing Debtors dated December 14, 2005, together with any amendments, supplements or modifications thereto, as confirmed by the Confirmation Order, together with any amendments, supplements or modifications thereto that have been approved or authorized by the Bankruptcy Court prior to the Effective Date.

“Pledged Cash” means, as of any time of determination, the aggregate Dollar amount of unrestricted Cash and Cash Equivalents of the Obligors (as determined in accordance with GAAP) held in deposit and securities accounts over which the Collateral Agent maintains perfected first priority security interests (subject to liens permitted by clause (vii) of the definition of “Permitted Encumbrances”) in accordance with (and subject to) [Section 5.15](#) (it being acknowledged and agreed for the avoidance of doubt that Pledged Cash shall not include Excluded Cash).

“Pre-Funded Amount” means, as of any date of determination, an amount equal to the sum of (i) the aggregate amount of (A) Excluded Cash held by the Obligors as of such date for the

purpose of satisfying their obligations under or in respect of the Trust Agreements plus (B) Cash and Cash Equivalents held as of such date by a Person performing credit card processing services or travel charge processing services for an Obligor which such Person has unconditionally agreed in writing to transfer to or at the direction of such Obligor as and when needed to satisfy the obligations of such Obligor under or in respect of the Trust Agreements; and (ii) the aggregate amount of Cash and Cash Equivalents held by a Person performing clearinghouse services for an Obligor (including, without limitation IATA, ARC and ACH) to secure amounts that may be owed to such Person in connection with such Person's performance of clearinghouse services for such Obligor.

"Prepayment Premium" has the meaning specified in [Section 2.4\(d\)](#).

"Pre-Petition Parent" has the meaning specified in the recitals to this Agreement.

"Proceedings" has the meaning specified in [Section 5.1\(b\)\(vi\)](#).

"Pro Forma Basis" means, with respect to compliance with any covenant hereunder, compliance with such covenant after giving effect to any proposed incurrence of Indebtedness by any Obligor and the application of the proceeds thereof, the acquisition (whether by purchase, merger or otherwise) or disposition (whether by sale, merger or otherwise) of any company, entity or business or any asset by any Obligor or any other action which requires compliance on a Pro Forma Basis. In making any determination of compliance on a Pro Forma Basis, such determination shall be performed after good faith consultation with the Agent using the consolidated financial statements of such Obligor which shall be reformulated as if any such incurrence of Indebtedness and the application of proceeds, acquisition, disposition or other action had been consummated at the beginning of the period specified in the covenant with respect to which Pro Forma Basis compliance is required.

"Recipients" has the meaning specified in [Section 9.6](#).

"Redeemable Stock" means any class or series of Capital Stock of any Person that by its terms or otherwise (i) is required to be redeemed prior to the Loan Maturity Date, (ii) may be required to be redeemed at the option of the holder of such class or series of Capital Stock at any time prior to the Loan Maturity Date, or (iii) is convertible into or exchangeable for Capital Stock referred to in clause (i) or (ii) above or Indebtedness having a scheduled maturity prior to the Loan Maturity Date; provided that any Capital Stock that would constitute Redeemable Stock solely because of provisions offering holders thereof the right to require the issuer thereof to repurchase or redeem such Capital Stock upon the occurrence of an "asset sale" occurring prior to the Loan Maturity Date shall not constitute Redeemable Stock if the asset sale provisions contained in such Capital Stock specifically provide that in respect of any particular asset sale proceeds, the issuer thereof will not repurchase or redeem any such Capital Stock pursuant to such provisions prior to the Borrower's permanent reduction of the aggregate outstanding principal amount of the Loan by an amount at least equal to the Net Cash Proceeds from such asset sale.

"Reference Banks" means Citibank, N.A., JPMorgan Chase Bank and Bank of America, N.A., and each of their respective successors.

"Register" has the meaning specified in [Section 2.3\(e\)](#).

"Regulations" means the regulations for Air Carrier Guarantee Loan Program issued pursuant to the Act, 14 C.F.R. Part 1300, as the same may be amended from time to time.

"Release" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Materials

into the indoor or outdoor environment (including, without limitation, the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Materials), including the movement of any Hazardous Material through the air, soil, surface water, groundwater or property.

“Required Available Cash Amount” has the meaning specified in [Section 6.4\(a\)](#).

“Requisite Lenders” means, collectively, Lenders holding in excess of fifty percent (50%) of the principal amount of the Loan then outstanding.

“Responsible Officer” means, with respect to any Person, any of the Chief Executive Officer, Executive Vice Presidents and Chief Financial Officer of such Person, but in any event, with respect to financial matters, the Chief Financial Officer, Treasurer or Controller of such Person.

“Restricted Payment” means with respect to any Person (i) any declaration or payment of dividends on or making of any distributions in respect of the Capital Stock of such Person to holders of Capital Stock of such Person (other than dividends or distributions payable solely in shares of Capital Stock (other than Redeemable Stock) or in options, warrants, or other rights to purchase Capital Stock (other than Redeemable Stock)), (ii) any purchase, redemption or other acquisition or retirement for value by such Person (other than through the issuance solely of Capital Stock (other than Redeemable Stock) or options, warrants or other rights to purchase Capital Stock (other than Redeemable Stock)) of any Capital Stock or warrants, rights (other than exchangeable or convertible Indebtedness of such Person not prohibited under clause (iii) below) or options to acquire Capital Stock of such Person, and (iii) any prepayment, redemption, repurchase, defeasance (including, but not limited to, in substance or legal defeasance), or other acquisition or retirement for value by such Person (other than through the issuance solely of Capital Stock (other than Redeemable Stock) or warrants, rights or options to acquire Capital Stock (other than Redeemable Stock)) of any Indebtedness of such Person or any Subsidiary of such Person, directly or indirectly (including by way of setoff or of amendment of the terms of any Indebtedness in connection with any retirement or acquisition of such Indebtedness), which is made other than at any scheduled maturity thereof or by any scheduled repayment or scheduled sinking fund payment (collectively, a “prepayment”), other than (a) repayment of the Loan, (b) subject to the terms of the Intercreditor Agreement, regularly scheduled payments and mandatory prepayments of the MP Loan under the MP Loan Agreement and optional prepayments of the MP Loan with the proceeds of a mandatory prepayment hereunder which the Lenders elected not to accept pursuant to [Section 2.5\(f\)](#) hereof, (c) repayment of Indebtedness incurred to finance the acquisition of Aircraft Related Equipment with the proceeds from a sale of such Aircraft Related Equipment as part of a sale-leaseback transaction of the type excepted from the definition of Asset Sales in this Agreement, (d) payments made pursuant to the Plan of Reorganization, (e) any declaration, payment, distribution, purchase, redemption, acquisition or retirement for value, repurchase or defeasance referred to in clauses (i) through (iii) above in each case solely among Obligor, and (f) payments of cash in lieu of fractional shares in connection with repurchases or conversions of securities of an Obligor not prohibited hereunder. For the avoidance of doubt, none of the transactions described in clause (a) of the proviso to the definition of “Future Issuance” shall constitute a Restricted Payment hereunder.

“Rights Offering” means the issuance by Parent as of the Plan Effective Date of up to an aggregate of 2,500,000 shares of Common Stock of Parent for a subscription price of \$10.00 per share, per the rights offering in the Plan of Reorganization.

“SEC” means the Securities and Exchange Commission of the United States or any successor thereto.

“Security Agreement” means the Amended and Restated Mortgage and Security Agreement dated as of the date hereof made by the Borrower and the other Obligors party thereto in favor of the Collateral Agent, as the same may be amended, supplemented or otherwise modified from time to time, including by any Security Agreement Supplement.

“Security Agreement Supplement” means a supplement to the Security Agreement that subjects additional Collateral to the Lien of the Security Agreement.

“Security Documents” means the Security Agreement, the Intercreditor Agreement, the Intellectual Property Security Agreement and each other certificate, agreement or document executed and delivered by any Obligor pursuant to any of the foregoing agreements, including any Control Agreement.

“Solvent” means, with respect to any Person, that as of the date of determination (a) the then fair saleable value of the property and business of such Person is not less than the amount that will be required to pay the probable liabilities on such Person’s then existing debts as they become absolute and matured considering all financing alternatives and potential asset sales reasonably available to such Person; (b) such Person’s capital is not unreasonably small in relation to its business or any contemplated or undertaken transaction; and (c) such Person does not intend to incur, or believes that it will not incur, debts beyond its ability to pay such debts as they become due. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Spare Part” has the meaning specified in the Security Agreement.

“Standard & Poor’s” or “S&P” means Standard & Poor’s Group, a division of The McGraw Hill Companies, Inc., and any successor thereto that is a nationally recognized rating agency.

“Subsidiary” means, with respect to any Person, any corporation, partnership, association, limited liability company, trust or estate, joint venture or other business entity of which more than 50% of the issued and outstanding shares of Voting Stock at the time of determination are owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof.

“Substitute Basis” has the meaning specified in [Section 2.9\(b\)](#).

“Taxes” means any and all present or future taxes, levies, fees, duties, imposts, deductions, charges or withholdings of any nature, and all interest, penalties and other liabilities thereon or computed by reference thereto imposed by any Governmental Authority.

“Title 49” means Title 49 of the United States Code, as amended and in effect from time to time, and the regulations promulgated pursuant thereto.

“Trade Payables” means, with respect to any Person, any accounts payable or any other indebtedness or monetary obligation to trade creditors created, assumed or Guaranteed by such Person or any of its Subsidiaries and arising in the ordinary course of business in connection with the acquisition of goods or services but limited to current liabilities in accordance with GAAP.

“Tranche” means each of Tranche A and Tranche B.

“Tranche A” has the meaning specified in [Section 2.1](#).

“Tranche A Lender” has the meaning specified in the preamble to this Agreement.

“Tranche A Note” has the meaning specified in [Section 2.3\(d\)](#).

“Tranche B” has the meaning specified in [Section 2.1](#).

“Tranche B Lender” has the meaning specified in the preamble to this Agreement.

“Tranche B Note” has the meaning specified in [Section 2.3\(d\)](#).

“Trust Agreements” means all special purpose trust funds established by any Obligor to manage the collection and payment of amounts collected by the Obligors for the express benefit of third-party beneficiaries relating to (a) federal income tax withholding and backup withholding tax, employment taxes, transportation excise taxes and security related charges, including (i) federal payroll withholding taxes, as described in Sections 3101, 3111 and 3402 of the Internal Revenue Code; (ii) federal Unemployment Tax Act taxes, as described in Chapter 23 of Subtitle C of the Internal Revenue Code; (iii) federal air transportation excise taxes, as described in Sections 4261 and 4271 of the Internal Revenue Code; (iv) federal security charges, as described in Title 49 of the Code of Federal Regulations of 2002 (referred to in this definition as the “CFR”), Chapter XII, Part 1510; (v) federal Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) user fees, as described in Title 21 United States Code (2002) (referred to in this definition as “U.S.C.”) Section 136a and 7 CFR Section 354.3; (vi) federal Immigration and Naturalization Service (INS) fees, as described in 8 U.S.C. Section 1356 and 8 CFR Part 286; (vii) federal customs fees as described in 19 U.S.C. Section 58c and 19 CFR Section 24.22; and (viii) federal jet fuel taxes as described in Sections 4091 and 4092 of the Internal Revenue Code collected on behalf of and owed to the federal government, (b) any and all state and local income tax withholding, employment taxes and related charges and fees and similar taxes, charges and fees, including, but not limited to, state and local payroll withholding taxes, unemployment and supplemental unemployment taxes, disability taxes, workman’s or workers’ compensation charges and related charges and fees that are analogous to those described in Subtitle C of the Internal Revenue Code and that are described in or are analogous to Chapter 23 of Title 19 Delaware Code Annotated (2002) (referred to in this definition as “D.C.A.”) collected on behalf of and owed to state and local authorities, agencies and entities, (c) Passenger Facility Charges as described in Title 49 United States Code Section 40117 (2004) and Title 14 of the Code of Federal Regulations, Subchapter 1, Part 158 collected on behalf of and owed to various administrators, institutions, authorities, agencies and entities, (d) voluntary and/or other non-statutorily required employee payroll deductions, whether authorized by the employee, imposed by court order, agreed to pursuant to collective bargaining arrangement or otherwise, including (i) employee contributions made for the purpose of participating in any employer-sponsored retirement plan as described and defined in Section 401(k) of the Internal Revenue Code (including repayment of any 401(k) related loans made to the employee but excluding any funds matched and/or contributed by the employer on behalf of any employee), (ii) employee payments made for the purpose of participating in any employer-sponsored medical, dental or related health plan, (iii) employee payments made for the purpose of satisfying periodic union dues, (iv) employee payments made for the purpose of purchasing United States Savings Bonds, (v) employee payments made for the purpose of making deposits to an account at or making repayment of an extension of credit from an employer-associated credit union, (vi) employee payments made for the purpose of purchasing life, accident, disability or other insurance, (vii) employee payments made for the purpose of participating in any employer-sponsored cafeteria plan as described and defined in Section 125 of the Internal Revenue Code, (viii) employee-directed donations to charitable organizations and (ix) levys, garnishments and other attachments on employee compensation (as described in Sections 6305 and 6331 of the Internal Revenue Code, in Section 4913 of Title 10 of D.C.A. or in any analogous provision of other applicable federal, state or local law) collected on behalf of any Governmental Authority or any other Person authorized to receive funds of the type described in this

clause (d), and (e) state and local sales, use, fuel and excise taxes and any other taxes, government charges and employee-related taxes and charges.

“UCC” means the Uniform Commercial Code.

“United States Citizen” has the meaning specified in [Section 4.1\(b\)](#).

“Variable Cash Amount” has the meaning specified in [Section 6.4\(a\)](#).

“Voting Stock” means any class or classes of Capital Stock pursuant to which the holders thereof have the general voting power under ordinary circumstances to vote for the election of directors, managers or trustees of any Person (or Persons performing similar functions) irrespective of whether or not at the time stock of any such class or classes will have or might have such voting power by the reason of the happening of any contingency.

“Warrants” means those Original Warrants (as defined in the Plan of Reorganization) and the Additional Warrants (as defined in the Plan of Reorganization), in each case to be issued in connection with the Consummation of the Plan.

“Wholly-Owned” denotes a Subsidiary all of the Voting Stock of which (other than any director’s qualifying shares or Investments by foreign nationals mandated by applicable law) is owned directly or indirectly by a single holder.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

Section 1.2. Computation of Time Periods. In this Agreement, in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding” and the word “through” means “to and including.”

Section 1.3. Accounting Terms and Principles.

(a) Accounting Terms. All accounting terms not specifically defined herein shall be construed in conformity with GAAP and all accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in conformity with GAAP.

(b) Change in GAAP. If any change in accounting principles used in the preparation of the most recent financial statements referred to in [Section 5.1](#) is hereafter required or permitted by the rules, regulations, pronouncements and opinions of the Financial Accounting Standards Board or the Accounting Principles Board of the American Institute of Certified Public Accountants (or any successor thereto) and such change is adopted by an Obligor with the agreement of its independent public accountants and results in a change in any of the calculations required by [Article VI](#) had such accounting change not occurred, the parties hereto agree to enter into negotiations in order to amend such provisions so as to equitably reflect such change with the desired result that the criteria for evaluating compliance with such covenants by such Obligor shall be the same after such change as if such change had not been made; provided, however, that no change in GAAP that would affect a calculation that measures compliance with any covenant contained in [Article VI](#) shall be given effect until such provisions are amended to reflect such changes in GAAP.

(c) Financial Statements. Financial statements and other information required to be delivered by the Obligors to the Agent, the Lenders, the Participants, or the Loan Administrator pursuant to **Section 5.1** shall be prepared in accordance with GAAP in effect at the time of such preparation.

Section 1.4. Certain Terms

(a) Certain References. The words “herein,” “hereof” and “hereunder” and similar words refer to this Agreement as a whole, and not to any particular Article, Section, subsection or clause in this Agreement.

(b) References to Exhibits, Schedules, etc. References in this Agreement to an Exhibit, Annex, Schedule, Article, Section, subsection or clause refer to the appropriate Exhibit, Annex, or Schedule to, or Article, Section, subsection or clause in, this Agreement.

(c) References to Agreements. Each agreement defined in this Article I shall include all appendices, annexes, exhibits and schedules thereto. If the prior written consent of any Person is required hereunder for an amendment, restatement, supplement or other modification to any such agreement and the consent of each such Person is obtained, references in this Agreement to such agreement shall be to such agreement as so amended, restated, supplemented or modified. If no such consent is required, references in this Agreement to such agreement shall be to such agreement as so amended, restated, supplemented or modified.

(d) References to Statutes. References in this Agreement to any statute shall be to such statute as amended or modified and in effect at the time any such reference is operative.

(e) Miscellaneous. The term “including” when used in any Loan Document means “including without limitation” except when used in the computation of time periods.

ARTICLE II

THE LOAN

Section 2.1. The Loan. The aggregate principal amount of the Loan outstanding hereunder as of the Effective Date is \$[_____], comprised of (i) a Tranche A portion of the Loan (“Tranche A”) held by the Tranche A Lender in the principal amount of \$[_____] and (ii) a Tranche B portion of the Loan (“Tranche B”) held by the Tranche B Lender in the principal amount of \$[_____]. Any amount of Tranche A or Tranche B repaid or prepaid may not be reborrowed.

Section 2.2. Scheduled Repayment of the Loan. The Borrower shall repay the Loan on the dates and in the principal amounts set forth below (along with accrued and unpaid interest thereon pursuant to **Section 2.6**); provided that (i) the amounts set forth below shall be reduced in connection with any prepayment or repayment of the Loan as provided herein (including, without limitation, pursuant to **Section 2.4** and **Section 2.5** hereof) and (ii) the Borrower shall repay the entire unpaid principal amount of the Loan together with accrued and unpaid interest thereon and all other amounts owing hereunder in respect thereof on the Loan Maturity Date:

Interest Payment Date falling on or about:	Principal Amount
September 30, 2006	\$[] ¹
March 31, 2007	\$10,000,000
September 30, 2007	\$10,500,000
March 31, 2008	\$15,500,000
September 30, 2008	\$15,500,000
March 31, 2009	\$20,500,000
September 30, 2009	\$21,500,000

Section 2.3. Evidence of Debt; Use of Proceeds.

(a) Lenders' Accounts. Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing such Lender's portion of the Loan outstanding from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement.

(b) Agent's Records of Loan. The Agent shall establish and maintain a register for recording with respect to the Loan (i) the date and amount of each payment on the Loan made by or on behalf of, or collected from, the Borrower, (ii) the amount of each such payment applied in accordance with each clause of **Section 2.8(d)** and **(e)** or other applicable terms hereof to scheduled principal of or interest on the Loan and to each of the fees identified in clauses **(a)**, **(b)** and **(c)** of **Section 2.7** hereof, and (iii) the then outstanding principal balance of the Loan (without reliance on the Lender's accounts).

(c) Entries Prima Facie Evidence. The entries made in the accounts maintained pursuant to clauses **(a)** and **(b)** of this **Section 2.3**, to the extent permitted by applicable law, shall be *prima facie* evidence of the existence and amounts of the obligations recorded therein; provided, however, that the failure of any Lender or the Agent to maintain such accounts or any error therein shall not in any manner affect the obligations of the Borrower to repay the Loan in accordance with its terms.

(d) Notes. The Borrower shall execute and deliver to the Agent on the Effective Date (i) a promissory note substantially in the form of Exhibit B-1 in the principal amount of Tranche A of the Loan, dated the Effective Date and otherwise appropriately completed (such note, including any replacement note therefor issued in accordance with the provisions of this **Section 2.3(d)**, the "Tranche A Note") and (ii) a promissory note substantially in the form of Exhibit B-2 in the principal amount of Tranche B of the Loan, dated the Effective Date and otherwise appropriately completed (such note, including any replacement note therefor issued in accordance with the provisions of this **Section 2.3(d)**, the "Tranche B Note" and, together with the Tranche A Note, the "Notes"). The Notes shall be made payable to the Agent at the office of the Agent; provided that at the request of any Lender, the Borrower shall execute and deliver a Note (or replacement thereof) payable directly to such Lender in the amount of its interest in the Loan. If any Note is mutilated, lost, stolen or destroyed, the Borrower shall issue a new Note in the same principal amount and having the same interest rate, date and maturity as the Note so mutilated, lost, stolen or destroyed endorsed to indicate all payments thereon. In the case of any lost, stolen or destroyed Note, there shall first be furnished to the Borrower an instrument of indemnity from the Agent (or the Lender, as applicable) and evidence of such loss, theft or destruction reasonably

¹ Will be equal to the difference, if any, between \$19,000,000 and the "Pre-Reorganization Payments."

satisfactory to the Borrower, together with an officer's certificate of the Borrower certifying and warranting as to the due authorization, execution and delivery of the new Note. Upon the execution and delivery by the Borrower of the Notes, the promissory notes executed and delivered by the Borrower under the Original Loan Agreement shall be null and void and of no further force and effect, and shall be contemporaneously returned to the Borrower for cancellation.

(e) Register. This Agreement and the Notes are registered instruments. A manually signed copy of this Agreement and the original of a Note shall be evidence of (i) the rights of each Lender under this Agreement and such Note and (ii) the rights of the Agent under this Agreement. Neither this Agreement nor any Note is a bearer instrument. The Agent will establish and maintain a record of ownership (the "Register") in which the Agent agrees to register by book entry the Agent's and each Lender's interest in the Loan, the Notes and this Agreement, and in the right to receive any payments hereunder or thereunder and any assignment of any such interest or rights. In connection with any assignment pursuant to **Section 9.2**, the Agent shall maintain a copy of each Assignment and Acceptance delivered to and accepted by it and shall record the names and addresses of the Lenders and principal amount of each Tranche of the Loan owing to each Lender from time to time. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrower, the Agent and the Lenders shall treat each Person whose name is recorded in the Register as a Lender for all purposes of this Agreement. The Register shall be available for inspection by the Borrower, the Agent, the Collateral Agent, the Loan Administrator or any Lender or Participant at any reasonable time and from time to time upon reasonable prior notice.

Section 2.4. Optional Prepayments.

(a) Notice of Prepayment. The Borrower may, upon at least fifteen (15) days' prior revocable written notice to the Lenders, the Loan Administrator and the Agent stating the proposed date and aggregate principal amount of the prepayment, elect to prepay the outstanding principal amount of the Loan, ratably as to each Tranche, in whole or in part (but not less than a minimum amount of the lesser of \$5,000,000 and five percent (5%) of the then outstanding principal amount of the Loan), together with (i) accrued interest to the date of such prepayment on the principal amount prepaid and (ii) the Prepayment Premium owing pursuant to subsection (d) below; provided, however, that if any prepayment of all or a portion of the Loan is made by the Borrower other than on an Interest Payment Date or if the Borrower revokes such notice at any time within such fifteen (15) days, the Borrower shall also pay any amounts owing pursuant to **Section 2.9(e)**. The Borrower shall establish to the satisfaction of the Agent three (3) Business Days in advance of any prepayment of the Loan its ability to pay the amount to be prepaid.

(b) Amounts Due upon Notice. Upon the giving of any notice of prepayment under clause (a) of this **Section 2.4**, the principal amount of the Loan specified to be prepaid together with accrued and unpaid interest thereon, and any Prepayment Premium payable pursuant to subsection (d) below, shall become due and payable on the date specified for such prepayment; provided, however, that any failure to make any such prepayment in full on such date shall be deemed to be an automatic revocation of the notice of prepayment given under **Section 2.4(a)** and such failure shall not constitute a Default or an Event of Default hereunder; provided, that the Borrower shall be obligated to pay on such date any amounts owing under **Section 2.9(e)** due to such failure to prepay.

(c) Application of Optional Prepayments. Any such prepayment shall be paid to the Agent for application as provided in **Section 2.8**, and any partial prepayment of the Loan resulting from such application shall be applied to the then remaining installments of the outstanding principal amount of the Loan (ratably as to each Tranche) in the order of maturity thereof, other than any Prepayment Premium which shall be paid by the Agent to the Lenders on a pro rata basis. The Borrower shall have no

right to optionally prepay the principal amount of the Loan other than as provided in this [Section 2.4](#), [Section 2.9\(b\)](#) or [Section 2.9\(d\)](#).

(d) Prepayment Premium. In addition to amounts which the Borrower is required to pay in connection with an optional prepayment of the Loan as provided above, the Borrower shall also pay on the date of such prepayment for the account of each Lender a premium on the prepaid portion of the Loan in an amount equal to 1% of the principal amount of the Loan prepaid (the "Prepayment Premium").

Section 2.5. Mandatory Prepayments.

(a) Future Issuances. The Borrower shall give the Agent, the Lenders, the Participants and the Loan Administrator not less than eight (8) Business Days' prior written notice of any anticipated Future Issuance, and upon receipt by any Obligor of the Net Issue Proceeds of such Future Issuance, the Borrower shall, subject to subsection (f) below, prepay the Loan in the manner provided below in an amount equal to (1) in the case of Future Issuances of Capital Stock (or warrants, options or other rights to acquire Capital Stock) or Indebtedness which is not secured by a Lien on any assets or properties of the Obligors or their Subsidiaries, the product of (x) the Loan Prepayment Percentage and (y) 100% of the amount of such Net Issue Proceeds, and (2) in the case of all other Future Issuances, 100% of the amount of such Net Issue Proceeds, in each of cases (1) and (2), to the extent of Net Issue Proceeds in excess of \$3,000,000 in the aggregate during any Fiscal Year; provided, that the Borrower shall not be obligated to so prepay the Loan (and such amounts shall not be included in the calculation of the \$3,000,000 threshold) if and to the extent that

(i) such Future Issuance is Permitted Refinancing Indebtedness; or

(ii) an Obligor applies the proceeds of a Future Issuance of Indebtedness to make pre-delivery payments, deposits or progress payments (or other similar payments) with respect to the acquisition of Aircraft Related Equipment (or reimburses itself or any other Obligor for any such payment or deposit), an Obligor applies such proceeds to purchase (or reimburse itself or any other Obligor for the purchase of) Aircraft Related Equipment, or an Obligor otherwise sets aside such proceeds (through an escrow account or otherwise) for a period not to exceed twelve (12) months for the express purpose of making any of the payments described above in this clause (ii) and the Obligor makes such payment within such period;

it being understood that all Net Issue Proceeds in excess of amounts otherwise applied in accordance with clauses (i) and (ii) of this subsection (a) shall be applied to prepay the Loan as provided above. Any such prepayment of the Loan shall be made on the date of receipt of the proceeds of the applicable Future Issuance.

(b) Asset Sales. Subject to subsection (f) below, upon receipt by an Obligor of any Cash Proceeds from an Asset Sale permitted under [Section 6.10](#) (including, without limitation, the Net Cash Proceeds from a sale-leaseback of Aircraft Related Equipment and other property permitted under [Section 6.6](#)), the Borrower shall prepay the Loan in an aggregate amount equal to one hundred percent (100%) of the Net Cash Proceeds from such Asset Sale; provided, however, that the Borrower shall not be obligated to so prepay the Loan:

(i) with the Net Cash Proceeds from a sale of Spare Parts (including a sale-leaseback) to the extent that such Net Cash Proceeds exceed, (A) in the case of a sale-leaseback of Spare Parts, eighty percent (80%) of the appraised fair market value for such Spare Parts as set forth in the Current Appraisal Report, and (B) in the case of any other sale of Spare Parts, (x)

with respect to Spare Parts for L-1011 and Boeing 727 aircraft, eighty percent (80%) of the appraised fair market value for such Spare Parts as set forth in the Current Appraisal Report and (y) with respect to all other Spare Parts, ninety percent (90%) of the appraised fair market value for such Spare Parts as set forth in the Current Appraisal Report (which excess Net Cash Proceeds, for the avoidance of doubt, the Obligors shall be entitled to retain);

(ii) with the Net Cash Proceeds from a sale of Spare Parts (including a sale-leaseback and other than amounts which the Obligors are entitled to retain under clause (i) above), if and to the extent that the Borrower furnishes to the Agent and the Board on or prior to the date such prepayment is otherwise required to be made an Officer's Certificate certifying that it or another Obligor intends to replace the Spare Parts from which such Net Cash Proceeds derived, and does so (or enters into a definitive agreement committing to do so) within nine (9) months of receipt thereof (it being understood that any Net Cash Proceeds retained by the Obligors but not actually expended within such nine (9) month-period or pursuant to such agreement to replace the Spare Parts from which such Net Cash Proceeds derived shall be used to prepay the Loan on the expiration of such nine (9) month-period (or on such later date as it is determined that the proceeds will not be applied in accordance with an agreement entered into within such nine (9) month period)); and

(iii) with Net Cash Proceeds from all other Asset Sales to the extent such Net Cash Proceeds do not exceed [\$500,000] in the aggregate per Fiscal Year.

Any prepayment of the Loan under this subsection (b) shall be made no later than three (3) Business Days following the receipt by such Obligor of the proceeds of such Asset Sale (or, if applicable, the end of the nine (9) month period referred to in clause (ii) above or such later date as it is determined that the proceeds will not be applied in accordance with an agreement entered into within such nine (9) month period).

(c) Insurance/Condemnation Proceeds. Subject to subsection (f) below, the Borrower shall prepay the Loan in an amount equal to the amount by which the aggregate amount of all Net Insurance Proceeds and Net Condemnation Proceeds received by the Obligors in any Fiscal Year exceeds [\$500,000]; provided, that, the Borrower shall not be obligated to so prepay the Loan (i) if and to the extent that the Borrower furnishes to the Agent and the Board on or prior to the date such prepayment is otherwise required to be made an Officer's Certificate certifying that it or another Obligor intends to repair, restore or replace the assets from which such Net Insurance Proceeds or Net Condemnation Proceeds derived, and does so (or enters into a definitive agreement committing to do so) within six (6) months after receipt of such Net Insurance Proceeds or Net Condemnation Proceeds or (ii) in the case of proceeds derived from Collateral, if and to the extent that the applicable Obligor repairs, restores or replaces the assets from which such proceeds derived in accordance with the applicable provisions of the Security Documents (it being understood that any Net Insurance Proceeds or Net Condemnation Proceeds retained by an Obligor but not actually expended within such six (6) months (or on such later date as it is determined that the proceeds will not be applied in accordance with an agreement entered into within such six (6) month period) or such other time as provided in an applicable Security Document or pursuant to such agreement to repair, restore or replace the assets from which such Net Insurance Proceeds or Net Condemnation Proceeds derived shall be used to prepay the Loan on the expiration of such six (6) months (or on such later date as it is determined that the proceeds will not be applied in accordance with an agreement entered into within such six (6) months) or such other time as provided in an applicable Security Document). Any prepayment pursuant to this Section 2.5(c) shall be made no later than six (6) Business Days following the date of receipt of the Net Insurance Proceeds or Net Condemnation Proceeds by an Obligor, or if later, the six (6) month period referenced above (or such later date as it is determined that the proceeds will not be applied in accordance with an agreement entered into within such six (6)

month period), or in the case of proceeds derived from Collateral and for which the timing of prepayment is otherwise provided for in the applicable Security Document, at such time as determined in accordance with the applicable provisions thereof.

(d) Reduction in Credit Card Holdbacks. In the event that any of the Borrower's credit card processing agreements is (i) amended, supplemented or otherwise modified, (ii) replaced with a new agreement, or (iii) applied pursuant to its terms, in any such case with the result that the credit card processor (or its successor) provides the Obligors with additional cash liquidity by reason of increasing its advances to the Obligors against unflown air traffic liability or decreasing its collateral or holdbacks in respect of such air traffic liability (each a "Card Liquidity Event") then (x) not later than five (5) Business Days prior to each subsequent Interest Payment Date following such Card Liquidity Event, the Borrower shall deliver to the Agent and the Board an Officer's Certificate attaching a copy of the agreement constituting the Card Liquidity Event and setting out in reasonable detail a calculation of the expected change in cash liquidity resulting from the Card Liquidity Event as measured at the close of business on such Interest Payment Date, and (y) on each such Interest Payment Date, the Borrower shall prepay the Loan in an amount equal to fifty percent (50%) of such change in cash liquidity as of such Interest Payment Date minus the aggregate amount of any prepayments previously made in respect of such Card Liquidity Event pursuant to this **Section 2.5(d)**; provided, however, that the aggregate amount of all prepayments under this **Section 2.5(d)** with respect to any and all Card Liquidity Events shall not in any event exceed \$20,000,000.]

(e) Change in Control. Upon the occurrence of a Change in Control, the Borrower shall promptly give the Agent, the Lenders and the Loan Administrator written notice thereof, and the Requisite Lenders shall have the right, by written notice to the Borrower (with a copy to the Agent, each Participant and each Lender) delivered not more than thirty (30) days following delivery of the notice of the Change in Control, to require the Borrower to prepay the Loan in full, together with accrued and unpaid interest thereon to the date of such prepayment, on the date specified in such notice (which date shall be a Business Day not less than ten (10) nor more than twenty (20) Business Days' after the date of such notice), and upon the specified payment date, the Borrower shall so prepay the then outstanding principal amount of the Loan together with such accrued and unpaid interest thereon.

(f) Option of Lenders to Decline Mandatory Prepayments. At least five (5) Business Days prior to any date (for purposes of this subsection, a "Mandatory Prepayment Date") on which any mandatory prepayment of the Loan would, but for the provisions of this subsection (f), otherwise be required to be made pursuant to subsections (a), (b), (c) and (d) of this **Section 2.5**, the Borrower shall deliver a loan prepayment notice to the Agent setting forth the amount of such mandatory prepayment (or a good faith estimate thereof if such amount is not then known), and the date upon which the Borrower expects such prepayment to be made; provided, that the Borrower's obligation to make such prepayment shall, in the case of a prepayment under subsections (a) or (b) of this **Section 2.5**, be subject to the consummation of the transaction giving rise to such prepayment and the Borrower's timely receipt of the Net Issue Proceeds or Net Cash Proceeds (as the case may be) therefrom. Upon receipt of such notice, the Agent shall (i) promptly notify each Lender and each Participant of the contents thereof and of the prepayment that each Lender will be entitled to receive if it accepts prepayment of its portion of the Loan in accordance with this subsection, (ii) request that each such Lender notify the Agent in writing, no later than the third (3rd) Business Day prior to the Mandatory Prepayment Date, whether such Lender will elect to accept or decline some or all of its pro rata share of such prepayment and (iii) inform such Lender that the failure by such Lender to give such notice shall be deemed an acceptance of such prepayment. No later than two (2) Business Day prior to the Mandatory Prepayment Date, the Agent shall notify the Borrower of the Lenders' elections and the aggregate amount of the prepayment required to be made as a result thereof. The Borrower shall thereafter prepay the Loan on such Mandatory Prepayment Date in the amount of such prepayment (after giving effect to the Lenders' elections), which the Agent shall apply as

a prepayment of such portions of the Loan held by each of the Lenders that shall have accepted (or been deemed to have accepted) such prepayment. The foregoing notwithstanding, the Tranche B Lender agrees that, with respect to such portions of Tranche B as to which it has sold participations, it will not make an election hereunder without the consent of the applicable Participant.

(g) Application. If any such prepayment is made by the Borrower other than on an Interest Payment Date, the Borrower shall also pay any amounts owing pursuant to **Section 2.9(e)**. Any such prepayment of the Loan shall be paid to the Agent for application as provided in **Section 2.8**, and any partial prepayment of the Loan resulting from such application shall be applied to the then remaining installments of the outstanding principal balance of the Loan (ratably as to each Tranche) (i) in the case of a prepayment under subsection (b) above with Net Cash Proceeds from a sale of Spare Parts, in the order of maturity thereof, and (ii) in the case of all other prepayments under this **Section 2.5**, in the inverse order of maturity thereof.

Section 2.6. Interest.

(a) Rate of Interest. Except as otherwise provided in subsection (c) below and **Section 2.9**, the Loan shall bear interest on the unpaid principal amount thereof from the Effective Date until paid in full at the Applicable Interest Rate.

(b) Interest Payments. Interest accrued on the Loan shall be payable in arrears on each Interest Payment Date beginning March 31, 2006, upon the payment or prepayment thereof in whole or in part, and, if not previously paid in full, at maturity (whether by acceleration or otherwise). Interest on the Loan shall be calculated on the basis of a year of 360 days and actual number of days elapsed.

(c) Default Interest. Notwithstanding the rate of interest specified in subsection (a) or elsewhere herein, if any principal of or interest on the Loan is not paid when due, whether at stated maturity, upon acceleration, by mandatory prepayment or otherwise (but other than any voluntary prepayment), such overdue amount shall bear interest at a rate which is two percent (2%) per annum in excess of the Applicable Interest Rate as in effect from time to time.

Section 2.7. Fees.

(a) Agency Fee. The Borrower agrees to pay to the Agent annually in advance on each anniversary of the Closing Date, for the account of the Agent, an agency fee in an amount equal to \$[] for so long as the Loan shall remain outstanding.

(b) Collateral Agent Fee. The Borrower agrees to pay to the Agent annually in advance on each anniversary of the Closing Date, for the account of the Collateral Agent, a fee in the amount of \$[50,000] (or \$[125,000] annually in advance during the continuance of an Event of Default) for so long as the Loan shall remain outstanding. In addition, each time the Borrower requests the consent of the Collateral Agent in connection with a re-registration of an aircraft pursuant to Section 3.1(a)(iii) of the Security Agreement, the Borrower agrees to pay to the Agent, for the account of the Collateral Agent, a fee in the amount of \$[4,000] plus related legal expenses incurred in connection with such re-registration.

(c) Loan Administrator Fee. The Borrower agrees to pay the Loan Administrator the fees provided for in the Loan Administration Agreement.

(d) Distribution of Fees. On the Effective Date, and upon its receipt thereof, the Agent shall distribute to the Person entitled thereto each of the fees referred to in this **Section 2.7** payable

on such date. Thereafter, the Agent will distribute any and all fees payable under this **Section 2.7** in accordance with **Section 2.8(d)** or **(e)** hereof, as applicable.

(e) **Fees Non-Refundable.** All fees payable under this **Section 2.7** shall be non-refundable.

(f) **Interest on Fees.** If any fee or other amount payable by the Borrower hereunder is not paid when due, such overdue amount shall bear interest at a rate which is two percent (2.0%) per annum in excess of the Applicable Interest Rate as in effect from time to time.

Section 2.8. Payments and Computations.

(a) **Payments.** The Borrower shall make each payment hereunder (including fees and expenses) not later than 12:00 noon (New York City time) on the day when due, in Dollars, to the Agent at Citibank, N.A., ABA #021000089, Account No. 3041-9849, Account Name: Project Finance, Ref: [ATA Airlines] in immediately available funds without set-off or counterclaim. All payments in respect of any Obligations shall at all times be made to the Agent. The Agent will promptly cause all such payments received by it to be distributed to the Person entitled thereto in accordance with the priorities of payment set forth below in clause **(d)** or **(e)** of this **Section 2.8** or both, as applicable. Payments received by the Agent after 12:00 noon (New York City time) shall be deemed to be received on the next Business Day.

(b) **Computation.** Each determination by the Agent of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

(c) **Payments on Business Days.** Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, except as may be required otherwise pursuant to clause (ii) of the definition of Interest Payment Date, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest or fees, as the case may be.

(d) **Application of Payments—No Event of Default.** So long as no Event of Default under any of **Section 7.1(a)** (including any failure to pay all amounts hereunder upon acceleration as a result of any other Event of Default), **(f)** or **(g)** has occurred and is continuing or would result therefrom, the Agent shall apply all payments in respect of any Obligations in the following order:

(i) first, to pay any fees then due and payable under **Section 2.7(a)**, **(b)** and **(c)** hereof to the Agent, the Collateral Agent and the Loan Administrator, as the case may be, on a *pro rata* basis;

(ii) second, to pay interest then due and payable in respect of the Loan to the Lenders, on a *pro rata* basis;

(iii) third, to pay principal then due and payable on the Loan to the Lenders, on a *pro rata* basis; and

(iv) fourth, to pay any other Obligations then due and payable to the Agent, the Collateral Agent, the Loan Administrator, the Lenders and the Participants, on a *pro rata* basis.

(e) **Application of Payments After Event of Default.** After the occurrence and during the continuance of an Event of Default under any of **Section 7.1(a)** (including any failure to pay all

amounts hereunder upon acceleration as a result of any other Event of Default), (f) or (g), the Agent shall apply all payments in respect of any Obligations (including amounts received by the Collateral Agent upon the exercise of remedies under the Collateral Documents) in the following order:

- (i) first, to pay Obligations in respect of any expenses, fees, indemnities or other sums owing hereunder then due to the Agent, the Collateral Agent and the Loan Administrator, on a *pro rata* basis;
- (ii) second, to pay Obligations in respect of any expenses, fees, indemnities or other sums owing hereunder not referred to in clauses (iii) and (iv) below then due to the Lenders and the Participants, on a *pro rata* basis;
- (iii) third, to pay interest then due and payable in respect of the Loan to the Lenders, on a *pro rata* basis; and
- (iv) fourth, to pay or prepay principal payments on the Loan to the Lenders, on a *pro rata* basis.

Section 2.9. Certain Provisions Governing the Notes.

(a) **Determination of Interest Rate.** The Applicable Interest Rate for each Interest Period of the Loan shall be determined by the Agent pursuant to the procedures set forth in the definition of “LIBOR” and shall promptly thereafter be notified to the Borrower, each Lender and each Participant.

(b) **Interest Rate Unascertainable, Inadequate or Unfair.** In the event that: (i) the Agent determines that adequate and fair means do not exist for ascertaining the applicable interest rates by reference to which the LIBOR then being determined is to be fixed; or (ii) the Requisite Lenders (calculated without regard to the portion of the Loan held at such time by the Board) notify the Agent that the LIBOR for any Interest Period will not adequately reflect the cost to the Lenders (other than the Board) of making or maintaining the Loan for such Interest Period, the Agent shall forthwith so notify the Borrower, the Participants and the Lenders, whereupon during the thirty (30) days following the date of any such notice the Lenders, the Agent, the Participants and the Borrower shall negotiate in good faith in order to arrive at a mutually acceptable alternative basis for determining the interest rate from time to time applicable to the Loan (the “Substitute Basis”). If within the twenty (20) days following the date of any such notice from the Agent, the Lenders, the Participants, the Agent and the Borrower shall agree upon a Substitute Basis, such Substitute Basis shall be retroactive to and effective from the first day of the then current Interest Period until and including the last day of such Interest Period. If after twenty (20) days from the date of such notice, the Lenders, the Participants, the Agent and the Borrower shall have failed to agree upon a Substitute Basis, then the Agent (upon instructions from the Requisite Lenders) shall certify in writing to the Borrower (such certification to be conclusive and binding on all Lenders and all other parties hereto absent manifest error) the interest rate at which the Lenders are prepared to maintain their portion of the Loan for such Interest Period, it being understood that such Lenders’ interest rate shall be at a rate per annum equal to a rate which adequately and fairly reflects the cost to such Lenders and the Participants of obtaining the funds necessary to maintain their portion of the Loan for such Interest Period. If no Substitute Basis is established, upon receipt of notice of the interest rates at which the Requisite Lenders are prepared to maintain their respective portion of the Loan, the Borrower shall have the right exercisable upon ten (10) Business Days’ prior notice to the Lenders and the Participants through the Agent (i) to continue to borrow the Loan at the interest rate so advised by the Agent (as such rate may be modified, from time to time, at the outset of each subsequent Interest Period) or (ii) to prepay in full the Loan together with accrued but unpaid interest thereon at the interest rate certified in writing by the Requisite Lenders as provided above and all other amounts due under the Loan

Documents (but excluding any Prepayment Premium), whereupon the Loan shall become due and payable on the date specified by the Borrower in such notice.

(c) Increased Costs. If at any time any Lender or Participant shall determine that as a result of the introduction of or any change in or in the interpretation by any Governmental Authority of any law, treaty or governmental rule, regulation or order after the date hereof or the compliance by such Lender or Participant, with any guideline, request or directive after the date hereof from any central bank or other Governmental Authority (whether or not having the force of law), there shall be any increase in the cost to such Lender or Participant of agreeing to make or making, funding or maintaining any portion of the Loan or its Participation (except in respect of Taxes, payments with respect to which are addressed in [Section 2.11](#)), then the Borrower shall from time to time, upon demand (which demand shall be accompanied by a statement setting forth the basis for such demand and a calculation of the amount thereof in reasonable detail) by such Lender or Participant, as the case may be (with a copy of such demand to the Agent and the other Lenders), pay to the Agent for the account of such Lender or Participant, as the case may be, additional amounts sufficient to compensate such Lender or Participant, as the case may be, for such increased cost. A certificate as to the amount of such increased cost, submitted to the Borrower and the Agent by such Lender or Participant, as the case may be, shall be conclusive and binding for all purposes, absent manifest error.

(d) Illegality. Notwithstanding any other provision of this Agreement, if any Lender or Participant determines that the introduction of or any change in or in the interpretation by any Governmental Authority of any law, treaty or governmental rule, regulation or order after the date of this Agreement shall make it unlawful, or any central bank or other Governmental Authority shall assert that it is unlawful, for such Lender or Participant to continue to fund or maintain its portion of the Loan or Participation, as applicable, then, on notice thereof by such Lender or Participant, to the Borrower through the Agent, the obligation of such Lender or Participant to continue to fund or maintain its portion of the Loan or Participation, as applicable, shall be terminated and the Borrower shall prepay such affected portion of the Loan to such Lender, or in the case of a Participant, to the Tranche B Lender, together with accrued but unpaid interest thereon and all other sums payable hereunder with respect thereto on the last day of the then current Interest Period or earlier if necessary to avoid such illegality. Any such prepayment of the Loan shall be paid to the Agent for application as provided in [Section 2.8](#), and any such partial prepayment resulting from such application shall be applied ratably to the then unpaid installments thereof in accordance with the amount of each such unpaid installment.

(e) Breakage Costs. In addition to all amounts required to be paid by the Borrower pursuant to [Section 2.6](#), the Borrower shall compensate each Lender and each Participant, upon demand, for all losses, expenses and liabilities (including any loss or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender or Participant or the termination of any other financial arrangement it may have entered into to fund or maintain or support such Lender's portion of the Loan or Participant's Participation, as applicable, but excluding Taxes, payments with respect to which are addressed in [Section 2.11](#)) which that Lender or Participant, as the case may be, may sustain (i) if for any reason any portion of the Loan is prepaid (including mandatorily pursuant to [Section 2.5](#) or this [Section 2.9](#)) or as a result of such a prepayment, payment is made with respect to a Participation on a date which is not the last day of the applicable Interest Period, or (ii) as a consequence of any failure by a Borrower to repay any portion of the Loan or make payment with respect to a Participation when required by the terms hereof. The Lender or Participant making demand for such compensation shall deliver to the Borrower (with a copy to the Agent) concurrently with such demand a written statement as to such losses, expenses and liabilities, and this statement shall be conclusive as to the amount of compensation due to that Lender or Participant, as the case may be, absent manifest error, and such compensation shall be paid to the Agent for the account of such Lender or Participant, as the case may be.

Section 2.10. Capital Adequacy. If at any time any Lender or Participant determines that (a) the adoption of or any change in or in the interpretation by any Governmental Authority of any law, treaty or governmental rule, regulation or order after the date of this Agreement regarding capital adequacy, (b) compliance with any such law, treaty, rule, regulation, or order, or (c) compliance with any guideline or request or directive from any central bank or other Governmental Authority (whether or not having the force of law) shall have the effect of reducing the rate of return on such Lender's or Participant's (or any corporation controlling such Lender's or Participant's) capital as a consequence of its obligations hereunder (other than as a result of changes in Taxes, payments with respect to which are addressed in **Section 2.11**) to a level below that which such Lender or Participant, as the case may be, or such corporation could have achieved but for such adoption, change, compliance or interpretation, then, upon demand from time to time by such Lender or Participant, as the case may be (with a copy of such demand to the Agent), the Borrower shall pay to the Agent for the account of such Lender or Participant, as the case may be, from time to time as specified by such Lender or Participant, as the case may be, additional amounts sufficient to compensate such Lender or Participant for such reduction. A certificate as to such amounts submitted to the Borrower and the Agent by such Lender or Participant, as the case may be, shall be conclusive and binding for all purposes absent manifest error.

Section 2.11. Taxes.

(a) No Withholding, etc. Except as otherwise provided in **Section 9.2**, any and all payments by the Borrower under each Loan Document (including payments made under a Participation Agreement to a Participant, but excluding such payments made to participants other than Participants, except as expressly provided in **Section 2.11(j)**) shall be made free and clear of and without deduction for any and all Taxes, excluding (i) in the case of each Lender, the Loan Administrator and the Agent, taxes measured by its net income or net profits (or branch profits), and franchise taxes imposed on it, by the United States of America (or any political subdivision thereof) or by any jurisdiction under the laws of which such Lender, the Loan Administrator or the Agent (as the case may be) is organized, (ii) in the case of each Lender, taxes measured by its net income or net profits (or branch profits), and franchise taxes imposed on it, by the jurisdiction in which such Lender's Lending Office is located, (iii) in the case of each Lender, the Loan Administrator and the Agent, Taxes imposed as a result of such Person failing to comply with its obligations under **Section 2.11(g)** or **Section 2.11(h)** and (iv) in the case of each Lender, the Loan Administrator, and the Agent that is a party hereto, as the case may be, any withholding taxes imposed by the United States of America (or any political subdivision thereof) unless imposed as a result of a change in applicable law, including income tax conventions, after the latest of (x) the Effective Date, (y) the date on which it becomes a Lender, the Loan Administrator or the Agent, as the case may be, and (z) in the case of a Lender, the date on which it designates a new Lending Office, unless such designation is pursuant to **Section 2.11** (all such non-excluded Taxes being hereinafter referred to as "Indemnified Taxes"). If any Indemnified Taxes shall be required by law to be deducted from or in respect of any sum payable under any Loan Document to any Lender, the Loan Administrator, or the Agent (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this **Section 2.11**) such Lender, the Loan Administrator or the Agent (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions, and (iii) the Borrower shall pay the full amount deducted to the relevant taxing authority or other authority in accordance with applicable law.

(b) Other Taxes. In addition, the Borrower agrees to pay any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies of the United States or any political subdivision thereof or any applicable foreign jurisdiction, and all liabilities with respect thereto, which arise from any payment made under any Loan Document or Participation or from the

execution, delivery or registration of, or otherwise with respect to, any Loan Document (collectively, “Other Taxes”) to the Agent for the account of the affected party.

(c) Tax Indemnity. The Borrower will indemnify each Lender, the Agent and the Loan Administrator for the full amount of Indemnified Taxes or Other Taxes (including any Taxes imposed by any jurisdiction on amounts payable under this **Section 2.11**) paid by such Lender, the Loan Administrator or the Agent (as the case may be) and any liability (including for penalties, interest and expenses) arising therefrom or with respect thereto. This indemnification shall be made to the Agent for account of the relevant Lender, the Loan Administrator or the Agent, as the case may be, within thirty (30) days from the date such Lender, the Loan Administrator or the Agent (as the case may be) makes written demand therefor (with a copy to the Agent if made by a Lender or the Loan Administrator and accompanied by a statement setting forth the basis for such taxation and the calculation of the amount thereof in reasonable detail).

(d) Evidence of Payment. Within thirty (30) days after the date of any payment of Indemnified Taxes or Other Taxes, the Borrower will furnish to the Agent the original or a certified copy of a receipt evidencing payment thereof or other documentation reasonably satisfactory to the Agent.

(e) Tax Refund. If a Lender, the Loan Administrator or the Agent receives a refund in respect of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower pursuant to this **Section 2.11**, it shall within thirty (30) days from the date of such receipt pay over such refund to the Borrower hereunder, net of any additional Taxes incurred due to such refund or out-of-pocket expenses of such Lender, the Loan Administrator or the Agent as a result of such refund or payment hereunder and without interest (other than interest paid by the relevant Governmental Authority with respect to such refund); provided, that no Default or Event of Default is continuing, and provided further, that the Borrower hereunder, upon the request of such Lender or the Agent, agrees to repay the amount paid over to the Borrower (plus penalties, interest or other charges) to such Lender or the Agent in the event such Lender or the Agent is required to repay such refund to such Governmental Authority.

(f) Survival. Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the parties contained in this **Section 2.11** shall survive the payment in full of the Obligations; provided, however, that no such agreements or obligations shall survive the statute of limitations applicable to the relevant Taxes unless a claim was properly made prior to the expiration of such statute.

(g) Certain Withholding Tax Matters. Each of the Lenders, the Loan Administrator and the Agent that is a Non-U.S. Person and that is entitled at such time to an exemption from United States withholding tax, or that is subject to such tax at a reduced rate under an applicable tax treaty, shall, on or prior to the Effective Date or on or prior to the date of the Assignment and Acceptance pursuant to which it becomes a Lender or on or prior to the date it becomes the Loan Administrator or the Agent, as applicable, and from time to time thereafter if requested by the Agent or the Borrower or if necessary to keep the provided forms from lapsing, provide the Agent and the Borrower, and, in the case of each of the Lenders and the Agent, provide each Participant, with two completed copies of either IRS Form W-8BEN or W-8ECI or other applicable form, certificate or document prescribed by the IRS certifying as to such Non-U.S. Person’s entitlement to such exemption from United States withholding tax or reduced rate with respect to all payments to be made to such Non-U.S. Person under the Loan Documents. In addition, each of the Lenders, each Participant, the Loan Administrator and the Agent that is a Non-U.S. Person, as the case may be, shall deliver to the Borrower and the Agent, and, in the case of each of the Lenders, each Participant and the Agent, deliver to each Participant, notice of any event (other than a change in applicable law, including income tax conventions) requiring a change in the most recent form previously delivered by such Person to the Borrower and the Agent or the Participants, as the case may be. Unless

the Agent and the Borrower have received forms or other documents satisfactory to them indicating that payments under the Loan Documents or Participation to or for a Non-U.S. Person are not subject to United States withholding tax or are subject to such tax at a rate reduced by an applicable tax treaty, the Agent or the Borrower shall, notwithstanding the provisions of **Section 2.11(a), (b) and (d)** and without impairing any obligation of the Borrower under this **Section 2.11** with respect to such tax, withhold such United States withholding taxes from such payments at the appropriate rate.

(h) **Mitigation.** Any Lender claiming any additional amounts payable pursuant to this **Section 2.11** shall use its reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to change the jurisdiction of its Lending Office if the making of such a change would avoid the need for, or reduce the amount of, any such additional amounts which would be payable or may thereafter accrue and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender.

(i) **Participants.** Each participant in the Loan will be entitled to the benefits and subject to the requirements of this **Section 2.11** to the same extent as if such Person were a Lender; provided, however, that a participant (including all Participants) shall not be entitled to indemnification or payment of additional amounts under this **Section 2.11** with respect to any Taxes which are in effect and would apply to amounts payable to such participant on the date such participant acquires its participation (except that such date shall be deemed to be the Closing Date in the case of (i) General Electric Company (acting through its GE Aircraft Engines Group) (“GE Engines”) and (ii) CFM International, Inc., a Delaware corporation (a joint venture of GE Engines and Societe Nationale d’Etude et de Construction de Monteurs d’Aviation) (“CFM”), to the extent GE Engines and CFM receive their participations from the GECC Participant).

(j) **Subparticipants.** Each direct subparticipant of a Participant who becomes a subparticipant pursuant to **Section 9.2(g)** will be entitled to the benefits and subject to the requirements of this **Section 2.11** to the same extent as if such Person were a Participant and as if the subparticipation agreement entered into by such subparticipant were a Participation Agreement; provided, however, that whenever both such a subparticipant and its applicable Participant would otherwise be entitled to payment of additional amounts or to an indemnity under this **Section 2.11**, the Borrower shall only be obliged to pay such additional amounts or make such an indemnity with respect to no more than one of such subparticipant and such applicable Participant, whichever would require the greater payment of such additional amount and provision of such indemnity by the Borrower. Except as provided in the foregoing sentence, no subparticipants of any participant or subparticipant shall be entitled to any payment of additional amounts or indemnification under this **Section 2.11**.

ARTICLE III

CONDITIONS TO LOAN

Section 3.1. Conditions Precedent to the Loan. This Agreement shall become effective on the date hereof (the “**Effective Date**”) subject to the satisfaction (in the judgment of the Requisite Lenders) or the waiver (as applicable) of all of the following conditions precedent:

(a) **Certain Documents.** The Agent, the Lenders and each Participant shall have received on or prior to the Effective Date each of the following (with only the Agent or the requesting Lender receiving an original of the Notes), each dated as of the Effective Date (except as otherwise provided below), in form and substance satisfactory to the Requisite Lenders:

(i) this Agreement, duly executed and delivered by the parties hereto;

(ii) the Notes, duly executed by the Borrower and conforming to the requirements set forth in [Section 2.3\(d\)](#) hereof;

(iii) the Affiliate Guarantee, duly executed and delivered by the parties thereto;

(iv) the Security Agreement, duly executed and delivered by the parties thereto;

(v) the Intellectual Property Security Agreement, duly executed and delivered by the parties thereto;

(vi) the Intercreditor Agreement, duly executed and delivered by the parties thereto;

(vii) (A) financing statements in form and substance reasonably acceptable to the Requisite Lenders, as may be required or advisable to grant, continue and maintain an enforceable security interest in the Collateral (subject to the terms hereof and of the other Loan Documents) in accordance with the UCC as enacted in all relevant jurisdictions; (B) such Security Documents (together with any other necessary documents, instruments, affidavits or certificates) as may be required in order to perfect and maintain the security interest in the Collateral, perfection of a security interest in which requires a filing for recordation with the FAA, in proper form for recordation with the FAA; (C) insurance certificates and brokers' reports evidencing the insurance coverages required under the Loan Documents, including with respect to the Collateral (in accordance with the requirements of the Security Documents) naming the Collateral Agent as loss payee and otherwise in form and substance reasonably acceptable to the Collateral Agent; (D) Control Agreements with respect to the deposit accounts and securities accounts of the Obligors (except to the extent not required pursuant to [Section 5.15](#) hereof); and (E) the original stock certificates representing the Obligors' interests in each of the entities listed on [Schedule 3.1\(a\)\(vii\)](#) (being all entities listed on [Schedule 4.1\(c\)](#) whose securities are certificated), together with undated stock powers executed in blank (delivered only to the Collateral Agent);

(viii) the Loan Administration Agreement, duly executed and delivered by the parties thereto;

(ix) the favorable opinions of (A) Baker & Daniels, counsel to the Borrower, (B) Brian T. Hunt, Esq., General Counsel to the Borrower, and (C) [_____], counsel to the other Obligors;

(x) a copy of the articles or certificate of incorporation of each Obligor, certified as of a recent date by the Secretary of State of the state of incorporation or organization of such Person, together with a "long-form" certificate of such official attesting to the good standing of such Person;

(xi) a certificate of each Obligor signed on behalf of such Obligor by its Secretary or an Assistant Secretary certifying as of the Effective Date (A) the names and true signatures of each officer of such Person who has been authorized to execute and deliver each Loan Document required to be executed and delivered by or on behalf of such Person hereunder or thereunder, (B) the by-laws of such Person as in effect on the date of such certification, (C) the resolutions of such Person's board of directors approving and authorizing the execution, delivery and performance of each Loan Document to which it is a party and (D) that there have been no changes in the certificate of incorporation of such Person from the certificate of incorporation delivered pursuant to the immediately preceding clause;

(xii) a certificate of each Obligor signed by a duly authorized officer of such Person certifying as of the Effective Date (A) that all representations, warranties and certifications made by it in the Loan Agreement, the other Loan Documents and any other document, certificate or written statement delivered in connection therewith are true and correct on and as of the Effective Date, after giving effect to the Consummation of the Plan as though made on and as of such date, and (B) that no Event of Default or event which, with the giving of notice or passage of time or both, would be an Event of Default, has occurred and is continuing;

(xiii) a certificate of each of the Borrower and the Parent signed by a duly authorized officer of such Person certifying as of the Effective Date that since December 14, 2005, except as disclosed therein, there has been no material adverse change in the business, condition (financial or otherwise), operations, performance, prospects, assets or properties of such Person and its Subsidiaries taken as a whole (excluding any such changes resulting from changes or conditions generally affecting (A) the U.S. economy or financial markets or (B) the segments of the airline industry in which any of the Obligors operate (to the extent such changes or conditions do not disproportionately impact the Obligors)) or in the Borrower's ability to repay the Loan;

(xiv) an Officer's Certificate of the Borrower certifying that as of the Effective Date, the written information furnished to the Lenders by or on behalf of the Obligors for use in connection with negotiation and closing of the transaction contemplated by this Agreement is true and complete in all material respects; provided that with respect to pro forma and projected financial information and other forward-looking statements, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time;

(xv) an Officer's Certificate of the Borrower certifying that attached thereto is a true, correct and complete copy of the Disclosure Statement, Plan of Reorganization and the Confirmation Order; and

(xvi) such other certificates, documents, agreements and information from the Obligors as the Agent, the Lenders or any Participant may reasonably request.

(b) Collateral. Evidence of the completion of all notices, recordings and filings of or with respect to the Security Documents and the Collateral covered thereby, that are necessary or desirable in order to perfect and protect the security interest created by the Security Documents or that arrangements therefor satisfactory to the Collateral Agent have been made.

(c) Other Agreements. The Requisite Lenders shall have received evidence reasonably satisfactory to them that the Obligors have consummated the transactions contemplated by the following agreements (which agreements shall be in form and substance reasonably satisfactory to the Requisite Lenders): (i) the MP Loan Agreement; (ii) the Investment Agreement; and (iii) [others].

(d) Fees and Expenses Paid. The Borrower shall have paid all fees due and payable on the Effective Date (including, without limitation, the fees referenced in [Section 2.7](#) hereof).

(e) Consents, Etc. The Obligors shall have received all consents and authorizations required pursuant to any Contractual Obligation with any other Person in form and substance reasonably satisfactory to the Requisite Lenders and shall have obtained all consents, waivers and authorizations of, and effected all notices to and filings with, any other Governmental Authority as may be necessary (i) in connection with the effectiveness of the Plan of Reorganization and (ii) to allow each of the Obligors lawfully to execute, deliver and perform, in all material respects, its obligations under the Loan

Documents to which it is, or shall be, a party and each other agreement or instrument to be executed and delivered by it, pursuant thereto or in connection therewith.

(f) No Illegality. No law or regulation shall be applicable that restrains, prevents or imposes materially adverse conditions upon the transactions contemplated hereby.

(g) Representations and Warranties of the Obligors. All representations and warranties of the Obligors set forth herein are true and correct on and as of the Effective Date after giving effect to the Consummation of the Plan as though made on and as of such date (except to the extent any such representation or warranty by its terms is made as of a different specified date in which event such representation or warranty shall be true and correct as of such specified date).

(h) No Event of Default. After giving effect to the Consummation of the Plan, no Default or Event of Default shall have occurred and be continuing as of the Effective Date.

(i) Corporate and other proceedings. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the transactions contemplated hereby shall be satisfactory in form and substance to the Requisite Lenders.

(j) Projections. The Lenders shall have received satisfactory projections and pro forma financial information for the fiscal years 2006 through and including 2008, which projections shall be certified by the Chief Executive Officer or the Chief Financial Officer of each of the Parent and the Borrower, as being based on assumptions stated therein and that such assumptions are believed by the Obligors to be reasonable as of the date of the Confirmation Order.

(k) No Material Adverse Change. In the judgment of the Requisite Lenders, since December 14, 2005, no material adverse change shall have occurred in the business, condition (financial or otherwise), operations, performance, prospects, assets or properties of the Obligors taken as a whole (excluding any such changes resulting from changes or conditions generally affecting (i) the U.S. economy or financial markets or (ii) the segments of the airline industry in which any of the Obligors operate (to the extent such changes or conditions do not disproportionately impact the Obligors)) or in the Borrower's ability to repay the Loan.

(l) Filing Memoranda; Post Recordation Opinions. The Borrower shall have submitted to the Federal Aviation Administration the Security Agreement and all other instruments or documents that are required to be recorded by the Federal Aviation Administration in order to perfect or continue the perfection of the Lien on the applicable Collateral in favor of the Collateral Agent, and promptly upon the recordation of such documents with the Federal Aviation Administration, the Borrower will cause Crowe & Dunlevy to deliver to the Collateral Agent a favorable legal opinion with respect to the perfection of the security interest in the Collateral covered by such recordation.

(m) Plan of Reorganization. (i) Any amendment, supplement or modification to the Plan of Reorganization since December 14, 2005 shall be reasonably satisfactory to the Requisite Lenders, (ii) all conditions precedent to the occurrence of the Plan Effective Date shall have been satisfied or waived by the Requisite Lenders and the Plan of Reorganization shall have become effective, subject only to consummation of the transactions contemplated under the Loan Documents, and (iii) no Obligor shall be in default with respect to any material obligation under the Plan of Reorganization and the Consummation of the Plan shall have occurred, subject only to consummation of the transactions under the Loan Documents.

(n) Confirmation Order. (i) The Confirmation Order shall be in form and substance reasonably satisfactory to the Requisite Lenders and shall not have been stayed by the Bankruptcy Court (or by any court having jurisdiction to issue any such stay) or reversed, vacated, amended, supplemented or modified, (ii) the time to appeal the Confirmation Order shall have expired, (iii) no appeal or petition for review, rehearing, or certiorari with respect to the Confirmation Order shall be pending, and (iv) the Confirmation Order shall otherwise be in full force and effect.

(o) Jurisdiction of Bankruptcy Court. The Requisite Lenders shall be satisfied that the Bankruptcy Court's retention of jurisdiction under the Confirmation Order will not govern the enforcement of the Loan Documents or any rights or remedies relating thereto, except as may be otherwise consented to by them.

(p) Certificates of Incorporation. The certificates of incorporation or other applicable governing documents of the Obligors, as provided for in the Plan, shall be reasonably satisfactory to the Requisite Lenders, and shall have been filed with and accepted by the Secretary of State or other appropriate Governmental Authority in the applicable jurisdictions and shall have become effective.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

To induce the other parties to enter into this Agreement, each Obligor represents and warrants to each other party hereto (excluding any other Obligors) and to each Participant that, on and as of the Effective Date, after giving effect to the Consummation of the Plan:

Section 4.1. Organization, Powers, Qualification, Good Standing, Business, Subsidiaries.

(a) Organization, Power and Authority. Each Obligor is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Each Obligor has all requisite corporate and other power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated hereby and thereby.

(b) Foreign Qualification; "Air Carrier Status". Each Obligor is qualified to do business and in good standing in every jurisdiction where its assets are located and wherever necessary to carry out its business and operations, except in jurisdictions where the failure to be so qualified or in good standing could not reasonably be expected to have a Material Adverse Effect. The Borrower is an "air carrier" within the meaning of the Act and holds a certificate under Sections 41102(a)(1) and 41103 of Title 49. Each of the Borrower and each other Subsidiary of the Parent engaged in operations as an "air carrier" is a "citizen of the United States" as defined in Section 40102(a)(15) of Title 49 (a "United States Citizen") and holds an air carrier operating certificate issued pursuant to Chapter 447 of Title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo. The Borrower possesses all necessary certificates, franchises, licenses, permits, rights and concessions and consents which are material to the operation of the routes flown by it and the conduct of its business and operations as currently conducted.

(c) Subsidiaries. All of the Subsidiaries of each Obligor and all other Persons in which any Obligor owns any Capital Stock, in each case, as of the Effective Date are identified on Schedule 4.1, as said Schedule 4.1 may be supplemented from time to time pursuant to the provisions of

Section 5.14. Each of the Subsidiaries identified in Schedule 4.1 annexed hereto (as so supplemented) is duly organized, validly existing and in good standing under the laws of its respective jurisdiction of formation set forth therein, has all requisite corporate, partnership or limited liability power and authority to own and operate its properties and to carry on its business as now conducted and as proposed to be conducted, and is qualified to do business and in good standing in every jurisdiction where its assets are located and wherever necessary to carry out its business and operations, in each case except where failure to be so qualified or in good standing or a lack of such corporate, partnership or limited liability power and authority could not reasonably be expected to have a Material Adverse Effect. Schedule 4.1 (as so supplemented) correctly sets forth the ownership interest of each Obligor in each of the Subsidiaries identified therein. There are no limitations on the right of any Obligor to vote the Capital Stock it owns of any Subsidiary of such Obligor.

Section 4.2. Authorization of Loan Documents, Etc.

(a) Authorization. Each Obligor has duly authorized by all necessary corporate action the execution, delivery and performance of the Loan Documents to which it is a party.

(b) No Conflicts. After giving effect to the Consummation of the Plan, the execution, delivery and performance by each Obligor of the Loan Documents to which it is a party and the consummation of the transactions contemplated by the Loan Documents to which it is a party do not and will not (i) violate any provision of any law or any governmental rule or regulation applicable to any Obligor, the certificate or articles of incorporation or bylaws of any Obligor or any order, judgment or decree of any court or other agency of government binding on any Obligor, (ii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default or require any payment under any material Contractual Obligation of any Obligor, (iii) result in or require the creation or imposition of any Lien upon any of the properties or assets of any Obligor (other than pursuant to the Loan Documents), or (iv) require any approval of shareholders or any approval or consent of any Person under any material Contractual Obligation of any Obligor, except for such approvals or consents which will have been obtained on or before the Effective Date.

(c) No Consents, Approvals, etc. The execution, delivery and performance by each Obligor of the Loan Documents to which it is a party and the consummation of the transactions contemplated by the Loan Documents to which it is a party 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 or any other Person which is required to be obtained or made on or prior to the Effective Date and which has not been obtained or made, except as is disclosed on Schedule 4.2(c).

(d) Execution, Delivery and Enforceability. Each Obligor has duly executed and delivered each of the Loan Documents to which it is party and, after giving effect to the Consummation of the Plan, each such Loan Document is the legally valid and binding obligation of such Obligor, enforceable against such Obligor in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws relating to or affecting the enforcement of creditors' rights generally, and by general principles of equity (regardless of whether considered in a proceeding in equity or at law).

Section 4.3. Financial Condition.

(a) Liabilities. After giving effect to the Consummation of the Plan, no Obligor has any material liability, including reasonably likely contingent liability or liability for taxes, long-term lease or any unusual forward or long-term commitment of a type required to be reflected in financial statements

prepared in conformity with GAAP, that is not reflected in the projections and pro forma financial information delivered pursuant to [Section 3.1\(j\)](#).

(b) [Projections and Pro Forma Financial Information](#). The projections and pro forma financial information delivered pursuant to [Section 3.1\(j\)](#) are based upon assumptions stated therein, which assumptions are believed by the Obligor to be reasonable as of the date of the Confirmation Order, it being recognized by the Lenders and the Participants that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results.

(c) [Internal Accounting Controls](#). The Obligor maintains a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(d) [Off-Balance Sheet Arrangements](#). Other than as disclosed on [Schedule 4.3\(d\)](#), no Obligor is a party to any "off-balance sheet arrangement" (within the meaning of Item 303(a)(4) of Regulation S-K under the Securities Act of 1933 and the Exchange Act, as amended by SEC Release No. 33-8182 (January 28, 2003)).

[Section 4.4. No Material Adverse Change; No Restricted Payments or Defaults.](#)

(a) [No Material Adverse Change](#). Except as disclosed on the Officer's Certificate delivered on the Effective Date pursuant to [Section 3.1\(a\)\(xiii\)](#), since December 14, 2005, no material adverse change has occurred in the business, condition (financial or otherwise), operations, performance, prospects, assets or properties of the Obligor taken as a whole (excluding any such changes resulting from changes or conditions generally affecting (i) the U.S. economy or financial markets or (ii) the segments of the airlines industry in which any of the Obligor operate (to the extent such changes or conditions do not disproportionately impact the Obligor)) or in the Borrower's ability to repay the Loan or with respect to the matters included in the financial projections included in the Disclosure Statement.

(b) [No Defaults](#). After giving effect to the Consummation of the Plan, no event has occurred and no conditions exist which would on or after the Effective Date constitute a Default or Event of Default.

[Section 4.5. Title To Properties; Liens](#). Each Obligor has (i) good record, legal and marketable title to (in the case of fee interests in real property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property) or other valid and enforceable rights to use property owned by others, or (iii) good and marketable title to (in the case of all other personal property), all properties and assets necessary to or used in the conduct of its business (including, without limitation, all Collateral owned on the Effective Date). Except as otherwise permitted by this Agreement and the Security Documents, all such properties and assets are free and clear of Liens.

[Section 4.6. Perfected Security Interest](#). The Collateral Agent, on behalf of the Lenders, has a first-priority perfected security interest in the Collateral (subject to Permitted Liens).

[Section 4.7. Litigation; Adverse Facts](#). There are no actions, suits, proceedings, arbitrations or governmental investigations (whether or not purportedly on behalf of any Obligor) at law

or in equity or before or by any Governmental Authority pending or, to the knowledge of any Obligor, threatened against or affecting any Obligor or any property of any Obligor that, individually or in the aggregate, if adversely determined, could reasonably be expected to have a Material Adverse Effect or which challenges the legality, validity or binding effect of, or restricts any Obligor from entering into or performing under, any Loan Document including, without limitation, this Agreement and the Security Documents, nor does any Obligor have knowledge of any basis for any Person to institute any such action, suit, proceeding, arbitration or investigation. No Obligor is subject to or in default with respect to any final judgments, writs, injunctions, decrees of any court or any Governmental Authority.

Section 4.8. Payment of Taxes.

(a) **Tax Returns.** Except as disclosed in Schedule 4.8(a), all federal income tax returns and other material tax returns and reports of any Obligor required to be filed by any of them have been timely filed (or timely extensions have been obtained with respect thereto) and all federal income taxes and material Taxes imposed upon any Obligor and upon their respective properties, assets, income, businesses and franchises which are due and payable have been paid before any penalty, fine or interest accrues thereon, except (i) in those instances in which such Taxes are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been made in accordance with GAAP and (ii) that the Debtors' obligations to pay Taxes that relate to a Tax period (or portion thereof) ending on or before the commencement of the Bankruptcy Case and which first became due and payable after the time of the commencement of the Bankruptcy Case, have been stayed or enjoined pursuant to the Plan of Reorganization, the Confirmation Order or the Bankruptcy Code[, it being understood that the exception in this clause (ii) does not affect the Obligors' representation that they have made adequate provision for such Taxes.] Except as disclosed in Schedule 4.8(a), there are no closing, settlement or similar agreements with respect to Taxes between any Obligor and any taxing agency or authority. Except as set forth on Schedule 4.8(a), no Obligor is party to any tax sharing agreements with any Person other than another Obligor.

(b) **Governmental Claims.** Set forth on Schedule 4.8(b) is a true and complete list of each claim of a governmental unit of the kind entitled to priority in payment, as specified in section 502(i) and 507(a)(8) of the Bankruptcy Code, that the Debtors will or expect to pay or to be required to pay during the six (6) years immediately following the Effective Date.

Section 4.9. Performance of Agreements; Material Agreements.

(a) **No Default.** After giving effect to the Consummation of the Plan, no Obligor is in default in the performance, observance or fulfillment of (i) any of the material obligations, covenants or conditions contained in any of its material Contractual Obligations, or (ii) of any other obligation, covenant or condition thereof other than defaults which could not reasonably be expected to have a Material Adverse Effect, and no condition exists that, with the giving of notice or the lapse of time or both, would constitute such a default, excepting any defaults under (x) certain executory contracts and unexpired leases that the Obligors have rejected in accordance with the Plan of Reorganization or prior order of the Bankruptcy Court and (y) certain other contracts relating to property that any Obligor has abandoned pursuant to an order of the Bankruptcy Court or the Plan of Reorganization.

(b) **No Adverse Agreements.** No Obligor nor any of its Subsidiaries is a party to or is otherwise subject to any agreements or instruments or any charter or other internal restrictions which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(c) **Other Agreements.** Except as set forth on Schedule 4.9(c), no Obligor is a party to or is otherwise subject to any material agreement or arrangement, including, but not limited to,

agreements relating to Indebtedness, lease agreements or Guarantees, that provide for early payment, additional collateral support, changes in terms or acceleration of maturity, or the creation of an additional financial obligation, as a result of any of (i) an adverse change in the credit rating of any Obligor, (ii) an adverse change in the financial ratios, earnings, cash flow or stock price of any Obligor, or (iii) changes in the value of underlying, linked or indexed assets.

Section 4.10. Governmental Regulation. No Obligor is subject to regulation under Federal Power Act, the Interstate Commerce Act or the Investment Company Act of 1940 or under any other federal or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable.

Section 4.11. Securities Activities. No Obligor owns or is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock in a manner that violates or causes a violation of Regulations T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board.

Section 4.12. Employee Benefit Plans. Each Plan has been operated and administered in compliance with all applicable requirements of ERISA, and, if intended to qualify under Section 401(a) or 403(a) of the Internal Revenue Code, in compliance with all applicable requirements of such provisions, except where the failure to do so could not reasonably be expected to have, taking all instances in the aggregate, a Material Adverse Effect. No Obligor nor any ERISA Affiliate has any contingent liability with respect to any post-retirement benefits under a welfare benefit plan as defined in ERISA other than a liability for continuation coverage described in Part 6 of Title I of ERISA, except where such liability could not reasonably be expected to have, taking all instances in the aggregate, a Material Adverse Effect. No Obligor nor any ERISA Affiliate has maintained, contributed to or been obligated to maintain or contribute to, or has any actual or contingent liability under any Multiemployer Plan or any Plan that is subject to Title IV of ERISA.

Section 4.13. Environmental Protection.

(a) **Compliance with Environmental Laws.** All Facilities and operations of each Obligor are, and have been to the Obligors' knowledge, in compliance with all Environmental Laws except for any noncompliance which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

(b) **Hazardous Materials Activity.** There is no, and has been no, condition, occurrence, or Hazardous Materials Activity arising (a) at any Facilities or, to the knowledge of any Obligor, at any other location or (b) in connection with the operations of any Obligor (including the transportation of Hazardous Materials in accordance with applicable regulations), which condition, occurrence or Hazardous Materials Activity could reasonably be expected to form the basis of an Environmental Claim against any Obligor and which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(c) **Environmental Claims.** There are no pending or, to any Obligor's knowledge, threatened Environmental Claims against any Obligor, and no Obligor has received any written notices, inquiries, or requests for information with respect to any Environmental Claims which if adversely determined could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(d) **Orders, Decrees, etc.** Except as disclosed to the Agent, the Participants and the Lenders in writing on or prior to the Effective Date, no Obligor is currently operating or required to be

operating under any compliance order, schedule, decree or agreement, any consent decree, order or agreement, and/or any corrective action decree, order or agreement issued or entered into under any Environmental Law, the failure to comply with which could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 4.14. Solvency. After giving effect to the Consummation of the Plan, each Obligor is, and the Obligors taken as a whole are, Solvent.

Section 4.15. Disclosure. No representation or warranty of any Obligor contained in this Agreement, any other Loan Document or in the Disclosure Statement contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements therein at the time, and in light of the circumstances under which they were made, not materially misleading; provided, that with respect to pro forma and projected financial information and other forward-looking statements, such Obligor represents and warrants only that such information was prepared in good faith based on assumptions believed to be reasonable as of the date of the Confirmation Order. Except as disclosed in the Officer's Certificate delivered on the Effective Date pursuant to **Section 3.1(a)(xiii)**, there are no facts known to any Responsible Officer of any Obligor (other than matters of a general economic nature) that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 4.16. Compliance With Laws. Each Obligor is in compliance with all laws, statutes, rules, regulations and orders binding on or applicable to such Obligor and its properties, except to the extent failure so to comply could not (either individually or in the aggregate) reasonably be expected to have a Material Adverse Effect.

Section 4.17. Indebtedness. Schedule 4.17 correctly sets forth the consolidated Indebtedness of the Obligors as of the Effective Date and identifies each primary obligor and each guarantor or other secondary obligor thereof, if any.

Section 4.18. Insurance. The properties, business and operations of the Borrower are insured with reputable insurance companies reasonably believed to be financially sound (none of which are Affiliates of any Obligor) or by the United States of America, in such amounts, with such deductibles and covering such risks as are insured against (including, but not limited to, war risk and third party liability) and carried in accordance with applicable law and prudent industry practice by major U.S. commercial air carriers similarly situated with the Borrower and owning or operating similar properties, aircraft and engines.

Section 4.19. Section 1110. The Collateral Agent shall be entitled to the benefits of Section 1110 of the Bankruptcy Code with respect to the right to repossess the Aircraft, Spare Engines and Pledged Spare Parts (as such terms are defined in the Security Agreement), in each case to the extent first placed into service after October 22, 1994, and to enforce its other rights and remedies with respect thereto under the Security Documents in the event of a case under Chapter 11 of the Bankruptcy Code in which any Grantor (as defined in the Security Agreement) who has pledged such property is a debtor.

Section 4.20. Absence of Labor Disputes. No strikes, boycotts, work stoppages or labor disputes with employees of any of the Obligors exist or, to the knowledge of the Officers of any Obligor, are imminent or would reasonably be expected to occur prior to the expiration of all applicable labor agreements that would reasonably be expected to have a Material Adverse Effect.

Section 4.21. Gates. Except as disclosed on Schedule 4.21, after giving effect to the Consummation of the Plan, each Obligor is in compliance with all Gate Leases necessary in connection with such Person's use, operation or occupancy of gates at airport terminals.

Section 4.22. Compliance with the Plan of Reorganization. No Obligor is in default with respect to any material obligation under the Plan of Reorganization.

Section 4.23. Deposit Accounts and Securities Accounts. Schedule 4.23 contains a true, complete and correct list of all deposits accounts and securities accounts of the Obligors, including, with respect to each account, the name of such account, the account number, the bank or financial institution with which such account is maintained, and the balance therein (based on the most recently reported balance from the applicable bank or financial institution) as of a specified date (which shall be no earlier than [_____], 2006), indicating thereon whether each such account is subject to a Control Agreement in favor of the Collateral Agent.

ARTICLE V

AFFIRMATIVE COVENANTS

To induce the other parties to enter into this Agreement (excluding any other Obligor), the Obligors agree with each other party hereto (excluding any other Obligor) that, so long as any of the Obligations (other than contingent indemnification obligations not yet due and payable) remain outstanding:

Section 5.1. Financial Statements and Other Reports.

(a) **Accounting Controls.** Each of the Obligors will establish and maintain in accordance with sound business practices and applicable law and rules and regulations issued by any Governmental Authority (i) a system of accounting, which shall include maintenance of proper books and records, to permit preparation of financial statements in conformity with GAAP and to provide reasonable assurances that (A) transactions are executed in accordance with management's general or specific authorization; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (ii) disclosure controls and procedures designed to ensure that material information relating to such Obligor and its Subsidiaries is made known to Responsible Officers of such Obligor in a timely manner.

(b) **Financial Certificates; Information; Reports.** The Obligors will deliver to the Agent, the Participants, the Board, the Loan Administrator and the Collateral Agent (but only to the extent information is to be delivered pursuant to clauses (v), (xi) and, in the case of information requested by the Collateral Agent, (xxiii) below):

(i) (A) **Quarterly Financials:** as soon as available and in any event within two (2) days after the date on which the Parent files or is required to file its Form 10-Q under the Exchange Act (or would be so required if it were subject to the periodic reporting obligations of Section 13 or 15 of the Exchange Act), (x) the consolidated balance sheets of the Parent as at the end of each fiscal quarter and the related consolidated statements of income and stockholders' equity of the Parent for such fiscal quarter and consolidated cash flows of the Parent for the period from the beginning of the then current Fiscal Year to the end of such fiscal quarter, setting forth in each case in comparative form the corresponding figures from the corresponding periods of the previous Fiscal Year and the corresponding figures from the quarterly projections delivered pursuant to clause (viii)(B) of this Section 5.1(b) for such quarter, all prepared in accordance with GAAP and in reasonable detail and certified by the Chief Financial Officer or the Chief

Executive Officer of the Parent that they fairly present the consolidated financial condition of the Parent as at the dates indicated and the results of its operations and its cash flows for the periods indicated, and (y) a narrative report describing the operations of the Parent in the form prepared for presentation to senior management for such fiscal quarter and for the period from the beginning of the then current Fiscal Year to the end of such fiscal quarter; provided that delivery of the Form 10-Q filed by the Parent with the SEC for such fiscal quarter, if any, shall be deemed to satisfy all of the requirements of this **Section 5.1(b)(i)(A)**;

(B) Monthly Reporting: as soon as available and in any event within thirty (30) days after the end of each calendar month, the consolidated balance sheets of the Parent as at the end of such month and the related consolidated statements of income and consolidated cash flows of the Parent for such calendar month and for the period from the beginning of the then current Fiscal Year to the end of such month, setting forth in each case with respect to the year-to-date period, in comparative form, the corresponding figures from the corresponding periods of the previous Fiscal Year, together with a unit-basis income statement (with per-available seat mile revenues and expenses (line by line)), variances from the monthly operating plan delivered pursuant to clause (viii)(B) of this **Section 5.1(b)** for such month for each income statement line item; all such financial statements to be in the form prepared for the management of the Parent and certified by the Chief Financial Officer or Chief Executive Officer of the Parent as fairly presenting, in all material respects, the consolidated financial condition of the Parent as at the dates indicated and the results of its operations and its cash flows for the periods indicated (subject to normal year-end audit adjustments);

(ii) Year-End Financials: as soon as available and in any event within two (2) days after the date on which the Parent files or is required to file its Form 10-K under the Exchange Act (or would be so required if it were subject to the periodic reporting obligations of Section 13 or 15 of the Exchange Act), (A) the consolidated balance sheets of the Parent as at the end of each Fiscal Year and the related consolidated statements of income and stockholders' equity of the Parent for such Fiscal Year and consolidated cash flows of the Parent for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year and the corresponding figures from the annual financial plan delivered pursuant to **Section 5.1(b)(viii)** for the Fiscal Year covered by such financial statements of the Parent, all in reasonable detail and certified by the Chief Financial Officer or the Chief Executive Officer of the Parent that they fairly present the consolidated financial condition of the Parent as at the date indicated and the results of its operations and its cash flows for the periods indicated, (B) a narrative report describing the operations of the Parent in the form prepared for presentation to senior management for such Fiscal Year, and (C) an accountant's report on the financial statements of the Parent of [] or other independent certified public accountants of recognized national standing selected by the Parent, which report (1) shall be unqualified as to scope[, excepting qualifications described on Schedule 5.1(b)(ii)], (2) shall not, for each Fiscal Year commencing with the Fiscal Year ending December 31, 2007, contain a going concern qualification, and (3) shall state that such consolidated financial statements fairly present in all material respects the consolidated financial position of the Parent as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards; provided, that (x) references in such report to changes in GAAP, changes in accounting standards, highlighting contents of footnotes, limitations in the scope of the audit or exclusions from the audit information not required by GAAP that are, in each case, customary in industry practice and not prejudicial to the opinion stated therein shall not be deemed to be "qualifications" for the purpose of clause (C) of this **Section 5.1(b)(ii)**, and (y)

delivery of the Form 10-K filed by the Parent with the SEC for such Fiscal Year, if any, and which satisfies the requirements of clause (C) above shall be deemed to satisfy the requirements of this [Section 5.1\(b\)\(ii\)](#);

(iii) Officer's Certificates: together with each delivery of financial statements of the Parent pursuant to clauses (i) and (ii) of this [Section 5.1\(b\)](#) after the Effective Date, (A) an Officer's Certificate from a Responsible Officer of the Parent (1) stating that the signer has reviewed the terms of this Agreement and has made, or caused to be made under his or her supervision, a review in reasonable detail of the transactions and condition of the Obligor during the accounting period covered by such financial statements and that such review has not disclosed the existence during or at the end of such accounting period, and that the signer does not have knowledge of the existence as at the date of such Officer's Certificate, of any condition or event that constitutes an Event of Default or Default, or, if any such condition or event so existed or exists, specifying the nature and period of existence thereof and what action such Obligor has taken, is taking and proposes to take with respect thereto, (2) demonstrating in reasonable detail compliance (or noncompliance) during and at the end of the applicable accounting periods with the restrictions contained in [Section 6.3](#) and [Section 6.4](#) and (3) stating whether any change in GAAP or in the application thereof has occurred since the date of delivery of the most recent financial statements under clauses (i) and (ii) of this [Section 5.1\(b\)](#); (B) with respect to the financial statements delivered pursuant to clauses (i)(A) and (ii) of this [Section 5.1\(b\)](#), an Officer's Certificate from a Responsible Officer of the Parent stating that there are no significant deficiencies in the design or operation of internal controls of the Obligor which could adversely affect the Obligor's ability to record, process, summarize and report financial data, or, if any such deficiencies exist, describing them and what action the Obligor has taken, are taking or propose to take with respect thereto; and (C) with respect to the financial statements delivered pursuant to clauses (i)(A) of this [Section 5.1\(b\)](#), an Officer's Certificate from a Responsible Officer of the Parent setting forth the Adjusted Cash Amount as of the last Business Day of the fiscal quarter to which such financial statements relate;

(iv) SEC Filings and Press Releases: promptly upon their becoming available, copies of (A) all financial statements, reports, notices and proxy statements sent or made available generally by the Parent to its security holders, (B) all regular, periodic and current reports (including all Form 8-K reports) and all registration statements and prospectuses, if any, filed by any Obligor with any securities exchange or with the SEC or any Governmental Authority or private regulatory authority, and (C) all material press releases and other statements made available generally by any Obligor to the public concerning material developments in the business of the Obligor;

(v) Events of Default, etc.: promptly upon any Officer of any Obligor obtaining knowledge (A) of any condition or event that constitutes an Event of Default or Default, (B) that any creditor has given any notice to any Obligor or taken any other action with respect to a claimed default or event or condition of the type referred to in [Section 7.1\(b\)](#), (C) of any condition or event that would be required to be disclosed in a current report filed by an Obligor with the SEC on Form 8-K if such Person were required to file such reports under the Exchange Act, (D) of the occurrence of any event or change that has had, or would reasonably be expected to have, a Material Adverse Effect, or (E) of any condition or event that constitutes a default or an event of default (or any condition with which the passing of time or the giving of notice or both would, unless cured or waived, become a default or event of default) under any material Contractual Obligation (including, without limitation, the Air Mobility Command Agreement), an Officer's Certificate specifying the nature and period of existence of such Default, Event of Default, condition, event or change (including with respect to notices under clause (A) of this

Section 5.1(b)(v), specific references to all provisions of the Loan Documents under which the Default or Event of Default has occurred) or specifying the notice given or action taken by any such Person and the nature of such claimed Event of Default, Default, default, event or condition, and what action the Borrower or other applicable Obligor has taken, is taking and proposes to take with respect thereto;

(vi) Litigation or Other Proceedings: to the extent not otherwise disclosed pursuant to this **Section 5.1(b)**, (1) promptly upon any Officer of any Obligor obtaining knowledge of (x) the institution of, or threat of, any action, suit, proceeding (whether administrative, judicial or otherwise), arbitration, governmental or other public agency or quasi-governmental investigation against or affecting any Obligor or any property of any Obligor (collectively, "Proceedings"), or (y) any material development in any Proceeding that, in any case:

(A) if adversely determined could reasonably be expected to have a Material Adverse Effect;

(B) seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of the transactions contemplated hereby;

(C) challenges or calls into question in any material respect the reliability or accuracy of an Obligor's SEC filings or financial statements; or

(D) could cause any of the property comprising the Collateral to be subject to any restriction on ownership, occupancy, use or transferability;

written notice thereof together with such other information as may be reasonably available to the Obligors to enable each Lender, each Participant, the Agent and the Loan Administrator, and their respective counsel to evaluate such matters, and (2) no later than the date the annual financial statements are delivered under **Section 5.1(b)(ii)** for each Fiscal Year, a schedule of all Proceedings involving an alleged liability of, or claims against or affecting, any Obligor the uninsured portion of which (treating as uninsured deductibles and any amounts which are insured by Affiliates or covered by self-insurance) is equal to or greater than \$500,000 and promptly after request by the Agent, any Lender or the Loan Administrator such other information as may be reasonably requested by the Agent, any Lender or the Loan Administrator to enable the Agent, any Lender or the Loan Administrator and their respective counsel to evaluate any of such Proceedings;

(vii) ERISA Reports: promptly after the receipt by the Borrower of a request therefor by the Agent, the Loan Administrator, any Lender or any Participant which references this subsection, the Borrower shall provide the Agent, the Loan Administrator, such Lender and such Participant copies of any annual and other reports (including Schedule B thereto) with respect to a Plan filed by any Obligor or any ERISA Affiliate with the United States Department of Labor, the IRS or the Pension Benefit Guaranty Corporation;

(viii) Financial Plans and Projections: (A) annually, as soon as practicable after preparation thereof by the Parent in the ordinary course of business but in no event later than March 1 of each year, copies of the Parent's annual financial and operating plan and projections for such year, and (B) as soon as available but in any event at least ten (10) days prior to the beginning of each fiscal quarter of each Fiscal Year, copies of the Parent's financial and operating plan and projections for such quarter, and for each month in such quarter, all of which plans and

projections shall be in sufficient detail to facilitate a determination of the Borrower's budgeted contribution to such plans and projections;

(ix) Environmental Audits and Reports: as soon as practicable following receipt thereof, copies of all environmental audits and reports, whether prepared by personnel of an Obligor or by independent consultants, with respect to significant environmental matters at any Facility or which relate to an Environmental Claim which could be expected to have a Material Adverse Effect;

(x) Ratings Change: within one (1) Business Day after any public release by S&P or Moody's raising, lowering, suspending or placing under review for possible downgrade or suspension or changing its outlook on (i) an Obligor's general unsecured credit rating or (ii) a credit rating on the Loan obtained pursuant to [Section 5.17](#), notice of such change (which may be sent by e-mail);

(xi) Insurance/Condemnation Proceeds: in addition to any similar reporting obligations under the Security Documents but without the duplication of any such obligation, upon an Officer of any Obligor obtaining actual knowledge of (A) the occurrence of an event of loss or material damage to, or any taking, condemnation or requisition by any Governmental Authority of, any property of any Obligor having fair market value or a replacement value in excess of \$500,000 whether or not such loss or damage is expected to result in receipt of insurance or condemnation proceeds or of any other event of loss or damage that the Borrower reasonably expects to result in proceeds reasonably estimated by the Borrower to exceed \$500,000 and (B) the receipt of insurance proceeds or condemnation proceeds from an event of loss or material damage to, or any taking, condemnation or requisition by any Governmental Authority of, any property of any Obligor, notice of such occurrence;

(xii) Future Issuance and Asset Sales: without prejudice to the Borrower's obligation to give notice under [Section 2.5\(f\)](#), as soon as reasonably practicable but in no event less than five (5) days prior to an Obligor consummating any Future Issuance or Asset Sale giving rise to a mandatory prepayment obligation under [Section 2.5](#), (A) notice of such event, and (B) in connection with each such Asset Sale, an Officer's Certificate from a Responsible Officer of the Borrower certifying that the provisions of [Section 6.10](#) will be satisfied; provided that a notice given under [Section 2.5\(f\)](#) shall satisfy the requirements of clause (A) above;

(xiii) Plan Audits and Liabilities: promptly after any Obligor or any ERISA Affiliate (A) contacts the IRS for the purpose of participating in a closing agreement or any voluntary resolution program with respect to a Plan which could reasonably be expected to have a Material Adverse Effect, or (B) knows or has reason to know that any event with respect to any Plan occurred that could reasonably be expected to have a Material Adverse Effect, notice of such contact or occurrence of such event;

(xiv) Funding Changes and New Plan Benefits: promptly after a change, a notification of any material increases in the benefits, or material change in funding method, with respect to which any Obligor may have any liability, or the establishment of any material new Plan with respect to which any Obligor may have any liability or the commencement of contributions to any Plan to which any Obligor or any ERISA Affiliate was not previously contributing, except to the extent that such an event would not reasonably be expected to have a Material Adverse Effect;

(xv) Claims and Proceedings: promptly after receipt of written notice of commencement thereof, notification of all (A) claims made by participants or beneficiaries with

respect to any Plan, and (B) actions, suits, proceedings before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, affecting any Obligor or any ERISA Affiliate with respect to any Plan, except those which, in the aggregate, if adversely determined, could not reasonably be expected to have a Material Adverse Effect;

(xvi) ERISA Events: promptly after the occurrence of any ERISA Event that would reasonably be expected to have a Material Adverse Effect, notice thereof;

(xvii) Labor Disputes: promptly upon any Officer of any Obligor obtaining knowledge of the institution or threat of any strike, boycott, work stoppage or labor dispute relating to an Obligor that would reasonably be expected to have a Material Adverse Effect, notice thereof;

(xviii) Available Cash Amount: within one (1) Business Day following the end of each calendar week, by e-mail, the Available Cash Amount as of the last Business Day of the prior calendar week; provided that (A) if the Obligors do not have current information regarding the Obligors' aggregate outstanding air traffic liability for purposes of calculating the Available Cash Amount, such weekly reports may be based on a good-faith estimate of the Obligors' aggregate then outstanding air traffic liability based on all available data, and (B) if at the end of any calendar week the Available Cash Amount is less than 125% of the Required Available Cash Amount required to be maintained at such time pursuant to [Section 6.4\(a\)](#), then the Obligors will report by the close of business of each Business Day, by e-mail, the Available Cash Amount as of the close of the previous Business Day, which daily report shall be provided so long as such shortfall continues as of the end of each subsequent calendar week;

(xix) Deposit Accounts and Securities Accounts: no later than the date upon which an Officer's Certificate is required to be delivered under clause (iii) of this [Section 5.1\(b\)](#) with respect to each Fiscal Year and each fiscal quarter of each Fiscal Year, a schedule of all deposits accounts and securities accounts of the Obligors, including, with respect to each account, the name of such account, the account number, the bank or financial institution with which such account is maintained and the balance therein as of the end of the accounting period covered by the financial statements deliverable with such Officer's Certificate (based on the most recently reported balance from the applicable bank or financial institution), indicating thereon whether each such account is subject to a Control Agreement in favor of the Collateral Agent;

(xx) Cash Forecast: if at the end of any calendar week the Available Cash Amount is less than 125% of the Required Available Cash Amount required to be maintained at such time pursuant to [Section 6.4\(a\)](#), then no later than Friday of each week thereafter for so long as such shortfall continues as of the end of each subsequent calendar week, a rolling 13-week cash forecast including reports, in form and detail reasonably satisfactory to the Requisite Lenders (provided that the Borrower shall receive not less than one (1) week advance notice of any change in form or detail requested by the Requisite Lenders), which show the Obligors' sources and uses of cash from the prior week, and material variances associated therewith;

(xxi) Air Mobility Command Agreement. (A) promptly upon any Officer of an Obligor obtaining knowledge thereof, written notice of any material adverse change with respect to the Air Mobility Command Agreement, including, without limitation, a material decrease in expected future revenues thereunder or a non-renewal thereof, and (B) as soon as available, a copy of any amendment, restatement, renewal, replacement, successor or modification thereof or thereto or to any agreement related thereto, including, without limitation, the AMC Team Agreements;

(xxii) Appraisal Reports. promptly upon its receipt thereof, a copy of each Appraisal Report obtained pursuant to [Section 5.13\(a\)](#); and

(xxiii) Other Information: with reasonable promptness, such other information and data with respect to the Obligors or any of their Subsidiaries as from time to time may be reasonably requested by the Agent, the Collateral Agent, any Lender, any Participant or the Loan Administrator.

Promptly upon its receipt of any such notice, report, certificate or other information from Parent or any other Obligor pursuant to this [Section 5.1\(b\)](#), the Agent shall provide a copy of such notice, report, certificate or other information to each Lender (which may be sent by e-mail), other than a Lender who has notified the Agent that it does not wish to receive any such notice, report, certificate or other information.

[Section 5.2. Corporate Existence.](#) Except as permitted under [Section 6.5\(a\)\(i\)](#) and [Section 6.9](#), each Obligor will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate, partnership or other existence and the permits, licenses, rights, (charter and statutory) and franchises of such Obligor; provided, that the Obligors shall not be required to preserve any right, franchise, or the existence of any Person if the maintenance or preservation thereof is no longer desirable in the conduct of the business of the Obligors taken as a whole and the non-preservation thereof could not reasonably be expected to have a Material Adverse Effect.

[Section 5.3. Payment of Taxes and Claims; Tax Consolidation.](#)

(a) Payment of Taxes and Claims. The Obligors will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (i) all Taxes, assessments and governmental charges levied or imposed upon the Obligors or upon the income, profits or property of the Obligors, except that this [Section 5.3](#) shall not require the Obligors who were Debtors to pay Taxes that relate to a Tax period (or portion thereof) ending on or before the commencement of the Bankruptcy Case and which first became due and payable after the time of the commencement of the Bankruptcy Case, to the extent that, and for so long as, such Taxes are stayed or enjoined pursuant to the Plan of Reorganization, the Confirmation Order or the Bankruptcy Code, it being understood that notwithstanding the exception in this clause (i)[, such Obligors shall make adequate reserves in accordance with GAAP for Taxes stayed or enjoined pursuant to the Plan of Reorganization, the Confirmation Order or the Bankruptcy Code,] and (ii) all lawful claims for labor, materials and supplies that, if unpaid, might by law become a Lien on the property of any Obligor; provided, however, that no such Person shall be required to pay or discharge or cause to be paid or discharged any such Tax, assessment, charge or claim the amount, applicability or validity of which is being contested in good faith by appropriate proceedings and with respect to which an adequate reserve has been established by it to the extent required by GAAP.

(b) Tax Consolidation. The Obligors will not file or consent to the filing of any consolidated income tax return with any Person (other than another Obligor).

[Section 5.4. Maintenance of Properties; Insurance.](#)

(a) Maintenance of Properties. The Obligors will maintain all properties used or useful in the conduct of their business in good condition, repair and working order and supply such properties with all necessary equipment and make all necessary repairs, renewals, replacements, betterments and improvements thereto, all as may be necessary in the judgment of the Obligors so that the business carried on in connection therewith may be properly and advantageously conducted at all times; provided, however, that nothing in this Section shall prevent the Obligors from discontinuing the

operation and maintenance of any such properties if such discontinuance is, in the good faith judgment of the Obligor, desirable in the conduct of their business and could not reasonably be expected to have a Material Adverse Effect, but subject in each case to all applicable provisions of the Security Documents.

(b) **Insurance.** The Borrower will insure and keep insured with reputable insurance companies reasonably believed to be financially sound that are not Affiliates of the Obligor or by the United States of America, their properties, business and operations, in such amounts, with such deductibles and covering such risks as are insured against (including, but not limited to, war risk and third party liability) and carried in accordance with applicable law and prudent industry practice by major U.S. commercial air carriers similarly situated with the Borrower and owning or operating similar properties, aircraft and engines, including such insurance coverage as is required to be maintained under the Security Documents, and providing for not less than thirty (30) days' prior notice to the Collateral Agent of termination, lapse or cancellation of such insurance. Each Obligor other than the Borrower will maintain insurance coverages with reputable insurance companies reasonably believed to be financially sound that are not Affiliates of the Obligor in such amounts, with such deductibles and covering such risks as are customary and appropriate (in the reasonable judgment of such Obligor) in light of the business conducted and the properties owned by such Obligor.

Section 5.5. Inspection. The Obligor will permit any authorized representatives designated by the Agent, any Lender, any Participant or the Loan Administrator to visit and inspect any of the properties of the Obligor, including their financial and accounting records, and to make copies and take extracts therefrom, and to discuss their affairs, finances and accounts with its and their officers and independent public accountants, at the Borrower's expense, during normal business hours and as often as may be reasonably requested; provided, that so long as no Default or Event of Default shall have occurred and be continuing, such inspection shall be upon reasonable notice and at reasonable times, and shall not be disruptive to the business of the Obligor, as reasonably determined by the Borrower. Without limiting the generality of the foregoing, the Obligor will meet with the Loan Administrator on a quarterly basis (in person at the Borrower's headquarters or, if deemed appropriate by the Loan Administrator, telephonically) to review the Obligor's financial and accounting records and will make their officers available to discuss with the Loan Administrator the Obligor's affairs, financial condition, results of operations, business plan, prospects, projections, accounts and other related matters, and otherwise will cooperate with the Loan Administrator and provide such information as it may reasonably request to enable it to perform the services described in the Loan Administration Agreement.

Section 5.6. Compliance With Laws, Etc. The Obligor will comply in all material respects with all applicable material statutes, rules, regulations, orders, restrictions and Governmental Authorizations of any applicable Governmental Authority, or of any department, commission, board, regulatory authority, bureau, agency and instrumentality of the foregoing, in respect of the conduct of their respective businesses and the ownership of their respective properties, except such as are being contested in good faith by appropriate proceedings. The Obligor shall not conduct any Hazardous Materials Activity at any Facility or at any other location in a manner that does not materially comply with Environmental Laws. The Obligor shall use reasonable best efforts to cause all other Persons operating or occupying any of their properties to comply with Environmental Laws.

Section 5.7. Hazardous Materials.

(a) **Remedial Action.** To the extent the following are required by Environmental Laws, each of the Obligor will conduct any and all investigations, studies, sampling and testing and will take any and all necessary remedial action in connection with the presence, storage, use, disposal, transportation or Release of any Hazardous Materials for which an Obligor is, or could be, liable. The foregoing shall not apply if, and only to the extent that (i) an Obligor's liability for such presence, storage,

use, disposal, transportation or Release of any Hazardous Materials is being contested in good faith and by appropriate proceedings diligently conducted by such Obligor, (ii) such remedial action is taken by other Persons responsible for such remedial action through an indemnification of such Obligor or (iii) such non-compliance would not in any case or in the aggregate reasonably be expected to have a Material Adverse Effect. In the event an Obligor undertakes any such investigation, study, sampling, testing or remedial action with respect to any Hazardous Materials, such Obligor will conduct and complete such action in compliance with all applicable Environmental Laws, and in accordance with the policies, orders and directives of all federal, state and local Governmental Authorities except for such non-compliance as would not in any case or in the aggregate reasonably be expected to have a Material Adverse Effect.

(b) **Environmental Site Assessment Report.** At the request of the Requisite Lenders from time to time, the Borrower will provide to the Lenders within sixty (60) days after such request, at the expense of the Borrower, an environmental site assessment report for any of the Obligors' properties described in such request, prepared by an environmental consulting firm reasonably acceptable to the Agent, indicating the presence or absence of Hazardous Materials and the estimated cost of any compliance, removal or remedial action in connection with any Hazardous Materials on such properties; without limiting the generality of the foregoing, if the Agent determines at any time that a material risk exists that any such report will not be provided in the time referred to above, the Agent may retain an environmental consulting firm to prepare such report at the expense of the Borrower, and each of the Obligors hereby grants to the Agent, the Lenders, such firm and any agents or representatives thereof an irrevocable non-exclusive license, subject to the rights of tenants, to enter into their respective properties to undertake such an assessment.

Section 5.8. Contractual Obligations. The Obligors will perform, observe or fulfill all material obligations, covenants and conditions contained in their material Contractual Obligations (including, but not limited to, the Air Mobility Command Agreement).

Section 5.9. Employee Benefit Plans. The Obligors shall take such actions as are reasonably practicable to ensure that the Plans with respect to which they may have any liability are operated in compliance with all applicable laws except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect. No Obligor shall amend, adopt or terminate any Plan unless such action would not reasonably be expected to have a Material Adverse Effect.

Section 5.10. FAA Matters; Citizenship. The Borrower will at all times hereunder be an "air carrier" within the meaning of the Act and hold a certificate under 49 U.S.C. Section 41102(a)(1) as currently in effect or as may be amended or recodified from time to time. The Borrower and each Subsidiary of Parent engaged in operations as an "air carrier" will at all times hereunder be a United States Citizen holding an air carrier operating certificate issued pursuant to Chapter 447 of Title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo. Each Obligor will possess and maintain all necessary consents, franchises, licenses, permits, rights and concessions and consents which are material to the operation of the routes flown by it and the conduct of its business and operations from time to time.

Section 5.11. Lower-Tier Covered Transaction. If and for so long as the Board is a Lender hereunder, the Obligors agree that in the event that any of them enters into any "lower-tier covered transaction" (as such term is defined in 31 C.F.R. Section 19.110, as amended or modified from time to time and not excepted therefrom by 31 C.F.R. Section 19.200(c)) in respect of the transactions contemplated hereunder, it will include the clause entitled "Certificate Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions" as set forth in Appendix B to Part 19 of title 31 of the C.F.R. in such "lower-tier covered transaction", and that it will obtain a certification from the other Person or Persons party to such "lower-tier covered transaction" to the effect

that each such other Person (and each “principal” thereof, as such term is defined in 31 C.F.R. Section 19.105, as amended or modified from time to time) is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in such transaction by any Federal department or agency, or an explanation why such Person is unable to so certify. Further, if and for so long as the Board is a Lender hereunder, the Borrower agrees that it will not enter into a “lower-tier covered transaction” with a Person who has been proposed for debarment under 48 C.F.R. Section 9.4, debarred or suspended unless granted an exception for such “lower-tier covered transaction” pursuant to 31 C.F.R. Section 19.215.

Section 5.12. Comptroller General Audits and Reviews. Each of the Obligors agrees to permit, and to cooperate in the conduct of, such audits and reviews during the period that both (i) the Loan is outstanding and (ii) the Board is a Lender hereunder, and for three (3) years thereafter, as the Board may deem appropriate, by an independent auditor acceptable to the Board or the United States Comptroller General. To the extent requested by the Board or the Loan Administrator, the Obligors shall provide access to the officers and employees, books, records, accounts, documents, correspondence, and other information of the Obligors, their Affiliates, financial advisors, consultants and independent certified accountants that the Board or the United States Comptroller General considers necessary.

Section 5.13. Appraisal Reports; Additional Collateral.

(a) **Appraisal Reports.** The Borrower shall obtain one or more Appraisal Reports establishing the value of the Obligors’ Spare Parts inventory as of each anniversary of the Effective Date beginning February [___], 2007. Such Appraisal Reports may be based on desktop appraisals unless the Requisite Lenders shall have requested that an Appraisal Report be based on physical inspection.

(b) **Additional Collateral.** Each Obligor (including, without limitation, each Subsidiary created or acquired after the Effective Date that is required to be a Guarantor) will cause all of its properties and assets as of the Effective Date (or the date such Person was created or acquired) and all properties and assets acquired thereafter (including, without limitation, the Capital Stock of each Subsidiary created or acquired and the Capital Stock of each other Person acquired after the Effective Date), in each case other than Excluded Property, to be pledged to the Collateral Agent on a first priority perfected basis (subject to Permitted Liens) to secure the Obligations.

Section 5.14. Additional Subsidiaries. With reasonable promptness and in any event within thirty (30) days following the formation or acquisition of a Subsidiary by any Obligor, the Obligors (a) shall provide the Agent, the Loan Administrator, and each Lender the name, corporate structure and allocation of Voting Stock of such Subsidiary and shall supplement Schedule 4.1 with all relevant information with respect to any such new Subsidiary, and (b) shall (i) (A) in the case of any such Subsidiary (other than any Subsidiary to which clause (B) below applies), cause such Subsidiary to execute and deliver to the Agent a Subsidiary Joinder in the form of Exhibit F hereto, pursuant to which such Subsidiary shall become a party to this Agreement and an Obligor hereunder, and a joinder to the Affiliate Guarantee pursuant to which such Subsidiary shall become a guarantor thereunder, in each case no later than thirty (30) days following such formation or acquisition or upon such commencement of operations, as applicable, or (B) in the case of any foreign Subsidiary that is a controlled foreign corporation, if compliance with clause (A) above could increase its current or future investment in United States property under Section 956 of the Internal Revenue Code and the regulations thereunder, deliver to the Agent a pledge of 65% of such Subsidiary’s stock to secure payment of the Obligations dated no later than thirty (30) days following such formation or acquisition or upon such commencement of operations, as applicable, and (ii) deliver to the Agent (A) documents of the types referred to in **Section 3.1(a)(x)** with respect to such Subsidiary and (B) a certificate signed by the Secretary or Assistant Secretary of such Subsidiary of the type referred to in **Section 3.1(a)(xi)**.

Section 5.15. Control of Deposit Accounts and Securities Accounts. Except as otherwise provided in this **Section 5.15**, the Obligors shall maintain deposit accounts and securities accounts (other than with respect to Excluded Cash) only with banks or financial institutions with which they and the Collateral Agent have entered into control agreements in form and substance reasonably satisfactory to the Collateral Agent (each, a “Control Agreement”), unless the Collateral Agent’s security interest in any such account is otherwise perfected. In furtherance thereof, with respect to any deposit account or securities account listed on Schedule 4.22 in existence on the Effective Date, and thereafter prior to establishing any other deposit account or securities account at any financial institution (other than with respect to Excluded Cash), each Obligor shall enter into a Control Agreement with such financial institution and the Collateral Agent (subject to the proviso to the preceding sentence), except that the Obligors shall not be obligated to enter into Control Agreements (or otherwise provide for the perfection the Collateral Agent’s security interest) with respect to (i) payroll, trust, or fiduciary accounts, including the Trust Accounts, (ii) zero balance cash management accounts through which disbursements are made and settled on a daily basis with no balance remaining overnight, and disbursement accounts for the clearing of drafts, holding only funds in respect of drafts already made or issued, and (iii) [deposit accounts and securities accounts that have an average weekly aggregate balance of less than \$[_____]]; provided that the aggregate amount of all deposit accounts and securities accounts not subject to Control Agreements (or otherwise perfected) in reliance on clause (iii) above shall not, in the case of such accounts located outside the United States, exceed \$[_____] at any time in the aggregate, and in the case of all such accounts (including accounts located outside the United States), exceed \$[_____] in the aggregate at any time].

Section 5.16. Further Assurances. At any time or from time to time upon the request of any Lender, any Participant (with respect to Obligations owing directly to it hereunder), the Loan Administrator, the Collateral Agent or the Agent, the Obligors will, and will cause their Subsidiaries to, at the Obligors’ expense, promptly execute, acknowledge and deliver such further documents and do such other acts and things as such Lender, such Participant, the Loan Administrator, the Collateral Agent or the Agent may reasonably request in order to correct material defects or errors in the Loan Documents or the execution, acknowledgement, filing or recordation thereof, to maintain and ensure the validity, effectiveness, priority and perfection of the Collateral Agent’s Liens intended to be created pursuant to the Security Agreement, to provide for payment of the Obligations in accordance with the terms of this Agreement, the Notes and the other Loan Documents and otherwise to effect fully the purposes of the Loan Documents.

Section 5.17. Credit Rating of Loan. The Borrower agrees to obtain by the date which is nine (9) months after the Effective Date, and maintain for the term of the Loan, at the expense of the Borrower, credit and recovery ratings on the Loan (if available) from S&P or Moody’s, which ratings shall assess both (x) the risk of default and ultimate recovery on the Loan and (y) the likely recovery or loss given a default on the Loan. The credit and recovery ratings shall be available to the Agent, the Collateral Agent, the Loan Administrator and the Lenders.

Section 5.18. Payments Under Air Mobility Command Agreement. Unless otherwise agreed to by the Requisite Lenders, the Obligors shall ensure that all payments made to or for the benefit of the Borrower under or in respect of the Air Mobility Command Agreement are made to a deposit account maintained at a financial institution with respect to which the Borrower, the Collateral Agent and such financial institution have entered into a Control Agreement.

ARTICLE VI

NEGATIVE COVENANTS

To induce the other parties to enter into this Agreement (excluding any other Obligor), the Obligors agree with each other party hereto (excluding any other Obligor) that, so long as any of the Obligations (other than contingent indemnification obligations not yet due and payable) remain outstanding:

Section 6.1. Liens and Related Matters.

(a) Prohibition on Liens. The Obligors shall not directly or indirectly create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable or the Collateral) of the Obligors, whether now owned or hereafter acquired, or any income or profits therefrom, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income or profits under the UCC of any state or under any similar recording or notice statute, except the following (the “Permitted Liens”):

- (i) Permitted Encumbrances;
- (ii) purchase money Liens securing Indebtedness used to acquire Aircraft Related Equipment or liens created or incurred in connection with refinancing of any Aircraft Related Equipment acquired by an Obligor, which refinancing occurs within eighteen (18) months after the date of such acquisition;
- (iii) other Liens securing or relating to Indebtedness and other liabilities and obligations in each case not otherwise prohibited under this Agreement in an aggregate amount not to exceed \$1,000,000 at any time outstanding;
- (iv) Liens described in Schedule 6.1(a) annexed hereto;
- (v) judgment and attachment Liens not (A) giving rise to an Event of Default or (B) relating to an action or judgment giving rise to an Default or Event of Default under **Section 7.1(f)**;
- (vi) Liens on the assets of any entity or on any asset existing at the time such entity or asset is acquired by an Obligor or any Subsidiary of an Obligor, whether by merger, consolidation, purchase of assets or otherwise; provided, that such Liens (i) are not created, incurred or assumed by such entity in contemplation of or in connection with the financing of such entity’s being acquired by such Obligor or such Subsidiary; (ii) do not extend to any other assets of such Obligor or such Subsidiary; and (iii) the Indebtedness secured by such Liens is permitted pursuant to this Agreement;
- (vii) leases or subleases granted to others not interfering in any material respect with the ordinary conduct of business of any Obligor;
- (viii) Liens on the Borrower’s membership interests in the BATA Joint Venture to secure the obligations in respect of loans made to the Borrower by the other members thereof (or any Affiliate of such member) in order to fund the Borrower’s obligation to make investments of

Cash or otherwise to make Cash available to the BATA Joint Venture pursuant to the terms thereof as such terms exist on the Effective Date;

(ix) Liens on Cash and Cash Equivalents securing (A) reimbursement and fee obligations in respect of letters of credit issued for the account of any Obligor in the ordinary course of business and consistent with past practice, so long as the aggregate amount of such Cash and Cash Equivalents does not exceed 115% of the maximum available amount under the secured letters of credit, and (B) reimbursement or other margin requirements in connection with, in the case of Liens contemplated in this clause (B), transactions contemplated by the proviso in **Section 6.12**;

(x) Liens on the Collateral under the "Security Documents" (under and as defined in the MP Loan Agreement) securing the obligations of the Obligors with respect to the Indebtedness under the MP Loan Agreement;

(xi) Liens continued by or created under the Security Documents; and

(xii) Liens securing Permitted Refinancing Indebtedness;

provided that the Obligors will not create, incur, assume or permit to exist any Lien permitted under any of clauses (ii) or (iii) above on any property of an Obligor already constituting Collateral.

(b) **Payment Restrictions.** Except (i) as provided herein and in the other Loan Documents or (ii) as described on Schedule 6.1(b) annexed hereto or in the MP Loan Agreement, the Obligors will not create or otherwise cause or suffer to exist or become effective any Payment Restriction.

Section 6.2. Investments. No Obligor shall make any Investment other than (a) Investments consisting of Cash Equivalents; (b) accounts receivable if credited or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; (c) payroll advances and advances for business and travel expenses in the ordinary course of business; (d) Investments made by way of any endorsement of negotiable instruments received by an Obligor in the ordinary course of its business and presented by it to any bank for collection or deposit; (e) stock, obligations or securities received in settlement of debts created in the ordinary course of business owing to an Obligor; (f) in addition to any other permitted investments, any other Investments by the Obligors in an aggregate outstanding amount not exceeding \$5,000,000 at any time; (g) Investments existing on the Effective Date and reflected on Schedule 6.2; (h) Investments made in connection with the Trust Agreements; (i) Investments pursuant to and in compliance with **Section 6.5** or **Section 6.9**; (j) Investments in the BATA Joint Venture pursuant to the terms thereof as they exist on the Effective Date; and (k) Investments in travel or airline related businesses made in connection with marketing and promotion agreements, Alliance Agreements, distribution agreements, agreements relating to flight training and other similar agreements under which a portion of the consideration to the Parent, the Borrower or one or more of their Subsidiaries includes an opportunity for Investment in the Capital Stock of other Persons, which Investments under this clause (k) shall not exceed \$10,000,000 in the aggregate.

Section 6.3. Restricted Payments. No Obligor shall, directly or indirectly, declare, order, pay, make or set apart any sum for any Restricted Payment; provided, however, that:

(a) the Obligors may prepay (i) Indebtedness which is secured by a Lien on property or assets sold in an Asset Sale which is permitted hereunder or subject to a condemnation, taking, temporary or permanent requisition, or change of grade, or a covered loss under a casualty insurance policy, in each case in this clause (a)(i), to the extent that such Indebtedness is required by its terms to be

paid as a result of such Asset Sale, condemnation, taking, temporary or permanent requisition, change of grade, or covered loss, as applicable, (ii) Indebtedness with the proceeds of Permitted Refinancing Indebtedness, or (iii) a Capital Lease of property which is obsolete, worn out or no longer required in the businesses of the Obligor;

(b) so long as no Default or Event of Default shall have occurred and be continuing, the Obligor may purchase or redeem Capital Stock (including options on any such Capital Stock or related stock appreciation rights or similar securities) that was issued as compensation from their officers, directors and employees (or their estates or beneficiaries under their estates) upon death, disability, retirement, termination of employment or pursuant to the terms of any plan or any other agreement under which such Capital Stock or related rights were issued, in an amount not to exceed \$3,000,000 per Fiscal Year.

Section 6.4. Financial Covenants.

(a) Required Available Cash. The Obligor shall not, at the close of business on the last Business Day in any calendar week during the periods set forth in the tables below, permit the Available Cash Amount to be less than the lesser of (x) the Fixed Cash Amount (as defined below) for such period and (y) the Variable Cash Amount (as defined below) at such time (such lesser amount, the “Required Available Cash Amount”).

The term “Fixed Cash Amount” means, for each period, the amount set forth in the table below across from such period:

Period	Fixed Cash Amount
Effective Date through December 31, 2006	\$40,000,000
January 1, 2007 through March 31, 2007	\$35,000,000
April 1, 2007 through September 30, 2007	\$30,000,000
October 1, 2007 through March 31, 2008	\$25,000,000
April 1, 2008 through September 30, 2009	\$20,000,000

The term “Variable Cash Amount” means, with respect to the remainder of any period set forth in the table above following a prepayment of the Loan pursuant to **Section 2.4** or **Section 2.5** and each period thereafter, an amount equal to (x) the Fixed Cash Amount for such period less (y) the sum of (I) twenty-five percent (25%) of the aggregate amount of prepayments of the Loan made from proceeds of Asset Sales pursuant to **Section 2.5(b)** and (II) fifty percent (50%) of the aggregate amount of all prepayments of the Loan made pursuant to **Section 2.4** (but not including any Prepayment Premium paid in connection therewith) and pursuant to **Section 2.5** (other than **Section 2.5(b)**); provided, however, that in no event shall the Variable Cash Amount be less than \$20,000,000 for any such period.

(b) Leverage Ratio. Subject to subsection (d) below, the Obligor shall not permit the ratio of consolidated Indebtedness of the Parent as of the dates specified below to Consolidated EBITDAR of the Parent (calculated for the four fiscal quarters ending on the dates specified below, or in the case of the fiscal quarter ending on March 31, 2007, annualizing (on a simple arithmetic basis) the Consolidated EBITDAR of the Parent for the three fiscal quarters ending on such date) as of the dates specified below to be greater than the applicable ratio set forth below:

Fiscal Quarter Ending:	Applicable Consolidated Indebtedness to EBITDAR Ratio
March 31, 2007	6.75 : 1.00
June 30, 2007	7.00 : 1.00
September 30, 2007	7.00 : 1.00
December 31, 2007	7.00 : 1.00
March 31, 2008	6.75 : 1.00
June 30, 2008	6.50 : 1.00
September 30, 2008	6.25 : 1.00
December 31, 2008	6.00 : 1.00
March 31, 2009	5.75 : 1.00
June 30, 2009	5.50 : 1.00

(c) **Fixed Charges Ratio.** Subject to subsection (d) below, the Obligors shall not permit the ratio of Consolidated EBITDAR of the Parent (calculated for the four fiscal quarters ending on the dates specified below, or in the case of the fiscal quarter ending on March 31, 2007, the three fiscal quarters ending on such date) to Consolidated Fixed Charges of the Parent for such four fiscal quarters (or in the case of the fiscal quarter ending on March 31, 2007, the three fiscal quarters ending on such date) to be less than the applicable ratio specified below:

Fiscal Quarter Ending:	Applicable Consolidated EBITDAR to Consolidated Fixed Charges Ratio
March 31, 2007	0.850 : 1.00
June 30, 2007	0.850 : 1.00
September 30, 2007	0.850 : 1.00
December 31, 2007	0.850 : 1.00
March 31, 2008	0.900 : 1.00
June 30, 2008	0.925 : 1.00
September 30, 2008	0.950 : 1.00
December 31, 2008	0.975 : 1.00
March 31, 2009	1.000 : 1.00
June 30, 2009	1.025 : 1.00

(d) **Discontinued Operations.** If (i) at the end of any fiscal quarter the Obligors fail to comply with one or both of the financial covenants contained subsections (b) or (c) above (for purposes of this subsection, a “Defaulted Covenant”) and (ii) during the four-quarter period (or in the case of the fiscal quarter ending on March 31, 2007, the three-quarter period) referred to in such subsections the Obligors had discontinued a Substantial Portion (as defined below) of their scheduled air service, then no Default or Event of Default shall result from or be deemed to exist as a result of the Obligors failure to comply with such Defaulted Covenant if and for so long as (A) the Obligors are in compliance as of the end of such fiscal quarter with such Defaulted Covenant calculated on a pro forma basis to exclude all operating losses associated with such discontinued operations and cash and non-cash charges incurred in connection with their discontinuance, as well as implied debt associated with aircraft rents on leases terminated in connection with such discontinued operations, and (B) the ratio of Collateral Value to the outstanding principal amount of the Loan is not less than 1.25 to 1.00 as of the end of such fiscal quarter and the last Business Day of each calendar month thereafter until the close of the next succeeding fiscal quarter with respect to which the Obligors are in compliance with such Defaulted Covenant without regard to clause (A) of this subsection (d). To evidence the Obligors’ compliance with this subsection

(d), the Parent shall provide an Officer's Certificate to the Agent as of the end of the fiscal quarter referred to in clause (i) above (which shall be delivered no later than the delivery of the financial statements for such period required to be delivered pursuant to **Section 5.1(b)(i)** or **(ii)**) and within five (5) Business Days after the end of each calendar month thereafter (until such time as the Obligor is in compliance with such Defaulted Covenant without regard to clause (A) of this subsection (d)), certifying as to the Obligor's compliance with the matters specified in clauses (A) and (B) above (as applicable) as of such date. For purposes of this subsection (d), the term "Substantial Portion" means a reduction of twenty percent (20%) or more of the average daily available seat miles of the Obligor in their scheduled service [for the [calendar quarter] preceding such discontinuance].

Section 6.5. Restriction on Acquisitions; New Subsidiaries.

(a) Restrictions on Acquisitions. No Obligor shall liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution) or acquire by purchase or otherwise, including in a transaction structured as a merger, all or any portion of the business, property or assets of any Person or any division or line of business of any Person (excluding therefrom purchases and acquisitions in the ordinary course of business by the Obligor of property from any Person not constituting all or substantially all of the property of such Person) or all or substantially all of the Capital Stock or other evidence of beneficial ownership of any Person, or acquire any Person as a new Subsidiary (for purposes of this Section, an "Acquisition"), except that:

(i) any Obligor may be merged with or into any other Obligor or be liquidated, wound up or dissolved, or all or any part of its business, property or assets may be conveyed, sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to an Obligor; and

(ii) the Obligor may make (A) Investments permitted under **Section 6.2** above at any time, and (B) after the date on which the outstanding principal amount of the Loan is equal to or less than \$45,000,000, Acquisitions, provided, that (1) the Acquisition primarily involves the acquisition of assets to be used in the business of the Obligor, (2) immediately before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing, (3) immediately after giving effect to the Acquisition, the Borrower shall be in compliance on a Pro Forma Basis with **Section 6.4** (in the case of **Section 6.4(b)**, based on Consolidated EBITDAR for the four quarters ended as of the end of the most recently ended fiscal quarter, or in the case of the fiscal quarter ending on March 31, 2007, annualized Consolidated EBITDAR based on the three fiscal quarters ending on such date) and such compliance shall be evidenced by an Officer's Certificate from a Responsible Officer demonstrating such compliance, (4) prior to the consummation of such Acquisition, neither S&P nor Moody's shall have lowered the corporate credit rating of the Obligor by more than one notch as a result of such Acquisition (whether or not in combination with other factors), (5) the aggregate purchase price in connection with all such acquisitions (excluding therefrom any Indebtedness assumed in connection with such acquisitions and any portion of the purchase price thereof paid with an Obligor's Common Stock) does not exceed \$20,000,000, (6) no Obligor nor any of its Subsidiaries shall assume any Indebtedness that was incurred or issued by any Person to finance such acquisition, (7) if the acquisition is structured as a consolidation or merger, it complies with **Section 6.9**, and (8) the Obligor complies with their obligations under **Section 5.13(b)** and **Section 5.14** with respect to the properties, assets or Person so acquired (as applicable).

(b) Change of Fiscal Year. No Obligor will change its Fiscal Year if such change will cause an unreasonable delay in the production of the financial statements required by **Section 5.1(b)(ii)**.

Section 6.6. Sales and Lease-Backs. The Obligors shall not, directly or indirectly, become a lessee or a guarantor or other surety with respect to any lease, whether an Operating Lease or a Capital Lease, of any property (whether real, personal or mixed), whether now owned or hereafter acquired which (a) any of the Obligors has sold or transferred or is to sell or transfer to any other Person (other than another Obligor) or (b) any of the Obligors intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by the Obligors to any Person (other than another Obligor) in connection with such lease; provided, that subject to **Section 2.5(b)**, (i) any Obligor may consummate a sale-leaseback of Aircraft Related Equipment if the Net Cash Proceeds of such transaction exceed eighty percent (80%) of the appraised fair market value of such Aircraft Related Equipment (based on an Appraisal Report obtained within sixty (60) days of such transaction, except with respect to Spare Parts, for which the appraised fair market value shall be based on the Current Appraisal Report); and (ii) with respect to all property other than Aircraft Related Equipment, any Obligor may become and remain liable as lessee, guarantor or other surety with respect to leases of property subject to a sale-leaseback if and to the extent that the annual aggregate rentals under all such leases do not exceed \$5,000,000.

Section 6.7. Transactions with Affiliates.

(a) **Affiliate Transactions.** No Obligor shall, directly or indirectly (i) sell, lease, transfer or otherwise dispose of any of its properties or assets, or issue securities to, (ii) purchase any property, assets or securities from, (iii) make any Investment in, or (iv) enter into or suffer to exist any contract or agreement with or for the benefit of, any Affiliate or holder of 5% or more of any class of Capital Stock (and any Affiliate of such holder) of the Borrower (an “Affiliate Transaction”), other than (x) Affiliate Transactions permitted under **Section 6.7(b)** hereof and (y) Affiliate Transactions (including lease transactions) which are on fair and reasonable terms no less favorable to such Obligor than those that might reasonably have been obtainable at such time from an unaffiliated party; provided, that if an Affiliate Transaction or series of Affiliate Transactions involves or has a value in excess of \$1,000,000, such Obligor shall not enter into such Affiliate Transaction or series of Affiliate Transactions unless a majority of the disinterested members of the board of directors of the Parent shall reasonably and in good faith determine that such Affiliate Transaction is fair and reasonable to such Obligor or is on terms no less favorable to such Obligor than those that might reasonably have been obtained at such time from an unaffiliated party.

(b) **Permitted Affiliate Transactions.** The provisions of **Section 6.7(a)** shall not apply to (i) the agreements listed on Schedule 6.7 as in effect on the Effective Date or any transaction contemplated thereby so long as any such agreement or transaction is not disadvantageous to the Lenders or (solely in respect of its interest in the transactions contemplated by this Agreement and its Participation) any Participant in any material respect; (ii) any transaction solely between or among Obligors provided that such transactions are not otherwise prohibited by this Agreement; (iii) reasonable and customary fees and compensation paid to, and indemnity provided on behalf of, officers, directors or employees of an Obligor, as determined by the board of directors of such Obligor or the senior management thereof in good faith; (iv) any Restricted Payments permitted by **Section 6.3**; (v) transactions contemplated by any Alliance Agreements permitted hereunder; (vi) the Loan Documents and the transactions contemplated thereby; and (viii) transactions expressly contemplated by the Plan of Reorganization (without giving effect to any subsequent amendments to the terms governing such transactions), including, without limitation, the MP Loan Agreement. The Obligors’ rights under clause (ii) of this **Section 6.7(b)** notwithstanding, the Obligors expressly acknowledge and agree that, in the case of any sale, transfer or other disposition of assets or property which are Collateral from one Obligor to another Obligor, whether pursuant to this **Section 6.7**, **Section 6.9**, **Section 6.5** or otherwise, the Lien of the Collateral Agent in such assets or property immediately prior to such sale, transfer or other disposition shall continue and survive such transaction and remain attached to (and perfected in) such assets or

property following such transaction, and each Obligor which takes title to such assets or property acknowledges and agrees that such title is subject to the Lien of the Collateral Agent.

Section 6.8. Conduct of Business. From and after the date hereof, no Obligor shall engage in any business other than (a) the businesses engaged in by the Obligors on the date hereof and related businesses and (b) such other lines of business as may be consented to by the Requisite Lenders.

Section 6.9. Merger or Consolidation. No Obligor shall consolidate with or merge with any other Person or convey, lease, sub-lease, otherwise dispose of, or transfer all or substantially all its business, properties and assets substantially as an entirety to any Person, unless:

(a) (i) in the case of a consolidation or merger involving the Borrower, the Borrower is the surviving entity or if the Borrower is not the surviving entity, such surviving entity or the Person that acquires by conveyance, lease or transfer the properties and assets of the Borrower substantially as an entirety, shall be a corporation organized and existing under the laws of the United States of America or any State or the District of Columbia and can make the representations contained in **Section 4.1(b)**, and shall expressly assume, by an agreement executed and delivered to the Agent, for the benefit of the Lenders and the Participants (as third-party beneficiaries hereof), in form satisfactory to the Agent, the Obligations and all of the other obligations of the Borrower hereunder and under the other Loan Documents, or (ii) in the case of a consolidation or merger involving the Parent, the Parent is the surviving entity or if the Parent is not the surviving entity, such surviving entity or the Person that acquires by conveyance, lease or transfer the properties and assets of the Parent substantially as an entirety, shall be a corporation organized and existing under the laws of the United States of America or any State or the District of Columbia and can make the representations contained in **Section 4.1(b)** and shall expressly assume, by an agreement executed and delivered to the Agent, in form satisfactory to the Agent, all of the Parent's obligations hereunder and under the Loan Documents;

(b) immediately before and after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;

(c) immediately after giving effect to such transaction, the Obligors shall be in compliance on a Pro Forma Basis with **Section 6.4** (in the case of **Section 6.4(b)**, based on Consolidated EBITDAR of the Parent for the four quarters ended as of the end of the most recently ended fiscal quarter, or in the case of the fiscal quarter ending on March 31, 2007, annualized Consolidated EBITDAR of the Parent based on the three fiscal quarters ending on such date); and

(d) the Borrower has delivered to the Agent an Officer's Certificate from a Responsible Officer and an opinion of counsel from counsel satisfactory to the Agent, in form and substance satisfactory to the Agent, stating that such transaction and such agreement comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with and addressing such other matters as may be reasonably requested by the Agent.

Notwithstanding anything to the contrary contained in this **Section 6.9**, (A) any Obligor may merge or consolidate with any other Obligor; provided that in the case of each such merger or consolidation involving the Borrower or the Parent, if the Borrower or the Parent (as applicable) shall not be the continuing or surviving Person, the surviving Obligor shall comply with clauses (a)(i) or (ii) (as applicable) above, and (B) any Obligor (other than the Borrower or the Parent, except in compliance with the preceding clause (a)) may convey, lease or transfer its properties and assets substantially as an entirety to any other Obligor.

Section 6.10. Limitation on Asset Sales; Sales of Spare Parts.

(a) Asset Sales. No Obligor will, directly or indirectly, consummate any Asset Sale unless (i) the consideration received in respect of such Asset Sale is at least equal to the Fair Market Value of the assets subject to such Asset Sale, except as otherwise provided in subsection (b) below with respect to Spare Parts, (ii) at least 85% of the value of the consideration therefrom received by such Obligor (net of the amount of any Indebtedness secured by the assets sold in such Asset Sale which is assumed by the purchaser thereof) is in the form of Cash or Cash Equivalents, and (iii) immediately before and after giving effect to such Asset Sale, no Default or Event of Default shall have occurred and be continuing; provided that (A) without the prior written consent of the Requisite Lenders, the Obligors shall not consummate any Asset Sales if and to the extent that the aggregate Net Cash Proceeds from all such Asset Sales would exceed \$3,000,000 per Fiscal Year (excluding the Net Cash Proceeds from (x) sale-leasebacks not prohibited by [Section 6.6](#) and (y) sales of Spare Parts) and (B) the Obligors shall be permitted to consummate sale-leasebacks not prohibited by [Section 6.6](#) (subject to compliance with [Section 2.5\(b\)](#)), as applicable).

(b) Spare Parts. Except for sale-leasebacks of Spare Parts not prohibited by [Section 6.6](#), the Obligors shall not sell or otherwise dispose of Spare Parts (whether or not constituting an Asset Sale hereunder), unless the aggregate proceeds of any such sale or other disposition are at least equal to (i) in the case of Spare Parts for L-1011 and Boeing 727 aircraft, 80% of the appraised fair market value for such Spare Parts and (ii) with respect to all other Spare Parts, 90% of the appraised fair market value for such Spare Parts, in each case as set forth in the Current Appraisal Report.

Section 6.11. Limitations with Respect to Subsidiaries.

(a) Subsidiaries. Each Subsidiary of each Obligor shall at all times be a Wholly-Owned Subsidiary of such Obligor and there shall not exist any restrictions on the right of any Obligor to vote any Capital Stock of its Subsidiaries, except restrictions in favor of the Collateral Agent or another holder of a Permitted Lien therein.

(b) New Subsidiaries. No Obligor may create or acquire new Subsidiaries, except Wholly-Owned Subsidiaries, and if (i) in the case of the Parent, the total assets of such Subsidiaries in the aggregate (other than single purpose Subsidiaries created solely for the purpose of financing aircraft for use by the Borrower) do not at any time exceed five percent (5%) of the consolidated total assets of the Parent, in each case determined in accordance with GAAP and (ii) the Obligors comply with the provisions of [Section 5.14](#) hereof, but the Obligors may make Investments permitted under [Section 6.2](#).

Section 6.12. Partnerships and Joint Ventures; Speculative Transactions. No Obligor shall become a general partner in any general or limited partnership or joint venture engaged or involved in, nor shall any Obligor engage in any transaction involving, commodity options or future contracts or any similar speculative transactions; provided, however, that entry into those transactions designed to hedge against fluctuations in fuel costs incurred in the ordinary course of business, consistent with past business practice and industry standards, and not entered into for speculative purposes shall not be prohibited by this [Section 6.12](#).

Section 6.13. Limitations on Amendments. No Obligor shall amend, waive or modify, nor shall it consent to or request any amendment, waiver or modification, of any of the material terms, conditions, representations and covenants contained in any Indebtedness for borrowed money (including, without limitation, the MP Loan Agreement) that (i) shortens the final maturity date of such Indebtedness (without giving effect to any amendment, waiver or modification, the “Initial Indebtedness”, and after giving effect to any such amendment, waiver or modification, the “Amended Indebtedness”), (ii) requires the acceleration of the final scheduled maturity date and/or any principal payments, including but not limited to scheduled payments and mandatory prepayments, and/or increases the principal amount

payable on any date (including, without limitation, pursuant to mandatory prepayments) prior to the dates of analogous payments of such Initial Indebtedness, or (iii) provides for an interest rate applicable to such Amended Indebtedness, plus the interest rate equivalent of all remaining fees and costs associated with closing and servicing such Amended Indebtedness higher than the average remaining interest rate applicable to such Initial Indebtedness plus the interest rate equivalent of the average remaining fees and costs associated with servicing such Initial Indebtedness.

Section 6.14. No Further Negative Pledges. Except with respect to (a) specific property encumbered to secure payment of particular Indebtedness (or to be sold pursuant to an executed agreement with respect to a permitted Asset Sale), and (b) restrictions by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses and similar agreements entered into in the ordinary course of business (provided that such restrictions are limited to the property or assets secured by such Liens or the property or assets subject to such leases, licenses or similar agreements, as the case may be), after the date hereof no Obligor shall enter into any agreement prohibiting the creation or assumption of any Lien upon any of their properties or assets, whether now owned or hereafter acquired.

ARTICLE VII

EVENTS OF DEFAULT

Section 7.1. Events of Default. Each of the following events shall be an “Event of Default” (whatever the reason for such Event of Default and whether such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administration or governmental body):

(a) Failure by the Borrower to pay any installment of principal of the Loan when due, whether at stated maturity, by acceleration, by mandatory prepayment or otherwise; or (ii) failure by the Borrower to pay any interest on the Loan or any fee or any other amount due under this Agreement or any other Loan Document within five (5) Business Days after the date due; or

(b) Any Obligor (i) fails to make (whether as primary obligor or as guarantor or other surety) any payment in respect of rent, or principal, interest or premium, if any, with respect to any Indebtedness (other than the Loan) and the aggregate amount of all Indebtedness as to which such a payment default relates is equal to or exceeds \$5,000,000 or otherwise defaults in the performance of any one or more obligations relating to any Indebtedness in an aggregate amount of \$5,000,000 or more beyond any applicable grace periods if the effect of such default is to accelerate such Indebtedness or permit the holders thereof to accelerate such Indebtedness (it being acknowledged that the aggregate amount of Indebtedness with respect to any Capital Lease shall be determined as set forth in the definition thereof in **Section 1.1**); (ii) fails to make any payment under any one or more Operating Leases with respect to aircraft, aircraft engines or Spare Parts, beyond any period of grace provided with respect thereto and the aggregate defaulted payments under all Operating Leases relating to aircraft, aircraft engines and Spare Parts as to which such a payment default shall occur and be continuing is equal to or exceeds \$500,000; (iii) defaults in payment obligations that exceed \$5,000,000 in the aggregate in respect of any lease obligations (other than those obligations included in clauses (i) and (ii) above) beyond any grace period provided with respect thereto; or (iv) defaults in the payment or performance of any one or more obligations under the MP Loan Agreement (as in effect from time to time and after giving effect to any subsequent amendments or waivers thereof) beyond any period of grace provided with respect thereto and the effect of such default is to accelerate the MP Loan or permit the holders thereof to accelerate the MP Loan; or

(c) Failure of any Obligor to perform or comply in any material respect with any term or condition contained in [Section 5.2](#), [Section 5.10](#) or [Article VI](#) of this Agreement (other than [Section 6.4](#)); or

(d) Any representation, warranty, certification or other statement made by any Obligor in any Loan Document or in any statement or certificate at any time given by any Obligor in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect on the date as of which made; or

(e) Any default by any Obligor in the performance of or compliance with any term contained in this Agreement or any of the other Loan Documents required to be performed or complied with by it (other than any such term referred to in any other subsection of this [Section 7.1](#)) and

(i) with respect to a default under [Section 6.4\(a\)](#), such default shall not have been waived or remedied within two (2) Business Days after the date of such default so long as the Available Cash Amount at all times during such two (2) Business Day-period does not decrease below the Available Cash Amount at the close of business on the last Business Day in the prior calendar week as to which such default relates;

(ii) with respect to a default under [Section 6.4\(b\)](#), such default shall not have been waived or remedied by a prepayment of the Loan by or on behalf of the Borrower in such amount as is necessary so that after such prepayment, the Obligors shall be in compliance with the covenant contained in [Section 6.4\(b\)](#), within five (5) Business Days after the earliest of (A) a Responsible Officer of a Principal Obligor obtaining knowledge of such default (which will be presumed to have occurred no later than the date of the delivery of financial statements pursuant to [Section 5.1](#) for the end of the accounting period as of which such default exists) or (B) receipt by the Borrower of notice from the Agent of such default; and

(iii) with respect to any other default, such default shall not have been waived or remedied within thirty (30) days after the earliest of (A) a Responsible Officer of the Parent or the Borrower obtaining knowledge of such default or (B) receipt by the Borrower of notice from the Agent of such default; or

(f) (i) A court shall enter a decree or order for relief in respect of any Obligor in an involuntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect or any other relief described in clause (ii) below, or other similar relief shall be granted under any applicable federal or state law; or (ii) an involuntary case shall be commenced against any Obligor seeking (A) relief under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, (B) the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over any Obligor, or over all or a substantial part of its property, or (C) the appointment of an interim receiver, trustee or other custodian of any Obligor for all or a substantial part of its property; and any such event described in this clause (ii) shall continue for sixty (60) days without being dismissed or discharged; or (iii) a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of any Obligor; or

(g) (i) (A) Any Obligor shall have an order for relief entered with respect to it or commence a voluntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, or shall consent 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 shall consent to the appointment of or taking possession by a receiver, trustee or other custodian of all

or a substantial part of its property; or (B) any Obligor shall make a general assignment for the benefit of creditors; or (ii) the board of directors of any Obligor (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to in clause (i) above; or

(h) There shall be any period of sixty (60) consecutive days following entry of a final judgment or order that causes the aggregate amount for all final judgments or orders outstanding against the Obligors and not covered by insurance (treating any deductibles, self-insurance or retention as not so covered) to exceed \$2,500,000 during which a stay of enforcement of such final judgments or orders, by reason of a pending appeal or otherwise, shall not be in effect; or

(i) Any order, judgment or decree shall be entered against any Obligor decreeing the dissolution or split up of such Obligor and such order, judgment or decree shall remain undischarged or unstayed for a period in excess of thirty (30) days; or

(j) The Affiliate Guarantee shall for any reason cease to be in full force and effect or any Guarantor shall, in writing, repudiate the Affiliate Guarantee or deny that its obligations thereunder are valid, binding and enforceable; or

(k) The invalidity or failure to obtain and maintain a first priority perfected Lien (subject to Permitted Liens) on Collateral having a value in excess of \$300,000, except for such invalidity or failure attributable to (i) the sale or other disposition of the applicable Collateral in a transaction permitted under the Loan Documents or (ii) the Collateral Agent's failure to maintain any possession (through no fault of the Obligors) that may be necessary for perfection and provided that the Borrower is taking all reasonably required action to ensure the perfection of such Collateral in accordance with [Section 5.16](#); or

(l) The Loan Documents shall for any reason cease to be in full force and effect or the Obligors shall assert that any of its obligations thereunder are invalid or unenforceable; or

(m) (i) The applicable Obligors shall fail to carry and maintain, or cause to be carried and maintained, insurance on and in respect of the Aircraft, Airframes, Engines, Propellers and Spare Engines (as such terms are defined in the Security Agreement) in accordance with the provisions of the Security Agreement or (ii) any of the other insurance coverages required to be maintained by the Obligors pursuant hereto or to the Security Agreement shall lapse, terminate or otherwise cease to be in full force and effect, other than coverage of losses and liabilities that are in the aggregate reasonably expected to be immaterial; or

(n) Any Obligor shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or

(o) Any default by the Borrower under the Air Mobility Command Agreement or the AMC Team Agreements which default is not waived or remedied prior to the expiration any period of grace provided with respect thereto and which results in (i) the Borrower being suspended or disqualified in whole or in part from the performance of airlift services pursuant to the Air Mobility Command Agreement or (ii) the termination in whole or in part of the Air Mobility Command Agreement or the AMC Team Agreements with respect to the Borrower, other than a suspension, disqualification or termination which could not reasonably be expected to have a Material Adverse Effect.

[Section 7.2. Remedies.](#) During the continuance of any Event of Default, the Agent shall, solely at the request of the Requisite Lenders, by notice to the Borrower, declare the Loan, all

interest thereon and all other amounts and Obligations payable under this Agreement to be immediately due and payable, whereupon the Loan, all such interest and all such amounts and Obligations shall become and be immediately due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower; provided, however, that upon the occurrence of the Event of Default specified in **Section 7.1(f)** and **Section 7.1(g)**, the Loan, all such interest and all such amounts and Obligations shall automatically become and be immediately due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower. Remedies exercisable by the Agent hereunder or the Collateral Agent under the Security Documents shall be exercised solely upon instructions received in writing by the Agent or the Collateral Agent, as the case may be, from the Requisite Lenders. If an Event of Default shall occur and be continuing, the Collateral Agent may upon the instructions of the Requisite Lenders exercise any or all of the rights and powers and pursue any and all of the remedies available to the Collateral Agent under the Security Documents and shall have and may, upon the written request of the Requisite Lenders, exercise any and all of the rights and remedies of a secured party under the UCC of any applicable jurisdiction and under any other applicable law.

ARTICLE VIII

THE FACILITY AGENTS

Section 8.1. Authorization and Action. Each Lender (and, with respect to clause (ii) only, each Participant) hereby appoints and authorizes (i) the Agent to take such action as administrative agent on its behalf and to exercise such powers under this Agreement, the Notes and the other Loan Documents as are delegated by such Lender to it as Agent by the terms hereof and thereof and (ii) the Collateral Agent to take such action as collateral agent on its behalf and to exercise such powers under the Security Documents as are delegated by such Lender and such Participant to it as Collateral Agent by the terms hereof and thereof, together, in each case, with such powers as are reasonably incidental thereto (the Agent and the Collateral Agent are referred to in this **Article VIII** individually as a “Facility Agent” and collectively, as the “Facility Agents”), and each Facility Agent hereby accepts such authorization and appointment. As to any matters not expressly provided for by this Agreement, the Notes, the Security Documents or any other Loan Document or provided for with specific reference to this **Section 8.1** (including, without limitation, enforcement or collection of the Notes), neither Facility Agent shall be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from action) upon the instructions of the Requisite Lenders and such instructions shall be binding upon all Lenders; provided, however, that neither Facility Agent shall be required to take any action which exposes such Facility Agent to liability or which is contrary to this Agreement, the Security Documents, any Participation Agreement, any Note or applicable law. As to any provision of this Agreement, the Security Documents or any other Loan Document under which action may be taken or approval given by the Requisite Lenders, the action taken or approval given by the Requisite Lenders shall be binding upon all Lenders and Participants to the same extent and with the same effect as if each Lender and each Participant had joined therein. Each Facility Agent shall be entitled to rely upon any note, notice, consent, certificate, affidavit, letter, telegram, teletype message, facsimile transmission, statement, order, other document or other instrument or writing believed by it to be genuine and correct and to have been signed or sent by the proper person or persons and, in respect of legal matters, upon the opinion of counsel selected by such Facility Agent. The Agent may deem and treat the payee of each Note as the owner thereof for all purposes hereof unless and until a written notice of the assignment or transfer thereof shall have been filed with the Agent. Any request, authority or consent of any Person who at the time of making such request or giving such authority or consent is the holder of a Note shall be conclusive and binding on any subsequent holder, transferee or assignee of such Note. Subject to the proviso contained in **Section 8.7(b)**, neither Facility Agent shall be required to expend or risk any of its own funds or otherwise incur any financial or other liability in the performance

of any of its duties hereunder. Upon any delivery of any instructions to the Collateral Agent by the Requisite Lenders pursuant to this Agreement, the Agent shall certify to the Collateral Agent that the Lenders delivering such instructions constitute the Requisite Lenders under this Agreement. Without limiting the generality of the foregoing, each Lender and Participant hereby authorizes and directs the Collateral Agent to enter into the Security Documents on its behalf, and acknowledges and agrees to all of the terms and conditions thereof and agrees to be bound thereby.

Section 8.2. Facility Agents' Reliance, Etc. Neither Facility Agent nor any of its directors, officers, agents or employees shall be liable to any Lender, any Participant or the Loan Administrator for any action taken or omitted to be taken by it or by such directors, officers, agents or employees under or in connection with this Agreement, any Note or any other Loan Document, except for its or their own gross negligence or willful misconduct as actually and finally determined by a final, non-appealable judgment of a court of competent jurisdiction and only to the extent of direct (as opposed to special, indirect, consequential or punitive) damages. Without limitation of the generality of the foregoing, each Facility Agent: (a) may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable to any Lender, any Participant or the Loan Administrator for any action taken or omitted to be taken in good faith by it in accordance with the advice of such experts; (b) makes no warranty or representation to any Lender, any Participant or the Loan Administrator and shall not be responsible to any Lender, any Participant or the Loan Administrator for any statements, warranties or representations (whether oral or written) made in or in connection with this Agreement, any Note or any other Loan Document; (c) shall not have any duty, and shall incur no liability for its failure, to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement, any Note or any other Loan Document on the part of the Obligors or to inspect the property (including the books and records) of the Obligors; (d) shall not be responsible to any Lender, any Participant or the Loan Administrator for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any Note or any other Loan Document, or any other instrument or document furnished pursuant thereto; (e) shall incur no liability under or in respect to this Agreement, any Note or any other Loan Document by acting upon any note, notice, consent, certificate, affidavit, letter, telegram, teletype message, facsimile transmission, statement, order or other instrument or writing (which may be by telegram, facsimile transmission, cable or telex) believed by it to be genuine and signed or sent by the proper party or parties; and (f) may deem and treat each Lender as the holder of its portion of the Loan for all purposes hereof until the Agent receives and accepts an Assignment and Acceptance Agreement entered into by such Lender, as assignor, and an assignee as provided in **Section 9.2** hereof.

Section 8.3. Facility Agents and Affiliates. If and so long as either Facility Agent shall remain a Lender, such Facility Agent shall have the same rights and powers under this Agreement as any other Lender and may exercise the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not a Facility Agent; and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated, include such Facility Agent in its individual capacity. Unrelated to its role as a Facility Agent as set forth herein, each Facility Agent and its affiliates may accept deposits from, lend money to, act as trustee under indentures of, and generally engage in any kind of business with, the Obligors and any Person who may do business with or own securities of the Obligors, all as if it were not a Facility Agent hereunder and without any duty to account therefor to the Lenders.

Section 8.4. Representations of the Lenders, etc. Each Lender as of the Effective Date and each Participant has actively engaged in the negotiation of all of the terms of this Agreement. The Lenders have met with the Obligors to discuss the business, affairs, financial condition and prospects of the Obligors. Neither Facility Agent has any duty or responsibility, either initially or on a continuing basis, to provide any Lender, any Participant or the Loan Administrator with any credit or other

information with respect to the Obligors whether coming into its possession as of the date of this Agreement or at any time thereafter, or to notify any Lender, any Participant or the Loan Administrator of any Event of Default except as provided in **Section 8.5** hereof. This Agreement and all instruments or documents delivered in connection with this Agreement have been reviewed and approved by each Lender, each Participant and the Loan Administrator and none of the Lenders, the Participants or the Loan Administrator have relied on any Facility Agent as to any legal or factual matter in connection therewith or in connection with the transactions contemplated thereunder.

Section 8.5. Events of Default. In the event of the occurrence of any Default or Event of Default, any Lender or any Participant knowing of such event may (but shall have no duty to), or the Obligors pursuant to **Section 5.1(b)(v)** hereof shall, give the Agent written notice specifying such Default or Event of Default or other event and expressly stating that such notice is a “notice of default”. The Agent shall not be deemed to have knowledge of such events unless the Agent has received such notice, or unless the Default or Event of Default consists of a failure of payment of principal or interest on the Loan. In the event that the Agent receives such a notice of the occurrence of a Default or an Event of Default, the Agent shall give written notice thereof to the Collateral Agent, the Lenders, the Participants and the Loan Administrator. In the event that such notice is a notice of an Event of Default or such Default matures into an Event of Default, each Facility Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed in writing by the Requisite Lenders, subject to the provisions of **Section 8.6**; provided, however, that, unless and until such Facility Agent shall have received such directions, such Facility Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable and in the best interest of the Lenders and shall incur no liability for acting or refraining to act in such manner except for such Facility Agent’s gross negligence or willful misconduct as actually and finally determined by a court of competent jurisdiction and only to the extent of direct (as opposed to special, indirect, consequential or punitive) damages.

Section 8.6. Facility Agents’ Right to Indemnity. Except for action expressly required of a Facility Agent hereunder without instructions from any Person, each Facility Agent shall be fully justified in failing or refusing to take any action hereunder on behalf of any Lender unless it shall first be indemnified to its satisfaction by such Person (or any affiliate thereof) against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action.

Section 8.7. Indemnification of Facility Agents.

(a) **Indemnity.** The Lenders (other than the Board) and the Participants hereby agree to indemnify each Facility Agent and all affiliates, directors, officers, employees, advisors and representatives thereof (to the extent not reimbursed by the Borrower), ratably in accordance with the Obligations owed thereto as most recently in effect prior to the date indemnification is sought, from and against any and all costs, losses, liabilities, claims, damages or expenses which may be incurred by or asserted or awarded against such Facility Agent in any way relating to or arising out of this Agreement, the Notes or the other Loan Documents or any action taken or omitted by such Facility Agent under this Agreement, the Notes or the other Loan Documents; provided, that the Lenders and the Participants shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from any Facility Agent’s gross negligence or willful misconduct as actually and finally determined by a final, non-appealable judgment of a court of competent jurisdiction and only to the extent of direct (as opposed to special, indirect, consequential or punitive) damages. Without limitation of the foregoing, each Lender (other than the Board) and each Participant agrees to reimburse each Facility Agent promptly upon demand for its ratable share of any out-of-pocket expenses (including counsel fees) incurred by such Facility Agent in connection with the administration, or enforcement of, or the preservation of any rights under, this Agreement, the Notes or

the other Loan Documents, to the extent that such Facility Agent is not reimbursed for such expenses by the Borrower.

(b) Advances to the Collateral Agent. In addition, in the event that the Requisite Lenders instruct the Collateral Agent to take any action under this Agreement or the Security Documents which requires the payment or advancement of funds in connection with the fulfillment of its obligations hereunder or thereunder, the Requisite Lenders shall, upon demand, advance to the Collateral Agent the necessary funds to satisfy the Collateral Agent's obligations hereunder and thereunder and the Collateral Agent shall have no obligation, and shall incur no liability for its failure, to execute such instruction(s) prior to the Collateral Agent's receipt of such funds; provided, however, that prior to the occurrence of an Event of Default, the Collateral Agent shall not seek the advancement of funds from the Requisite Lenders prior to the performance of the requested action if the amount required to perform such action is less than \$10,000.

Section 8.8. Successor Facility Agents.

(a) Resignation and Removal. Each Facility Agent may resign at any time by giving written notice thereof to the Lenders and the Borrower and may be removed at any time with or without cause by the Requisite Lenders. Any such resignation or removal shall be effective upon appointment and acceptance of a successor Agent or Collateral Agent, as applicable, in accordance with this **Section 8.8**. Upon any such resignation or removal, the Borrower shall have the right with the prior written consent of the Requisite Lenders to appoint a successor Facility Agent. If no successor Facility Agent shall have accepted such appointment within thirty (30) days after the retiring Facility Agent's giving of notice of resignation or the Requisite Lenders' removal of such Facility Agent, the Requisite Lenders shall have the right to appoint a successor Facility Agent who shall be willing to accept such appointment. In any event such successor Facility Agent shall be a commercial bank organized under the laws of the United States of America or of any State thereof and shall have a combined capital and surplus of at least \$1,000,000,000. Upon the acceptance of any appointment as a Facility Agent hereunder by a successor Facility Agent, such successor Facility Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Facility Agent, and the retiring or removed Facility Agent shall be discharged from its duties and obligations as agent under this Agreement or as collateral agent under the Security Documents, as the case may be. After any Facility Agent's resignation or removal hereunder as a Facility Agent the provisions of this **Article VIII** shall inure to its benefit as to any actions taken or omitted to be taken by it while it was a Facility Agent under this Agreement or the Security Documents, as the case may be.

(b) Merger, Conversion or Consolidation. Any corporation into which either Facility Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which either Facility Agent shall be a party, or any corporation succeeding to the business of either Facility Agent, provided that such corporation is a commercial bank organized under the laws of the United States of America or any State thereof and has a combined capital and surplus of at least \$1,000,000,000, shall be the successor of such Facility Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession.

Section 8.9. Collateral Agent's Further Protections

(a) Neither this Agreement nor the Security Documents shall be deemed to give, either express or implied, any legal or equitable right, remedy, or claim to any other entity or person

whatsoever except as provided in **Section 8.8** hereof with respect to the resignation of either Facility Agent.

(b) If at any time the Collateral Agent is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Collateral (including but not limited to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of the Collateral), the Collateral Agent is authorized to comply therewith in any manner the Collateral Agent, acting in a commercially reasonable manner or in accordance with the advice of legal counsel of the Collateral Agent's own choosing deems appropriate; and if the Collateral Agent complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, the Collateral Agent shall not be liable to any of the parties hereto or to any other person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect. The Collateral Agent shall have no duty to solicit the Collateral.

(c) In no event shall the Collateral Agent be liable (i) for acting in accordance with or relying upon any instruction, notice, demand, certificate or document from the Requisite Lenders or the Borrower, (ii) for the acts or omissions of its nominees, correspondents, designees, agents, subagents or subcustodians, (iii) for the investment or reinvestment of any cash held by it hereunder, in each case in good faith, in accordance with the terms hereof, including without limitation any liability for any delays in the investment or reinvestment of the Collateral, or any loss of interest incident to any such delays and (iv) for any action taken or omitted or any loss or injury resulting from its actions or its performance or lack of performance of its duties hereunder, in each case, in the absence of gross negligence or willful misconduct on its part.

(d) The Collateral Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Collateral Agent (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God, terrorism or war, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

(e) The Collateral Agent shall not be responsible in any respect for the form, execution, validity, value or genuineness of documents or securities deposited hereunder, or for any description therein, or for the identity, authority or rights of persons executing or delivering or purporting to execute or deliver any such document, security or endorsement. The Collateral Agent shall not be called upon to advise any party as to the wisdom in selling or retaining or taking or refraining from any action with respect to any securities or other property deposited hereunder.

(f) In the event of any ambiguity or uncertainty hereunder or in any notice, instruction or other communication received by the Collateral Agent hereunder, the Collateral Agent may, in its sole discretion, refrain from taking any action other than to retain possession of the Collateral, unless the Collateral Agent receives written instructions, signed by the Borrower and the Requisite Lenders, which eliminates such ambiguity or uncertainty.

(g) The Collateral Agent does not have any interest in the Collateral deposited hereunder but is serving as Collateral holder only and having only possession thereof. The Borrower shall pay or reimburse the Collateral Agent upon request for any transfer Taxes or other Taxes relating to the Collateral incurred in connection with its duties as Collateral Agent hereunder and shall indemnify and hold harmless the Collateral Agent from any amounts that it is obligated to pay in the way of such Taxes. Any payments of income from any Collateral account shall be subject to withholding regulations then in force with respect to United States Taxes. The Obligor will provide the Collateral Agent with

appropriate W-9 forms for tax I.D., number certifications, or W-8 forms for non-resident alien certifications. This paragraph shall survive notwithstanding any termination of this Agreement or the Security Documents or the resignation or removal of the Collateral Agent.

(h) Notwithstanding anything contained herein to the contrary, (i) the Collateral Agent does not assume any responsibility and shall not be deemed to have assumed any responsibility, either express or implied, to monitor the compliance by the Obligors with any statement, representation, covenant, agreement, or undertaking provided for in the Loan Documents, including the Security Documents, or to monitor or verify the accuracy of any statement, representation, covenant, agreement, or undertaking made by the Obligors in any documents, certificates, or instruments delivered by the Obligors pursuant to the terms of this Agreement or any of the Security Documents, (ii) the Collateral Agent shall be authorized to rely upon, and to act or refrain from acting, in accordance with the terms of the Security Documents in reliance upon any certificate or instrument submitted to it and certified by an Officer of the Obligors in circumstances in which the delivery or such certificate or instrument is contemplated by the terms of this Agreement or the Security Documents, (iii) the Collateral Agent does not assume any responsibility and shall not be deemed to have assumed any responsibility, either express or implied, to inspect any of the Collateral, to observe any maintenance or repairs in respect thereof, or to pay any expenses incurred in connection with any inspection of the Collateral or observation of the maintenance or repairs and (iv) the Collateral Agent may assume without inquiry, and shall incur no liability with such assumption, that the Obligors have performed and fulfilled their obligations under this Agreement and the Collateral Agent shall not be charged with notice or knowledge of any Default or any Event of Default, unless written notice of any such event is received by the Collateral Agent in accordance with the terms of this Agreement.

(i) Notwithstanding anything contained herein or in any of the other Loan Documents to the contrary, the parties hereto acknowledge and agree that (i) any of the acknowledgements, consents, agreements and statements made by the Collateral Agent in respect of the Collateral in the exercise of its duties under the Security Documents are being made as directed agent for, and on behalf and at the request of, the Lenders and that such acknowledgements, consents, or agreements are being made without independent investigation and without liability as a principal, (ii) the Collateral Agent shall have no obligation, and shall incur no liability for its failure, to monitor or verify the filing of UCC financing statements (or amendments thereto) and the information contained therein and (iii) the provisions of the Loan Documents which empower and/or entitle the Collateral Agent to take action, to refrain from taking action, or to request the taking or refraining from taking action, with respect to the Collateral shall not impose, and shall not be deemed to impose, on the Collateral Agent an obligation to act independently from the instructions of the Lenders or to monitor the contingencies that may give rise to the exercise of such power or entitlement.

Section 8.10. Release of Liens on Collateral and Guarantors. The Lenders and the Participants irrevocably authorize and instruct the Collateral Agent to release any Lien on any property granted to or held by the Collateral Agent under any Security Document and to release any Guarantor from its obligations under the Affiliate Guarantee and the other Loan Documents to which such Person may be a party (i) upon payment in full of all Obligations (other than contingent indemnification obligations), (ii) upon the transfer of property as part of or in connection with any Asset Sale that complies with **Section 6.10** and with respect to which the relevant Obligor complies with **Section 2.5(b)**, as applicable, (iii) to the extent release of any Lien is otherwise permitted under this Agreement or any Security Document, or (iv) subject to **Section 9.1(a)**, if approved, authorized or ratified in writing by the Requisite Lenders; provided, that the Collateral Agent shall not be obligated to release any Lien pursuant to this **Section 8.10** until its receipt from the Borrower of an Officer's Certificate certifying that such release complies with this **Section 8.10**, and upon receipt of such Officer's Certificate the Collateral Agent shall release such Lien in accordance with such Officer's Certificate and shall be fully protected in

connection therewith. The Borrower shall send a copy of any such Officer's Certificate to the Agent, the Lenders and the Loan Administrator at the same time that it sends such Officer's Certificate to the Collateral Agent.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Amendments, Waivers, Etc.

(a) **Amendments and Waivers.** No amendment, modification or waiver of any provision of this Agreement or any other Loan Document nor consent to any departure by the Obligors therefrom shall in any event be effective unless the same shall be in writing and (x) with respect to any such amendment or modification, signed by the Obligors, and with respect to any such amendment, modification, waiver or consent, signed by the Requisite Lenders and (y) permitted by Section 5.3(a) of the Intercreditor Agreement (if applicable), and then any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that

- (i) no amendment, modification, waiver or consent shall, unless in writing and signed by each Lender, do any of the following:
 - (A) subject the Lenders or the Participants to any additional obligations;
 - (B) extend the scheduled final maturity of the Loan, or change the amount of or extend the scheduled date for payment of any principal of the Loan;
 - (C) change the principal amount of the Loan (other than by the payment or prepayment thereof);
 - (D) decrease the rate of interest on the Loan or any fee, indemnity or other amount payable to such Person;
 - (E) extend any scheduled date for payment of interest, indemnity or other amount or fees;
 - (F) release all or any portion of the Collateral with a material value (other than upon any sale or other disposition thereof permitted under this Agreement or the Security Documents);
 - (G) amend the definition of "Requisite Lenders" or this **Section 9.1(a)**;
 - (H) modify the application of payments to the Loan under **Section 2.8**; and
 - (I) amend or modify any provision of **Article II** and **Article VIII**, **Section 5.1**, **Section 5.10**, **Section 5.11**, **Section 5.13**, **Section 5.16**, **Section 9.1**, **Section 9.2**, **Section 9.3**, **Section 9.4**, **Section 9.6**, **Section 9.7**, **Section 9.10**, **Section 9.11**, **Section 9.12**, **Section 9.13**, **Section 9.16** or **Section 9.18** or any of the definitions as relevant thereto; and
- (ii) no amendment or modification of any provision of **Article VII** (other than amendments to add Events of Default) shall be effective unless in writing and signed by the Requisite Lenders;

and provided, further, that no amendment, modification, waiver or consent shall, unless in writing and signed by the affected Facility Agent in addition to the Persons required above to take such action, affect the rights or duties of either Facility Agent under this Agreement, the other Loan Documents, or any Participation Agreement.

(b) Execution of Amendments and Waivers by the Agent. The Agent may, but shall have no obligation to, with the written concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of that Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on the Obligor in any case shall entitle the Obligor to any other or further notice or demand in similar or other circumstances.

(c) Non-Consenting Lenders. In connection with any proposed amendment, modification, waiver or termination (a "Proposed Change") requiring the consent of all affected Lenders, if the consent of the Requisite Lenders is obtained, but the consent of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained as described in this **Section 9.1** being referred to as a "Non-Consenting Lender"), then, so long as the Lender that is acting as the Agent is not a Non-Consenting Lender, at the Borrower's request, the Agent or a substitute lender that is acceptable to the Agent and the Requisite Lenders shall have the right with the Agent's consent and in the Agent's sole discretion (but shall have no obligation) to purchase from such Non-Consenting Lender, and such Non-Consenting Lender agrees that it shall, upon the Agent's request, sell and assign to the Lender that is acting as the Agent or such substitute lender, all of the portion of the Loan of such Non-Consenting Lender for an amount equal to the principal balance of such portion of the Loan held by the Non-Consenting Lender and all accrued interest and fees with respect thereto through the date of sale, such purchase and sale to be consummated pursuant to an executed Assignment and Acceptance.

Section 9.2. Assignments and Participations.

(a) Assignment by Lenders. Each Lender may sell, transfer, negotiate or assign either in whole or in part to one or more Persons its rights and obligations hereunder and under the Notes and the other Loan Documents without the prior consent of any Person; provided, that (i) the assigning Lender shall give prompt written notice to the Agent and the Board of the terms of and the parties to any such assignment, and (ii) the Borrower will not be obligated to pay any greater amount under **Section 2.9(c)** or **Section 2.11(a)** (in respect of increased costs or Indemnified Taxes imposed pursuant to applicable law in effect on the date of such assignment) to the assignee than the Borrower is then obligated to pay to the assigning Lender under such Sections.

(b) Assignment by Participants. Without prejudice to any restrictions or limitations in the Participation Agreements or any other Loan Document, each Participant may sell, transfer or assign either in whole or in part to one or more Persons its rights and obligations hereunder and the other Loan Documents without the prior consent of the Obligor but with the consent, not to be unreasonably withheld, of the Agent; provided, that (i) the assigning Participant shall give prompt written notice to the Agent and the Board of the terms of and the parties to any such assignment and (ii) the Borrower will not be obligated to pay any greater amount under **Section 2.9(c)** or **Section 2.11(a)** (in respect of increased costs or Indemnified Taxes imposed pursuant to applicable law in effect on the date of such assignment) to the assignee than the Borrower is then obligated to pay to the assigning Participant under such Sections.

(c) Deliveries in Connection with Assignment. The parties to each assignment shall execute and deliver to the Agent, for its acceptance and recording, an Assignment and Acceptance, and the assignee, if a Non-U.S. Person, shall deliver to the Borrower and the Agent on or prior to the date of

the assignment, two completed copies of either IRS Form W-8BEN or W-8ECI or other applicable form, certificate or document required to satisfy the requirements of [Section 2.11](#). Upon such execution, delivery and acceptance and the receipt by the Agent of an assignment fee in the amount of \$3,500 (except that so long as Citibank, N.A. is the Agent, no fee shall be payable in connection with any assignment to any affiliate of Citibank, N.A.), which fee shall be payable by the assignor, or if the assignor is the Board, by the Borrower, the Agent shall record such Assignment and Acceptance and from and after the effective date specified in such Assignment and Acceptance (i) the assignee thereunder of all or any portion of the Loan shall become a party hereto and, to the extent that rights and obligations under the Loan Documents have been assigned to such assignee pursuant to such Assignment and Acceptance, have the rights and obligations of a Lender and (ii) the assignor thereunder shall, to the extent that rights and obligations under this Agreement have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except those which survive the payment in full of the Obligations) and be released from its obligations under the Loan Documents, other than those relating to events or circumstances occurring prior to such assignment (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under the Loan Documents, such Lender shall cease to be a party hereto).

(d) Agent's Duties Upon Assignment. Upon its receipt of an Assignment and Acceptance executed by an assigning Lender and an assignee, the Agent shall, if such Assignment and Acceptance has been completed, (i) accept such Assignment and Acceptance, (ii) record the information contained therein in the Register, (iii) give prompt notice thereof to the Borrower and (iv) give prompt written notice of the terms of and parties to any such assignment to the Board.

(e) Assignments to Federal Reserve Bank. In addition to the other assignment rights provided in this [Section 9.2](#), each Lender may assign, without the prior consent of the Obligors, the Agent or the Board, as collateral or otherwise, any of its rights under this Agreement to any Federal Reserve Bank pursuant to Regulation A of the Federal Reserve Board, provided, however, that no such assignment shall release the assigning Lender from any of its obligations hereunder.

(f) Participations. Each Lender may, without the prior consent of the Obligors or any other Person, sell participations in addition to the Participations, in or to all or a portion of its rights and obligations hereunder and under any Note and the other Loan Documents; provided, that (i) no Note is assigned, conveyed, sold or transferred in whole or in part in connection with any participation and (ii) the Borrower will not be obligated to pay any greater amount under [Section 2.9\(c\)](#) or [Section 2.11\(a\)](#) (in respect of increased costs or Indemnified Taxes imposed pursuant to applicable law in effect on the date of such participation) to such participant than the Borrower is then obligated to pay to any selling Lender under such Sections. In the event of the sale of any participation by any Lender, except as otherwise expressly provided herein, (A) such Lender's obligations under the Loan Documents shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties for the performance of such obligations, (C) such Lender shall remain the holder of such Obligations for all purposes of this Agreement, (D) the Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement, and (E) each holder of such a participation, if a Non-U.S. Person, shall deliver to the Borrower, the Agent and such Lender, on or prior to the date of the sale of the participation, two completed copies of either IRS Form W-8BEN or W-8ECI or other applicable form, certificate or document required to satisfy the requirements of [Section 2.11](#). Any holder of such a participation will be entitled to the benefits of [Section 2.9\(c\)](#), [Section 2.9\(e\)](#), [Section 2.10](#) and [Section 2.11](#) to the same extent as if such Person were a Lender (but subject to the restrictions of [Section 2.11\(i\)](#)).

(g) Subparticipations. Without prejudice to any restrictions or limitations in the Participation Agreements or any other Loan Document, each Participant may, without the prior consent of

the Obligors or any other Person, sell subparticipations in respect of the Participations; provided, that (i) no Note is assigned, conveyed, sold or transferred in whole or in part in connection with any subparticipation and (ii) the Borrower will not be obligated to pay any greater amount under **Section 2.9(c)** or **Section 2.11(a)** (in respect of increased costs or Indemnified Taxes imposed pursuant to applicable law in effect on the date of such subparticipation) to such subparticipant than the Borrower is then obligated to pay to any selling Participant under such Sections. In the event of the sale of any subparticipation by any Participant, except as otherwise expressly provided herein, (A) such Participant's obligations under the Loan Documents shall remain unchanged, (B) such Participant shall remain solely responsible to the other parties for the performance of such obligations, (C) such Participant shall remain the holder of the applicable Participation for all purposes of this Agreement, (D) the Agent and the Lenders shall continue to deal solely and directly with such Participant in connection with such Participant's rights and obligations under this Agreement, and (E) each holder of such a subparticipation, if a Non-U.S. Person, shall deliver to the Borrower, the Agent and such Participant, on or prior to the date of the sale of the subparticipation, two completed copies of either IRS Form W-8BEN or W-8ECI or other applicable form, certificate or document required to satisfy the requirements of **Section 2.11**.

(h) Assignment Pursuant to Intercreditor Agreement. Each of the Lenders hereby acknowledges and agrees to the purchase right set forth in the Section 5.6 of the Intercreditor Agreement and agrees to sell, assign and transfer its interest in the Loan upon the terms and conditions specified therein.

Section 9.3. Costs and Expenses. Borrower agrees to pay promptly (i) all costs and expenses incurred after the Effective Date by the Loan Administrator, the Lenders, the Participants, any other participant, the Collateral Agent and the Agent in connection with any consents, amendments, waivers or other modifications hereto or thereto (including, without limitation, reasonable legal fees and expenses), and (ii) [all costs and expenses, including, without limitation, legal fees and expenses incurred after the Effective Date by the Agent, the Collateral Agent, the Lenders, the Loan Administrator, each Participant and any other participant in enforcing any Obligations of, or in collecting any payments due from, the Obligors hereunder or under the other Loan Documents (including without limitation the costs and expenses contemplated under the Security Documents) or in connection with the administration, or enforcement of, or the preservation of any rights under any Loan Document.]

Section 9.4. Indemnities. Whether or not the transactions contemplated hereby shall be consummated, the Obligors agree, jointly and severally, to defend, indemnify, pay and hold harmless the Agent, the Collateral Agent, the Lenders, the Participants and the Loan Administrator and their respective Affiliates, officers, directors, employees, agents and advisors (collectively called the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including without limitation the reasonable fees and disbursements of counsel for such Indemnitees, but excluding Taxes), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including without limitation securities and commercial laws, statutes and rules or regulations), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner arising out of this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby (including, without limitation, the use or intended use of the proceeds of the Loan) or any statement made by or on behalf of any Obligor to the Lenders or any breach or default by any Obligor of any provision of the Loan Documents (collectively called the "Indemnified Liabilities"); provided, that no Obligor shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise (i) from the gross negligence or willful misconduct of that Indemnitee (as actually and finally determined by a final, non-appealable judgment of a court of competent jurisdiction) and only to the extent such Indemnified Liabilities constitute direct (as opposed to special, indirect, consequential or

punitive) damages or (ii) constitute ordinary and usual operating or overhead expenses of an Indemnitee (excluding, without limitation, costs and expenses of any outside counsel, consultant or agent). To the extent that the undertaking to defend, indemnify, pay and hold harmless set forth in the preceding sentence may be unenforceable because it is violative of any law or public policy, the Obligors shall contribute the maximum portion that they are 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. No Indemnitee shall have any liability (whether direct or indirect, in contract, tort or otherwise) to any Obligor or any of their security holders or creditors for or in connection with the transactions contemplated hereby, except to the extent such liability is determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted primarily from such Indemnitee's gross negligence or willful misconduct. In no event, however, shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including, without limitation, any loss of profits, business or anticipated savings). The agreements in this **Section 9.4** shall survive the termination of the other provisions of this Agreement and the other Loan Documents and, in the case of the Facility Agents, shall survive the resignation or removal thereof.

Section 9.5. Right of Set-off.

(a) **Set-off.** In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default, to the fullest extent permitted by law, each Lender is hereby authorized by the Borrower at any time or from time to time, without notice to the Borrower or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, Indebtedness evidenced by certificates of deposit, whether matured or unmatured) and any other Indebtedness at any time held or owing by that Lender to or for the credit or the account of the Borrower against and on account of the obligations and liabilities of the Borrower to that Lender under this Agreement, the Notes, and the other Loan Documents, including, but not limited to, all claims of any nature or description arising out of or connected with this Agreement, the Notes, or any other Loan Document, irrespective of whether or not (i) that Lender shall have made any demand hereunder or (ii) the principal of or the interest on the Loan or any other amounts due hereunder shall have become due and payable pursuant to **Section 7.2** and although said obligations and liabilities, or any of them, may be contingent or unmatured.

(b) **Collateral Agent Set-off Against Collateral.** If any fees, expenses or costs incurred by, or any obligations owed to, the Collateral Agent or its counsel hereunder are not promptly paid when due, the Collateral Agent may reimburse itself therefor from any cash held by it and may sell, convey or otherwise dispose of any securities held by it for such purpose. The Collateral Agent may in its sole discretion withhold from any distribution of Collateral an amount of Collateral it believes would, upon sale or liquidation, produce proceeds equal to any unpaid amounts to which the Collateral Agent is entitled to hereunder.

Section 9.6. Sharing of Payments, Etc. The Lenders and the Participants (collectively the "**Recipients**") hereby agree among themselves that if any of them shall, whether by voluntary payment, by realization upon security, through the exercise of any right of set-off or banker's lien, by counterclaim or cross action or by the enforcement of any right under the Loan Documents or otherwise, or as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal, interest, fees and other amounts then due and owing to that Recipient hereunder or under the other Loan Documents (collectively, the "**Aggregate Amounts Due**" to each Recipient) which is greater than the proportion received by any other Recipient in respect of the Aggregate Amounts Due to such other Recipient, then the Recipient receiving such proportionately greater payment shall (i) notify the Agent and each other

Recipient of the receipt of such payment and (ii) apply a portion of such payment (or an amount of such reduction) to purchase participations (which it shall be deemed to have purchased from each seller of a participation simultaneously upon the receipt by such seller of its portion of such payment) in the Aggregate Amounts Due to the other Recipients so that all such recoveries of Aggregate Amounts Due shall be shared by all Recipients in proportion to the Aggregate Amounts Due to them; provided, that if all or part of such proportionately greater payment received by such purchasing Recipient is thereafter recovered from such Recipient upon the bankruptcy or reorganization of any Obligor or otherwise, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to such purchasing Recipient ratably to the extent of such recovery, but without interest. The Obligors expressly consent to the foregoing arrangement and agree that any holder of a participation so purchased may exercise any and all rights of banker's lien, set-off or counterclaim with respect to any and all monies owing by the Obligors to that holder with respect thereto as fully as if that holder were owed the amount of the participation held by that holder.

Section 9.7. Notices, Etc. Unless otherwise specifically provided herein, any notice, request or other communication herein required or permitted to be given shall be in writing and may be personally served or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service, or upon receipt of telefacsimile (promptly confirmed in writing). For the purposes hereof, the address of each party hereto and each Participant shall be as set forth under such party's name on Annex A or such other address as shall be designated by such party in a written notice delivered to the Agent. A copy of any and all notices, requests, communications, demands, reports, documents or other materials (including, without limitation, any of the materials delivered by the Obligors under **Section 5.1(b)**) delivered or sent by any party pursuant to the terms of this Agreement or any other Loan Document, shall be given to the Loan Administrator. Anything to the contrary contained herein notwithstanding, the Obligors shall not be required to provide the Board with any notices or certificates required to be delivered to the Board hereunder and under the other Loan Documents if, at the time such notice is required to be delivered, the Board is not a Lender hereunder.

Section 9.8. No Waiver; Remedies. No failure on the part of any Lender, the Collateral Agent or the Agent to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

Section 9.9. Independence of Representations, Warranties and Covenants. All representations and warranties made in and covenants under this Agreement shall be given independent effect so that (a) if a particular representation and warranty is unqualified, the fact that another representation and warranty is qualified shall not affect the operation of the former provision; and (b) 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 would otherwise be within the limitations of, another covenant shall not avoid the occurrence of an Event of Default or Default if such action is taken or condition exists.

Section 9.10. Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed in accordance with, the law of the State of New York; provided, that the rights and obligations of the Board hereunder shall be governed by, and construed in accordance with, the Federal law of the United States of America, if and to the extent such Federal law is applicable, and otherwise in accordance with the law of the State of New York.

Section 9.11. Submission to Jurisdiction; Service of Process.

(a) **Submission to Jurisdiction.** Any legal action or proceeding with respect to this Agreement or any other Loan Document may be brought in the courts of the State of New York or of the United States of America for the Southern District of New York, and, by execution and delivery of this Agreement, each of the Obligor hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. The parties hereto hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of *forum non conveniens*, which any of them may now or hereafter have to the bringing of any such action or proceeding in such respective jurisdictions.

(b) **Service of Process.** Each of the Obligor hereby irrevocably consents to the service of any and all legal process, summons, notices and documents in any suit, action or proceeding brought in the United States of America arising out of or in connection with this Agreement or any of the other Loan Documents by the mailing (by registered or certified mail, postage prepaid) or delivering of a copy of such process to such Obligor in accordance with the provisions of **Section 9.7**. Each of the Obligor agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(c) **No Limitation.** Nothing contained in this **Section 9.11** shall affect the right of the Agent or any Lender or other party to serve process in any other manner permitted by law or commence legal proceedings or otherwise proceed against any Obligor in any other jurisdiction.

Section 9.12. Waiver of Jury Trial. Each of the parties hereto irrevocably waives trial by jury in any action or proceeding with respect to this Agreement or any other Loan Document.

Section 9.13. Marshaling; Payments Set Aside. Neither the Agent nor any Lender shall be under any obligation to marshal any assets in favor of the Obligor or any other party or against or in payment of any or all of the Obligations. To the extent that any of the Obligor make a payment or payments to the Agent for the account of the Loan Administrator, any Lender or any Participant (each, a "Payee") or any Payee receives payment from exercise of their rights of setoff, and such payment or payments or the proceeds of such setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then (i) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all rights and remedies therefor, 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, and (ii) each Payee shall pay and return such amount to the Agent as the Agent may be required to disgorge or otherwise pay to a trustee, receiver or any other party in respect of the portion of the payment from the Obligor distributed by the Agent to such Payee hereunder.

Section 9.14. Section Titles. The Section titles and subtitles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

Section 9.15. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are attached to the same document. Delivery of an executed signature page of this Agreement by facsimile transmission shall be as effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all parties shall be lodged with the Borrower and the Agent.

Section 9.16. Third Party Beneficiary. Each Participant shall be an express third party beneficiary of this Agreement to the extent the provisions of this Agreement by their terms confer upon such Participant any right or remedy and shall be entitled to rely on each representation and warranty of the Obligors hereunder and the covenants of the Obligors contained in **Article V** and **Article VI** hereof as fully and with the same force and effect as if made expressly to such Participant, and each such Participant shall be bound by the terms and conditions hereof and of the Affiliate Guarantee and the Security Documents applicable to the Participants (including, without limitation, **Article VIII**, **Section 2.7**, **Section 2.8**, **Section 9.6**, **Section 9.13** and **Section 9.18** hereof) in asserting any right or remedy hereunder.

Section 9.17. Severability. In case any provision in or obligation under this Agreement, any Note or the other Loan Documents shall be invalid, illegal or unenforceable in any jurisdiction the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 9.18. Confidentiality. Each party hereto (other than the Board) and each Participant shall, and shall procure that its respective officers, employees and agents shall, keep confidential and shall not, without the prior written consent of the other parties, disclose to any third party this Agreement, any other Loan Document or any of the information, reports or documents supplied by or on behalf of such other party not otherwise publicly available, except that a party shall be entitled to disclose this Agreement, any other Loan Document, and any such information, reports or documents:

(a) in connection with any proceeding arising out of or in connection with this Agreement, any of the other Loan Documents or any Participation Agreement to the extent that such party may reasonably consider necessary to protect its interest; or

(b) to any potential assignee or transferee of any party's rights under this Agreement or any of the Loan Documents or any Participant's rights under its Participation Agreement or any other Person proposing to enter into contractual arrangements with any party in relation to this Agreement, any of the other Loan Documents or any Participation Agreement subject to the relevant party obtaining an undertaking from such potential assignee or transferee or other person in corresponding terms to this **Section 9.18**; or

(c) pursuant to any applicable laws, ordinances, judgments, decrees, injunctions, writs, rules, regulations, orders, interpretations, licenses, permits and orders of any competent court, arbitrator or governmental agency or authority in any relevant jurisdiction; or

(d) to bank examiners or any other regulatory authority or rating agencies or similar entities, if requested to do so; or

(e) to its auditors, legal, tax or to other professional advisers; or

(f) to its Affiliates and their respective directors, officers, employees and agents.

The provisions of this **Section 9.18** shall survive any termination of this Agreement, any Participation Agreement or any other Loan Document or any assignment, transfer, participation or subparticipation under this Agreement or any Participation Agreement.

Section 9.19. Acknowledgement Regarding Federal Authority.

that: (a) Each of the parties hereto and each of the Participants acknowledges and agrees

(i) the operations and assets of the Obligors and their Subsidiaries (including, without limitation, Aircraft Related Equipment and other assets that constitute Collateral) are subject, directly and indirectly, to the actions, inaction and policies of various Governmental Authorities, including, in particular but without limitation, the United States Department of Transportation (of which the FAA is a component) and the United States Department of Justice;

(ii) Governmental Authorities, in discharging their current and future statutory or regulatory responsibilities, may act, decline to act, or adopt policies resulting in material adverse effects on (A) the business, condition (financial or otherwise), operations, performance, prospects, assets or properties of the Obligors and their Subsidiaries, (B) the ability of the Obligors and their Subsidiaries to perform their payment or other material obligations under the Loan Documents, and (C) the value of the Collateral or the practical ability of the Collateral Agent to realize such value in the event of a Default or an Event of Default;

(iii) no Governmental Authority, in discharging its statutory or regulatory responsibilities, has or shall have any obligation whatsoever to any of the Obligors, any of their Subsidiaries, or to any secured party by reason of such Governmental Authority's representation on the Board, the Board's holding of Tranche A, or the Board's participation as a party to the other Loan Documents, to consider the potential that any of the material adverse effects referred to in clause (ii) above may result from such Governmental Authority's discharge of its statutory or regulatory responsibilities; and

(iv) neither the Board, in discharging its rights and responsibilities, or in exercising its discretion, under the Act, the Regulations or the Loan Documents, nor any of the Board's members, acting in their capacities as such, has or shall have any obligation whatsoever to any of the Obligors, any of their Subsidiaries or to any of the secured parties to take any action in connection with a Governmental Authority's discharge of its statutory or regulatory responsibilities which may have any of the material adverse effects referred to in clause (ii) above, and the Board may not take any action depriving a Governmental Authority of its rights and powers to discharge its statutory and regulatory responsibilities in any manner that may have any of the material adverse effects referred to in clause (ii) above.

(b) Without limiting the generality of the foregoing, the parties hereto and the Participants acknowledge and agree that (i) the Department of Transportation, through the FAA, has broad authority under Title 49 of the United States Code to regulate the use of the navigable airspace of the United States so as to ensure its safe and efficient utilization, (ii) the exercise of such authority may substantially impair or eliminate altogether the utility to the Obligors and their Subsidiaries and value to the secured parties of Aircraft Related Equipment pledged as Collateral and other assets of the Obligors and their Subsidiaries such as gates and slots utilized at airports, and (iii) no assurance, express or implied, has been given by any Governmental Authority, including the Board, to the Obligors or to any secured party, nor has any of the Obligors or any secured party relied upon any such assurance, with respect to any future action, inaction or policy of the FAA or any other Governmental Authority relating to any such Collateral or other assets.

Section 9.20. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, provided that except as otherwise expressly provided herein, no Obligor may assign or otherwise transfer any of its

rights or obligations hereunder without the prior written consent of the Lenders and the Participants (and any attempted assignment or transfer by an Obligor without such consent shall be null and void).

Section 9.21. Cumulative Rights and Remedies. The rights and remedies conferred upon the parties hereto shall be cumulative, and the exercise or waiver of any such right or remedy shall not preclude or inhibit the exercise of any additional rights or remedies. The waiver of any right or remedy hereunder shall not preclude the subsequent exercise of such right or remedy.

Section 9.22. Amendment and Restatement; Reorganization. This Agreement amends, and as so amended, restates the Original Loan Agreement. All “Defaults” and “Events of Default” (as those terms were defined in the Original Loan Agreement), to the extent that any of such “Defaults” or “Events of Default” still exist or might be deemed to continue to exist as of the Effective Date, are waived by the Lenders, other than any such “Defaults” or “Events of Default” which would constitute a Default or Event of Default hereunder. Nothing in this Agreement shall be deemed to prohibit consummation of the Plan of Reorganization in accordance with its terms.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

ATA AIRLINES, INC.

By: _____
Name:
Title:

ATA HOLDINGS INC.

By: _____
Name:
Title:

[ADD OTHER OBLIGORS]

**AIR TRANSPORTATION
STABILIZATION BOARD,**
as Tranche A Lender

By: _____
Name: Mark R. Dayton
Title: Executive Director

CITIBANK, N.A.,
as Tranche B Lender

By: _____
Name:
Title:

CITIBANK, N.A.,
as Agent

By: _____
Name:
Title:

CITIBANK, N.A.,
as Collateral Agent

By: _____
Name:
Title:

Annex A

Notice Addresses

If to the Borrower, Parent and the other Obligors:

ATA Airlines, Inc.
7337 West Washington Street
Indianapolis, Indiana 46231
Attention: Chief Executive Officer
Phone: (317) 282-7500
Facsimile: (317) 282-7091
E-mail: [_____]

With a copy to:

ATA Airlines, Inc.
7337 West Washington Street
Indianapolis, Indiana 46231
Attention: Chief Financial Officer
Phone: [_____]
Facsimile: [_____]
E-mail: [_____]

If to the Agent:

Citibank, N.A.
2 Penns Way Suite 100
New Castle, DE 19720
Attention: Kathleen Racer
Phone: (302) 894-6002
Fax: (212) 994-0849
E-mail: kathleen.c.racer@citigroup.com

If to the Collateral Agent:

Citibank, N.A.
111 Wall Street 14th Floor/Zone 3
New York, NY 10005
Attention: Edward C. Morelli
Phone: (212) 657-6086
Facsimile: (212) 657-3862
E-mail: edward.c.morelli@citigroup.com

With a copy to:

Citibank, N.A.
111 Wall Street 14th Floor/Zone 3
New York, NY 10005
Attention: Fernando Moreyra
Phone: (212) 657-0955

Facsimile: (212) 657-3862
E-mail: fernando.moreyra@citigroup.com

If to the Loan Administrator:

Capstone Advisory Group, LLC
1065 Avenue of the Americas
New York, NY 10018
Attention: Jay Borow
Phone: (212) 782-1411
Fax: (212) 782-1478
E-mail: jborow@capstoneag.com

If to the Board:

Air Transportation Stabilization Board
1120 Vermont Avenue
Suite 970
Washington, D.C. 20005
Attention: Executive Director
Phone: (202) 622-3550
Fax: (202) 622-3420
E-mail: mark.dayton@do.treas.gov

with a copy to:

United States Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220
Attention: Deputy Assistant Secretary for Government Financial Policy
Phone: (202) 622-7073
Fax: (202) 622-0387
E-mail: roger.kodat@do.treas.gov

If to the Tranche B Lender:

Citibank, N.A.
2 Penns Way Suite 200
New Castle, DE 19720
Attention: Onat Acet – Global Loan Operations
Phone: (302) 894-6088
Facsimile: (212) 994-0849
E-mail: [_____]

With a copy to:

Citibank, N.A.
388 Greenwich Street, 20th Floor
New York, NY 10013
Attention: Barbara Kobelt
Phone: (212) 816-1063

Facsimile: (212) 816-0263
E-mail: Barbara.kobelt@citigroup.com

If to the BCLC Participant:

[Boeing Capital Loan Corporation
c/o Entity Services
2325-B Renaissance Dr., Ste. 8
Las Vegas, NV 89119
Attention: Operations
Telephone: (702) 940-4244
Facsimile: (702) 966-4247]
E-mail: [_____]

with a copy to:

[Boeing Capital Washington Corporation
500 Naches Ave., SW
3rd Floor, MC-6Y-10
Renton, WA 98055
Attention: Director, Aircraft Financial Services
Telephone: (425) 393-0128
Facsimile: (425) 393-2906]
E-mail: [_____]

If to the GECC Participant:

AFS Investments XII, Inc.
[c/o GE Capital Aviation Services
201 High Ridge Road
Stamford, CT 06927
Attention: Contracts Leader
Telephone: (203) 357-3776
Facsimile: (203) 357-4585]
E-mail: [_____]

with a copy to:

General Electric Capital Corporation
[260 Long Ridge Road
Stamford, CT 06927-9400
Attention: Senior Vice President - Corporate Treasury
and Global Funding Operation
Telephone: [•]
Facsimile: (203) 357-4995]
E-mail: [_____]

If to the ILFC Participant:

International Lease Finance Corporation
[10250 Constellation Boulevard, 34th Floor

Attention: Legal Department
Los Angeles, California 90067, U.S.A.
Telephone: (310) 788-1999
Facsimile: (310) 788-1990
E-mail: [_____]

Annex B

Lending Office

Air Transportation Stabilization Board
1120 Vermont Avenue
Suite 970
Washington, D.C. 20005

Citibank, N.A.
399 Park Avenue,
New York, New York 10043

EXHIBIT A

FORM OF ASSIGNMENT AND ACCEPTANCE

Assignment and Acceptance dated as of _____, ____ between _____ (the "Assignor") and _____ (the "Assignee").

Reference is made to the Amended and Restated Loan Agreement, dated as of February [], 2006 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), among the ATA Airlines, Inc. (the "Borrower"), ATA Holdings Inc., the other Obligors from time to time party thereto, Air Transportation Stabilization Board, as Tranche A Lender, and Citibank, N.A., as Tranche B Lender, Agent and Collateral Agent. Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Loan Agreement.

The Assignor and the Assignee hereby agree as follows:

1. The Assignor hereby sells and assigns to the Assignee, and the Assignee hereby purchases and assumes from the Assignor, [all of] [a ___% interest in] the Assignor's rights and obligations under the Loan Agreement and the [Tranche A/Tranche B] Note. The principal amount of the portion of [Tranche A/Tranche B] of the Loan and the [Tranche A/Tranche B] Note assigned to the Assignee are set forth in Section 1 of *Schedule I* [and the principal amount of [Tranche A/Tranche B] of the Loan and the [Tranche A/Tranche B] Note retained by the Assignor after giving effect to such sale and assignment are set forth in Section 2 of *Schedule I*].

2. The Assignor (i) represents and warrants that[, subject to the rights of any participant,] it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any adverse claim; (ii) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Loan Agreement or any other Loan Document or any other instrument or document furnished pursuant thereto or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Agreement or any other Loan Document or any other instrument or document furnished pursuant thereto; and (iii) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower or the performance or observance by the Borrower of any of its obligations under the Loan Agreement or any other Loan Document or any other instrument or document furnished pursuant thereto.

3. The Assignee (i) agrees that it will, independently and without reliance upon the Agent, the Assignor or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Agreement; (ii) appoints and authorizes the Agent to take such action as agent on its behalf and to exercise such powers under the Loan Agreement and the other Loan Documents as are delegated to the Agent by the terms thereof, together with such powers as are reasonably incidental thereto; (iii) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Loan Agreement are required to be performed by it as a Lender; (iv) confirms it has received such documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance; and (v) specifies as its Lending Office (and address for notices) the office set forth beneath its name on the signature pages hereof.

4. Following the execution of this Assignment and Acceptance by the Assignor and the Assignee, it will be delivered to the Agent for acceptance and recording by the Agent, together with an assignment fee of \$3,500 payable by the [Assignor]. The effective date of this Assignment and Acceptance shall be _____ (the “Effective Date”).

5. Upon such acceptance and recording by the Agent, then, as of the Effective Date, (i) the Assignee shall be a party to the Loan Agreement and, to the extent provided in this Assignment and Acceptance, have the rights and obligations under the Loan Agreement of a Lender and (ii) the Assignor shall, to the extent provided in this Assignment and Acceptance, relinquish its rights (except those which survive the payment in full of the Obligations) other than those relating to events or circumstances occurring prior to the Effective Date and be released from its obligations under the Loan Documents.

6. Upon such acceptance and recording by the Agent, from and after the Effective Date, the Agent shall make all payments under the Loan Documents in respect of the interest assigned hereby (i) to or for the account of the Assignee, in the case of amounts accrued with respect to any period on or after the Effective Date, and (ii) to or for the account of the Assignor, in the case of amounts accrued with respect to any period prior to the Effective Date.

7. This Assignment and Acceptance shall be governed by, and be construed in accordance with, the law of the State of New York.

8. This Assignment and Acceptance may be executed in any number of counterparts and by different parties on separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement. Delivery of an executed counterpart of this Assignment and Acceptance by telecopier shall be effective as delivery of a manually executed counterpart of this Assignment and Acceptance.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Acceptance to be executed by their respective officers thereunto duly authorized, as of the date first above written.

[Assignor]

By: _____
Name:
Title:

[Assignee]

By: _____
Name:
Title:

Lending Office (and
address for notices):

[Address]

Accepted this _____ day
of _____, _____

CITIBANK, N.A.
as Agent

By: _____
Name:
Title:

Schedule I
to
Assignment and Acceptance

Section 1.

Aggregate Outstanding Principal Amount of
[Tranche A/Tranche B] of the Loan and of the
[Tranche A/Tranche B] Note Assigned to Assignee: \$_____

Section 2.

Aggregate Outstanding Principal Amount of
[Tranche A/Tranche B] of the Loan and of the
[Tranche A/Tranche B] Note retained by Assignor: \$_____

EXHIBIT B-1

FORM OF TRANCHE A NOTE

\$_[_____]

New York, New York
February [___], 2006

FOR VALUE RECEIVED, the undersigned ATA AIRLINES, INC., an Indiana corporation (the "Borrower"), hereby promises to pay to CITIBANK, N.A., as Agent, for the account of the Tranche A Lender, the principal amount set forth above, or, if less, the aggregate unpaid principal amount of Tranche A of the Loan, payable at such times, and in such amounts, as are specified in the Loan Agreement. The Borrower hereby promises to pay interest on the unpaid principal amount of Tranche A of the Loan from the date hereof until such principal amount is paid in full, at the rate or rates, and payable at such times as are specified in the Loan Agreement.

This Tranche A Note shall be payable at the principal office of the Agent presently located at 399 Park Avenue, New York, New York 10022.

This Tranche A Note is the "Tranche A Note" referred to in that certain Amended and Restated Loan Agreement, dated as of February [___], 2006 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), among the Borrower, ATA Holdings Inc., the other Obligors from time to time party thereto, Air Transportation Stabilization Board, as Tranche A Lender, and Citibank, N.A., as Tranche B Lender, Agent and Collateral Agent, and is entitled to the benefits thereof and of the Security Documents. Capitalized terms used herein and not defined herein are used herein as defined in the Loan Agreement.

Demand, diligence, presentment, protest and notice of non-payment and protest are hereby waived by the Borrower. This Tranche A Note may be prepaid solely as provided in the Loan Agreement and may be accelerated in whole or in part as provided in the Loan Agreement.

This Tranche A Note shall be governed by, and construed in accordance with, the law of the State of New York; provided, that the rights and obligations of the Board hereunder shall be governed by, and construed in accordance with, the Federal law of the United States of America, if and to the extent such Federal law is applicable, and otherwise in accordance with the law of the State of New York.

IN WITNESS WHEREOF, the Borrower has caused this Tranche A Note to be executed and delivered by its duly authorized officer as of the date and at the place set forth above.

ATA AIRLINES, INC.

By: _____
Name:
Title:

EXHIBIT B-2

FORM OF TRANCHE B NOTE

\$_[_____]

New York, New York
February [__], 2006

FOR VALUE RECEIVED, the undersigned ATA AIRLINES, INC., an Indiana corporation (the "Borrower"), hereby promises to pay to CITIBANK, N.A., as Agent, for the account of the Tranche B Lender, the principal amount set forth above, or, if less, the aggregate unpaid principal amount of Tranche B of the Loan, payable at such times, and in such amounts, as are specified in the Loan Agreement. The Borrower hereby promises to pay interest on the unpaid principal amount of Tranche B of the Loan from the date hereof until such principal amount is paid in full, at the rate or rates, and payable at such times as are specified in the Loan Agreement.

This Tranche B Note shall be payable at the principal office of the Agent presently located at 399 Park Avenue, New York, New York 10022.

This Tranche B Note is the "Tranche B Note" referred to in that certain Amended and Restated Loan Agreement, dated as of February [__], 2006 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), among the Borrower, ATA Holdings Inc., the other Obligors from time to time party thereto, Air Transportation Stabilization Board, as Tranche A Lender, and Citibank, N.A., as Tranche B Lender, Agent and Collateral Agent, and is entitled to the benefits thereof and of the Security Documents. Capitalized terms used herein and not defined herein are used herein as defined in the Loan Agreement.

Demand, diligence, presentment, protest and notice of non-payment and protest are hereby waived by the Borrower. This Tranche B Note may be prepaid solely as provided in the Loan Agreement and may be accelerated in whole or in part as provided in the Loan Agreement.

This Tranche B Note shall be governed by, and construed in accordance with, the law of the State of New York.

IN WITNESS WHEREOF, the Borrower has caused this Tranche B Note to be executed and delivered by its duly authorized officer as of the date and at the place set forth above.

ATA AIRLINES, INC.,

By: _____
Name:
Title:

EXHIBIT C
FORM OF AFFILIATE GUARANTEE

EXHIBIT D

CERTAIN ECONOMIC TERMS

Insured Amount for each aircraft:	[_____]
Obsolete Parts Cap:	[_____]
Minimum Liability Insurance Amount:	[_____]
Loss Payee Amount:	[_____]
Overdue Rate:	[_____]

EXHIBIT E

FORM OF INTELLECTUAL PROPERTY SECURITY AGREEMENT

EXHIBIT F

FORM OF SUBSIDIARY JOINDER AGREEMENT

JOINDER AGREEMENT, dated as of _____, 200__ (this “Joinder”) by _____ (the “New Subsidiary”) to the Amended and Restated Loan Agreement dated as of February [___], 2006 (as the same may be amended, restated or supplemented or otherwise modified from time to time, the “Loan Agreement”), among ATA Airlines, Inc., as Borrower, the other Obligor from time to time party thereto, the several lenders from time to time party thereto, Citibank, N.A., as Agent, and Citibank, N.A., as Collateral Agent. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Loan Agreement.

RECITALS

WHEREAS, Section 5.14 of the Loan Agreement provides that, following the formation or acquisition by any Obligor of a Subsidiary that is not a controlled foreign corporation, such Obligor shall cause such Subsidiary to execute and deliver to the Agent a Subsidiary Joinder, pursuant to which such Subsidiary shall become a party to the Loan Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the New Subsidiary, the New Subsidiary, intending legally to be bound, hereby agrees as follows:

1. Joinder. By the execution of this Joinder, the New Subsidiary hereby agrees that it is, and shall be deemed for all purposes to be, a Guarantor under the Loan Agreement, and agrees that it is bound by the terms, conditions and obligations set forth therein, with the same force and effect as if the New Subsidiary had been an original signatory thereto.
2. Notice. The address of the New Subsidiary set forth below its signature hereto shall be its address for all purposes of the Loan Agreement as if set forth on Annex A thereto.
3. Governing Law. This Joinder shall be construed in accordance with, and shall be governed by, the laws of the State of New York.
4. Further Assurances. The New Subsidiary agrees to perform any further acts and execute and deliver any additional documents and instruments that may be necessary or reasonably requested by the Agent or the Requisite Lenders to carry out the provisions of this Joinder.

[Signature page follows]

IN WITNESS WHEREOF, the New Subsidiary has executed this Joinder Agreement as of the date first above written.

[NEW SUBSIDIARY]

By: _____

Name:

Title:

Address and Contact Information:

Attn:

Tel:

Fax:

ACKNOWLEDGED:

CITIBANK, N.A.,

as Agent

By: _____

Name:

Title: