

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

(Mark  
One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended June 30, 2009

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 1-15371

**iSTAR FINANCIAL INC.**

(Exact name of registrant as specified in its charter)

**Maryland**

(State or other jurisdiction of  
incorporation or organization)

**95-6881527**

(I.R.S. Employer Identification Number)

**1114 Avenue of the Americas, 39<sup>th</sup> Floor  
New York, NY**

(Address of principal executive offices)

**10036**

(Zip code)

Registrant's telephone number, including area code: **(212) 930-9400**

Indicate by check mark whether the registrant: (i) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding twelve months (or for such shorter period that the registrant was required to file such reports); and (ii) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

As of July 31, 2009, there were 99,651,865 shares of common stock, \$0.001 par value per share of iStar Financial Inc., ("Common Stock") outstanding.

**iStar Financial Inc.****Index to Form 10-Q**

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## PART 1. CONSOLIDATED FINANCIAL INFORMATION

## Item I. Financial Statements

## iStar Financial Inc.

## Consolidated Balance Sheets

(In thousands, except per share data)

(unaudited)

	As of June 30, 2009	As of December 31, 2008, As Adjusted(1)
<b>ASSETS</b>		
Loans and other lending investments, net	\$ 9,578,241	\$ 10,586,644
Corporate tenant lease assets, net	2,992,286	3,044,811
Other investments	391,292	447,318
Other real estate owned	382,570	242,505
Cash and cash equivalents	417,352	496,537
Restricted cash	34,406	155,965
Accrued interest and operating lease income receivable, net	66,611	87,151
Deferred operating lease income receivable	118,062	116,793
Deferred expenses and other assets, net	137,774	119,024
<b>Total assets</b>	<b>\$ 14,118,594</b>	<b>\$ 15,296,748</b>
<b>LIABILITIES AND EQUITY</b>		
<b>Liabilities:</b>		
Accounts payable, accrued expenses and other liabilities	\$ 230,491	\$ 354,492
Debt obligations, net	11,826,503	12,486,404
<b>Total liabilities</b>	<b>12,056,994</b>	<b>12,840,896</b>
Commitments and contingencies	—	—
Redeemable noncontrolling interests	7,447	9,190
<b>Equity:</b>		
iStar Financial Inc. shareholders' equity:		
Series D Preferred Stock, \$0.001 par value, liquidation preference \$25.00 per share, 4,000 shares issued and outstanding at June 30, 2009 and December 31, 2008	4	4
Series E Preferred Stock, \$0.001 par value, liquidation preference \$25.00 per share, 5,600 shares issued and outstanding at June 30, 2009 and December 31, 2008	6	6
Series F Preferred Stock, \$0.001 par value, liquidation preference \$25.00 per share, 4,000 shares issued and outstanding at June 30, 2009 and December 31, 2008	4	4
Series G Preferred Stock, \$0.001 par value, liquidation preference \$25.00 per share, 3,200 shares issued and outstanding at June 30, 2009 and December 31, 2008	3	3
Series I Preferred Stock, \$0.001 par value, liquidation preference \$25.00 per share, 5,000 shares issued and outstanding at June 30, 2009 and December 31, 2008	5	5
High Performance Units	9,800	9,800
Common Stock, \$0.001 par value, 200,000 shares authorized, 137,832 issued and 99,618 outstanding at June 30, 2009 and 137,352 issued and 105,457 outstanding at December 31, 2008	138	137
Additional paid-in capital	3,781,697	3,768,772
Retained earnings (deficit)	(1,628,971)	(1,240,280)
Accumulated other comprehensive income (see Note 13)	4,381	1,707
Treasury stock, at cost, \$0.001 par value, 38,214 shares at June 30, 2009 and 31,895 shares at December 31, 2008	(137,883)	(121,159)
<b>Total iStar Financial Inc. shareholders' equity</b>	<b>2,029,184</b>	<b>2,418,999</b>
Noncontrolling interests	24,969	27,663
<b>Total equity</b>	<b>2,054,153</b>	<b>2,446,662</b>
<b>Total liabilities and equity</b>	<b>\$ 14,118,594</b>	<b>\$ 15,296,748</b>

## Explanatory Note:

- (1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion (including Partial Cash Settlement)" and SFAS No. 160, "Noncontrolling Interest in Consolidated Financial Statements an amendment of ARB No. 51." Both new standards require retroactive application for prior periods presented. See Notes 3 and 8 for further details.

The accompanying notes are an integral part of the consolidated financial statements.



**iStar Financial Inc.**
**Consolidated Statements of Operations**
**(In thousands, except per share data)**
**(unaudited)**

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008, As Adjusted(1)	2009	2008, As Adjusted(1)
<b>Revenue:</b>				
Interest income	\$ 142,181	\$ 235,354	\$ 319,408	\$ 511,453
Operating lease income	76,835	77,295	155,485	155,495
Other income	5,560	7,760	8,073	65,785
Total revenue	224,576	320,409	482,966	732,733
<b>Costs and expenses:</b>				
Interest expense	127,186	164,470	258,351	334,250
Operating costs—corporate tenant lease assets	5,615	4,546	12,161	9,613
Depreciation and amortization	24,825	24,025	48,477	47,887
General and administrative	38,421	44,004	77,810	86,780
Provision for loan losses	435,016	276,660	693,112	366,160
Impairment of other assets	24,817	57,692	45,962	57,692
Impairment of goodwill	—	39,092	4,186	39,092
Other expense	53,310	1,704	60,308	5,504
Total costs and expenses	709,190	612,193	1,200,367	946,978
Income (loss) before earnings (loss) from equity method investments and other items	(484,614)	(291,784)	(717,401)	(214,245)
Gain on early extinguishment of debt	200,879	—	355,256	—
Gain on sale of joint venture interest	—	280,219	—	280,219
Earnings (loss) from equity method investments	1,864	6,070	(18,636)	3,473
Income (loss) from continuing operations	(281,871)	(5,495)	(380,781)	69,447
Income (loss) from discontinued operations	(102)	5,994	119	14,025
Gain from discontinued operations	—	50,476	11,617	52,532
Net income (loss)	(281,973)	50,975	(369,045)	136,004
Net loss attributable to noncontrolling interests	271	771	1,514	567
Gain on sale of joint venture interest attributable to noncontrolling interests	—	(18,560)	—	(18,560)
Gain from discontinued operations attributable to noncontrolling interests	—	(3,689)	—	(3,689)
Net income (loss) attributable to iStar Financial Inc.	(281,702)	29,497	(367,531)	114,322
Preferred dividend requirements	(10,580)	(10,580)	(21,160)	(21,160)
Net income (loss) attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders(2)(3)(4)	\$ (292,282)	\$ 18,917	\$ (388,691)	\$ 93,162
<b>Per common share data(4):</b>				
Income (loss) attributable to iStar Financial Inc. from continuing operations:				
Basic	\$ (2.85)	\$ (0.24)	\$ (3.79)	\$ 0.21
Diluted	\$ (2.85)	\$ (0.24)	\$ (3.79)	\$ 0.22
Net income (loss) attributable to iStar Financial Inc.:				
Basic	\$ (2.85)	\$ 0.14	\$ (3.68)	\$ 0.67
Diluted	\$ (2.85)	\$ 0.14	\$ (3.68)	\$ 0.67
Weighted average number of common shares—basic	99,769	134,399	102,671	134,330
Weighted average number of common shares—diluted	99,769	134,399	102,671	134,782
<b>Per HPU share data(2)(4):</b>				
Income (loss) attributable to iStar Financial Inc. from continuing operations:				
Basic	\$ (538.80)	\$ (46.73)	\$ (718.14)	\$ 40.20
Diluted	\$ (538.80)	\$ (46.73)	\$ (718.14)	\$ 40.13
Net income (loss) attributable to iStar Financial Inc.:				
Basic	\$ (539.00)	\$ 26.07	\$ (697.07)	\$ 126.93
Diluted	\$ (539.00)	\$ 26.07	\$ (697.07)	\$ 126.53
Weighted average number of HPU shares—basic and diluted	15	15	15	15

**Explanatory Notes:**

- On January 1, 2009, the Company adopted the provisions of FSP APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion (including Partial Cash Settlement)," SFAS No. 160, "Noncontrolling Interest in Consolidated Financial Statements an amendment of ARB No. 51," and FSP EITF 03-6-1, "Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities." These new standards require retroactive application for prior periods presented. See Notes 3, 8, 9 and 12 for further details.
- HPU holders are Company employees who purchased high performance common stock units under the Company's High Performance Unit Program (see Note 12).
- Participating Security holders are Company employees and directors who hold unvested restricted stock units and common stock equivalents granted under the Company's Long Term Incentive Plans (see Notes 11 and 12).
- See Note 12 for amounts attributable to iStar Financial Inc. for income (loss) from continuing operations and further details on the calculation of earnings per share.

The accompanying notes are an integral part of the consolidated financial statements.

**iStar Financial Inc.**  
**Consolidated Statement of Changes in Equity**  
**For the Six Months Ended June 30, 2009**  
**(In thousands)**  
**(unaudited)**

<b>iStar Financial Inc. Shareholders' Equity</b>													
	Series D Preferred Stock	Series E Preferred Stock	Series F Preferred Stock	Series G Preferred Stock	Series I Preferred Stock	Common Stock at Par	Additional Paid-In Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Income	Treasury Stock at cost	Noncontrolling Interests	Total	
Balance at December 31, 2008, As Adjusted(1)	\$ 4	\$ 6	\$ 4	\$ 3	\$ 5	\$9,800	\$ 137	\$3,731,379	\$(1,232,506)	\$ 1,707	\$(121,159)	\$ 27,663	\$2,417,043
Adoption of FSP APB 14-1 (see Notes 3 and 8)	—	—	—	—	—	—	—	37,393	(7,774)	—	—	—	29,619
Adjusted beginning balance January 1, 2009	\$ 4	\$ 6	\$ 4	\$ 3	\$ 5	\$9,800	\$ 137	\$3,768,772	\$(1,240,280)	\$ 1,707	\$(121,159)	\$ 27,663	\$2,446,662
Dividends declared—preferred	—	—	—	—	—	—	—	(21,160)	—	—	—	—	(21,160)
Repurchase of stock	—	—	—	—	—	—	—	—	—	(16,724)	—	—	(16,724)
Issuance of stock—vested restricted stock units	—	—	—	—	—	—	1	12,925	—	—	—	—	12,926
Net loss for the period(2)	—	—	—	—	—	—	—	(367,531)	—	—	—	(1,511)	(369,042)
Contributions from noncontrolling interests	—	—	—	—	—	—	—	—	—	—	—	5	5
Distributions to noncontrolling interests	—	—	—	—	—	—	—	—	—	—	—	(1,188)	(1,188)
Change in accumulated other comprehensive income	—	—	—	—	—	—	—	—	2,674	—	—	—	2,674
Balance at June 30, 2009	\$ 4	\$ 6	\$ 4	\$ 3	\$ 5	\$9,800	\$ 138	\$3,781,697	\$(1,628,971)	\$ 4,381	\$(137,883)	\$ 24,969	\$2,054,153

**Explanatory Notes:**

- (1) On January 1, 2009, the Company adopted the provisions of SFAS No. 160, "Noncontrolling Interest in Consolidated Financial Statements an amendment of ARB No. 51." The new standard requires retroactive application for prior periods presented. See Notes 3 and 9 for further details.
- (2) For the six months ended June 30, 2009, net loss excludes \$3 attributable to redeemable noncontrolling interests.

The accompanying notes are an integral part of the consolidated financial statements.

**iStar Financial Inc.**
**Consolidated Statements of Cash Flows**
**(In thousands)**
**(unaudited)**

	<b>For the Six Months Ended June 30,</b>	
	<b>2009</b>	<b>2008, As Adjusted(1)</b>
<b>Cash flows from operating activities:</b>		
Net income (loss)	\$ (369,045)	\$ 136,004
Adjustments to reconcile net income (loss) to cash flows from operating activities:		
Non-cash expense for stock-based compensation	13,051	12,602
Shares withheld for employee taxes on stock-based compensation arrangements	(535)	(2,845)
Impairment of goodwill	4,186	39,092
Impairment of other assets	45,962	57,692
Depreciation, depletion and amortization	48,598	54,510
Amortization of discounts/premiums and deferred financing costs on debt	3,877	21,136
Amortization of discounts/premiums, deferred interest and costs on lending investments	(66,257)	(112,376)
Discounts, loan fees and deferred interest received	4,821	17,199
(Income) loss from unconsolidated entities	18,636	(3,473)
Distributions from operations of unconsolidated entities	18,149	32,133
Deferred operating lease income receivable	(8,340)	(8,790)
Gain from discontinued operations	(11,617)	(52,532)
Gain on early extinguishment of debt	(355,256)	—
Gain on sale of joint venture interest	—	(280,219)
Provision for loan losses	693,112	366,160
Provision for deferred taxes	1,342	2,486
Other non-cash adjustments	(384)	(2,134)
Note receivable from investment redemption	—	(44,228)
Changes in assets and liabilities:		
Changes in accrued interest and operating lease income receivable, net	19,748	26,032
Changes in deferred expenses and other assets, net	7,165	(17,078)
Changes in accounts payable, accrued expenses and other liabilities	(29,557)	(25,090)
Cash flows from operating activities	<u>37,656</u>	<u>216,281</u>
<b>Cash flows from investing activities:</b>		
New investment originations	—	(13,559)
Add-on fundings under existing loan commitments	(734,107)	(1,912,899)
Purchase of securities	(11,137)	—
Repayments of and principal collections on loans	382,895	1,261,571
Net proceeds from sales of loans	399,720	179,008
Net proceeds from sales of discontinued operations	36,455	406,151
Net proceeds from sales of other real estate owned	145,572	86,176
Net proceeds from sale of joint venture interest	—	416,970
Net proceeds from repayments and sales of securities	16,328	9,022
Contributions to unconsolidated entities	(18,673)	(23,421)
Distributions from unconsolidated entities	5,811	6,390
Capital improvements for build-to-suit facilities	(7,152)	(60,307)
Capital expenditures and improvements on corporate tenant lease assets	(1,691)	(14,871)
Other investing activities, net	(5,588)	(12,809)
Cash flows from investing activities	<u>208,433</u>	<u>327,422</u>
<b>Cash flows from financing activities:</b>		
Borrowings under revolving credit facilities	115,039	8,700,315
Repayments under revolving credit facilities	(350,896)	(8,980,245)
Repayments under interim financing	—	(1,289,811)
Borrowings under secured term loans	1,000,000	1,307,776
Repayments under secured term loans	(305,758)	(74,698)
Borrowings under unsecured notes	—	740,506
Repayments under unsecured notes	(383,399)	(591,968)
Repurchases of unsecured notes	(423,691)	—
Contributions from noncontrolling interests	5	107
Distributions to noncontrolling interests	(1,188)	(3,257)
Changes in restricted cash held in connection with debt obligations	114,300	(19,640)
Payments for deferred financing costs/proceeds from hedge settlements, net	(51,802)	(27,904)
Common dividends paid	—	(151,921)
Preferred dividends paid	(21,160)	(21,160)
HPU dividends paid	—	(3,156)
HPUs redeemed	—	(11)
Purchase of treasury stock	(16,724)	(5,209)
Proceeds from exercise of options and issuance of DRIP/Stock purchase shares	—	6,612
Cash flows from financing activities	<u>(325,274)</u>	<u>(413,664)</u>
Changes in cash and cash equivalents	(79,185)	130,039
Cash and cash equivalents at beginning of period	496,537	104,507
Cash and cash equivalents at end of period	<u>\$ 417,352</u>	<u>\$ 234,546</u>

**Explanatory Note:**

- (1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion (including Partial Cash Settlement)" and SFAS No. 160, "Noncontrolling Interest in Consolidated Financial Statements an amendment of ARB No. 51." Both new standards require retroactive application for prior periods presented. See Notes 3 and 8 for further details.

The accompanying notes are an integral part of the consolidated financial statements.

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements**

**(unaudited)**

**Note 1—Business and Organization**

**Business**—iStar Financial Inc., or the "Company," is a publicly-traded finance company focused on the commercial real estate industry. The Company primarily provides custom-tailored financing to high-end private and corporate owners of real estate, including senior and mezzanine real estate debt, senior and mezzanine corporate capital, as well as corporate net lease financing and equity. The Company, which is taxed as a real estate investment trust, or "REIT," provides innovative and value-added financing solutions to its customers. The Company delivers customized financing products to sophisticated real estate borrowers and corporate customers who require a high level of flexibility and service. The Company's two primary lines of business are lending and corporate tenant leasing.

The lending business is primarily comprised of senior and mezzanine real estate loans that typically range in size from \$20 million to \$150 million and have initial maturities generally ranging from three to ten years. These loans may be either fixed-rate (based on the U.S. Treasury rate plus a spread) or variable-rate (based on LIBOR plus a spread) and are structured to meet the specific financing needs of the borrowers. The Company also provides senior and subordinated capital to corporations, particularly those engaged in real estate or real estate related businesses. These financings may be either secured or unsecured, typically range in size from \$20 million to \$150 million and have initial maturities generally ranging from three to ten years. As part of the lending business, the Company also acquires whole loans, loan participations and debt securities which present attractive risk-reward opportunities.

The Company's corporate tenant leasing business provides capital to corporations and other owners who control facilities leased to single creditworthy customers. The Company's net leased assets are generally mission critical headquarters or distribution facilities that are subject to long-term leases with public companies, many of which are rated corporate credits, and most of these leases provide for expenses at the facility to be paid by the corporate customer on a triple net lease basis. Corporate tenant lease, or "CTL," transactions have initial terms generally ranging from 15 to 20 years and typically range in size from \$20 million to \$150 million.

The Company's primary sources of revenues are interest income, which is the interest that borrowers pay on loans, and operating lease income, which is the rent that corporate customers pay to lease its CTL properties. The Company primarily generates income through the "spread" or "margin," which is the difference between the revenues generated from loans and leases and interest expense and the cost of CTL operations. The Company generally seeks to match-fund its revenue generating assets with either fixed or floating rate debt of a similar maturity so that changes in interest rates or the shape of the yield curve will have a minimal impact on earnings.

**Organization**—The Company began its business in 1993 through private investment funds. In 1998, the Company converted its organizational form to a Maryland corporation and the Company replaced its former dual class common share structure with a single class of common stock. The Company's common stock ("Common Stock") began trading on the New York Stock Exchange on November 4, 1999. Prior to this date, the Company's Common Stock was traded on the American Stock Exchange. Since that time, the Company has grown through the origination of new lending and leasing transactions, as well as through corporate acquisitions, including the acquisition of TriNet Corporate Realty Trust, Inc. in 1999, the acquisition of Falcon Financial Investment Trust and the acquisition of a significant non-controlling interest in Oak Hill Advisors, L.P. and affiliates in 2005, and the acquisition of the commercial real estate lending business and loan portfolio ("Fremont CRE") of Fremont Investment and Loan ("Fremont"), a division of Fremont General Corporation, in 2007.



**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 2—Basis of Presentation and Principles of Consolidation**

**Basis of Presentation**—The accompanying unaudited Consolidated Financial Statements have been prepared in conformity with the instructions to Form 10-Q and Article 10-01 of Regulation S-X for interim financial statements. Accordingly, they do not include all the information and footnotes required by generally accepted accounting principles in the United States of America ("GAAP") for complete financial statements. These unaudited Consolidated Financial Statements and related Notes should be read in conjunction with the Consolidated Financial Statements and related Notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the dates of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Actual results could differ from those estimates.

In the opinion of management, the accompanying Consolidated Financial Statements contain all adjustments, consisting of normal recurring adjustments, necessary for a fair statement of the Company's consolidated financial position at June 30, 2009 and December 31, 2008, the results of its operations for the three and six months ended June 30, 2009 and 2008 and its changes in equity and its cash flows for the six months ended June 30, 2009 and 2008. Such operating results may not be indicative of the expected results for any other interim periods or the entire year.

Certain prior year amounts have been reclassified in the Consolidated Financial Statements and the related Notes to conform to the 2009 presentation. In addition, the Company adopted three new accounting standards on January 1, 2009 which required retroactive application for presentation of prior periods' Consolidated Financial Statements (see Notes 3, 8, 9 and 12 for further details).

**Principles of Consolidation**—The Consolidated Financial Statements include the accounts of the Company, its qualified REIT subsidiaries, its majority-owned and controlled partnerships and other entities that are consolidated under the provisions of FASB Interpretation No. 46(R), "Consolidation of Variable Interest Entities," an interpretation of ARB 51 ("FIN 46(R)"). The following are variable interest entities for which the Company is the primary beneficiary and has consolidated for financial statement purposes:

During 2008, the Company made a \$49.0 million commitment to OHA Strategic Credit Fund Parallel I, LP ("OHA SCF"). OHA SCF was created to invest in distressed, stressed and undervalued loans, bonds, equities and other investments. The Fund intends to opportunistically invest capital following a period of credit market dislocation. The Company determined that OHA SCF is a variable interest entity ("VIE") and that the Company is the primary beneficiary. As such, the Company consolidates this entity for financial statement purposes. However, as the entity is managed by a third party, the Company does not have control over the entity's assets and liabilities. As of June 30, 2009, OHA SCF had \$27.1 million of total assets, no debt and \$0.1 million of noncontrolling interest. The investments held by this entity are presented in "Other investments" on the Company's Consolidated Balance Sheets. As of June 30, 2009, the Company had a total unfunded commitment of \$32.2 million related to this entity.

During 2007, the Company made a €100.0 million commitment to Moor Park Real Estate Partners II, L.P. Incorporated ("Moor Park"). Moor Park is a third-party managed fund that was created to make investments in European real estate as a 33% investor along-side a sister fund. The Company determined that Moor Park is a VIE and that the Company is the primary beneficiary. As such, the

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 2—Basis of Presentation and Principles of Consolidation (Continued)**

Company consolidates this entity for financial statement purposes. However, as the entity is managed by a third party, the Company does not have control over the entity's assets and liabilities. As of June 30, 2009, Moor Park had \$9.4 million of total assets, no debt and \$0.1 million of noncontrolling interest. The investments held by this entity are presented in "Loans and other lending investments, net" on the Company's Consolidated Balance Sheets. As of June 30, 2009, the Company had a total unfunded commitment of €63.3 million (or \$88.8 million) related to this entity.

During 2006, the Company made an investment in Madison Deutsche Andau Holdings, LP ("Madison DA"). Madison DA was created to invest in mortgage loans secured by real estate in Europe. The Company determined that Madison DA is a VIE and that the Company is the primary beneficiary. As such, the Company consolidates Madison DA for financial statement purposes. However, as the entity is managed by a third party, the Company does not have control over the entity's assets and liabilities. As of June 30, 2009, Madison DA had \$62.9 million of total assets, no debt and \$9.6 million of noncontrolling interest. The investments held by this entity are presented in "Loans and other lending investments" on the Company's Consolidated Balance Sheets.

**Note 3—Summary of Significant Accounting Policies**

As of June 30, 2009, the Company's significant accounting policies, which are detailed in the Company's Annual Report on Form 10-K for the year ended December 31, 2008, had not changed materially.

**New accounting standards**

In June 2009, the Financial Accounting Standards Board ("FASB") issued FASB Statement of Financial Accounting Standards No. 168, "The FASB Accounting Standards Codification™ and the Hierarchy of Generally Accepted Accounting Principles—a replacement of FASB Statement No. 162" ("SFAS No. 168"), which will require the FASB Accounting Standards Codification™ ("Codification") to become the single official source of authoritative, nongovernmental U.S. generally accepted accounting principles ("GAAP"). The Codification will be effective for interim and annual periods ending on or after September 15, 2009. The Company will adopt SFAS No. 168 for the period ending September 30, 2009, as required, and is currently evaluating the impact of this adoption on its Consolidated Financial Statements.

In June 2009, the FASB issued FASB Statement of Financial Accounting Standards No. 167, "Amendments to FASB Interpretation No. 46(R)" ("SFAS No. 167"), which eliminates the exemption for qualifying special purpose entities, creates a new approach for determining who should consolidate a variable-interest entity and requires an ongoing reassessment to determine if a Company should consolidate a variable interest entity. The standard is effective through a cumulative-effect adjustment (with a retroactive option) at adoption and effective for interim and annual periods beginning after November 15, 2009. The Company will adopt SFAS No. 167 on January 1, 2010, as required, and is currently evaluating the impact of this adoption on its Consolidated Financial Statements.

In June 2009, the FASB issued FASB Statement of Financial Accounting Standards No. 166, "Accounting for Transfers of Financial Assets—an amendment of FASB Statement No. 140" ("SFAS No. 166"), which eliminates the qualifying special-purpose entity concept, creates a new unit of account definition that must be met for transfers of portions of financial assets to be eligible for sale accounting,

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 3—Summary of Significant Accounting Policies (Continued)**

clarifies and changes the de-recognition criteria for a transfer to be accounted for as a sale, changes the amount of recognized gain or loss on a transfer of financial assets accounted for as a sale when beneficial interests are received by the transferor and requires new disclosures. The new standard is effective prospectively for transfers of financial assets occurring in interim and annual periods beginning after November 15, 2009. The Company will adopt SFAS No. 166 on January 1, 2010, as required, and is currently evaluating the impact of this adoption on its Consolidated Financial Statements.

In May 2009, the FASB issued FASB Statement of Financial Accounting Standards No. 165, "Subsequent Events" ("SFAS No. 165"), which moved the accounting requirements out of the auditing literature into the body of authoritative literature issued by the FASB. The standard replaced terminology of Type I and Type II with "recognized" and "unrecognized" subsequent events and requires disclosure of the date through which the entity has evaluated subsequent events; whether that evaluation date is the date of issuance or the date the financial statements were available to be issued. SFAS No. 165 is effective for interim or annual periods ending after June 15, 2009. The Company adopted the standard for the period ended June 30, 2009, as required. See Note 17 for additional disclosures required by the adoption of this standard.

On April 2, 2009, the FASB issued FASB Staff Position FAS 157-4, "Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly" ("FSP FAS 157-4"), which offers additional guidance for determining whether the market for a security is inactive and whether transactions in inactive markets are or are not distressed. It also enhances the guidance and illustrations for how to value securities in an inactive market. FSP FAS 157-4 is effective for interim and annual reporting periods ending after June 15, 2009. The Company adopted the standard for the period ended June 30, 2009, as required, and it did not have a significant impact on the Company's Consolidated Financial Statements.

On April 2, 2009, the FASB issued FASB Staff Positions FAS 115-2 and FAS 124-2, "Recognition and Presentation of Other-Than-Temporary Impairments" ("FSP FAS 115-2"), which changes the method for determining whether an other-than-temporary impairment exists for debt securities and the amount of impairment charge to be recorded in earnings. To determine whether an other-than-temporary impairment exists, an entity will assess the likelihood of selling the security prior to recovering its cost basis, a change from the current requirements where an entity assesses whether it has the intent and ability to hold a security to recovery. If the criteria is met to assert that an entity has the positive intent to hold and will not have to sell the security before recovery, impairment charges related to credit losses would be recognized in earnings, while impairment charges related to non-credit loss (e.g. liquidity risk) would be reflected in other comprehensive income. Upon adoption, changes in assertions will require cumulative effect adjustments to the opening balance of retained earnings. FSP FAS 115-2 is effective for interim and annual reporting periods ending after June 15, 2009. The Company adopted the standard for the period ended June 30, 2009, as required, and it did not have a significant impact on the Company's Consolidated Financial Statements. See Note 4 for additional disclosures required by the adoption of this standard.

On April 2, 2009, the FASB issued FASB Staff Positions FAS 107-1 and APB 28-1, "Interim Disclosures about Fair Value of Financial Instruments" ("FSP FAS 107-1"), which expands disclosures of fair values of financial instruments under FASB Statement No. 107, "Disclosures about Fair Value of Financial Instruments," to include interim financial statements. FSP FAS 107-1 is effective for interim and annual reporting periods ending after June 15, 2009. The Company adopted the standard for the period

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 3—Summary of Significant Accounting Policies (Continued)**

ended June 30, 2009, as required. See Note 15 for additional disclosures required by the adoption of this standard.

In February 2009, the FASB issued FASB Staff Position FAS 141(R)-1, "Accounting for Assets Acquired and Liabilities Assumed in a Business Combination That Arise from Contingencies" ("FSP FAS 141(R)-1"), which amends provisions related to the initial recognition and measurement, subsequent measurement and disclosures of assets and liabilities arising from contingencies in a business combination under FASB No. 141(R), "Business Combinations" ("SFAS No. 141(R)"). The amendment carries forward the requirements for acquired contingencies under FASB No. 141, "Business Combinations," which recognizes contingencies at fair value on the acquisition date, if fair value can be reasonably estimated during the allocation period. Otherwise, companies would account for the acquired contingencies in accordance with FASB No. 5, "Accounting for Contingencies." In addition, the amendment eliminates the requirement to disclose an estimate of the range of outcomes for recognized contingencies at the acquisition date. FSP FAS 141(R)-1 is effective for all business combinations on or after January 1, 2009. The Company adopted this Staff Position on January 1, 2009, as required, and it did not have a significant impact on the Company's Consolidated Financial Statements.

In June 2008, the FASB issued FASB Staff Position EITF 03-6-1, "Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities" ("FSP EITF 03-6-1"). FSP EITF 03-6-1 addresses whether instruments granted in share-based payment transactions are participating securities prior to vesting and, therefore, need to be included in the earnings allocation in calculating earnings per share under the two-class method as described in SFAS No. 128, "Earnings per Share." Under the guidance in FSP EITF 03-6-1, unvested share-based payment awards that contain non-forfeitable rights to dividends or dividend equivalents (whether paid or unpaid) are participating securities and shall be included in the computation of earnings per share pursuant to the two-class method. FSP EITF 03-6-1 is effective for financial statements issued for fiscal years beginning after December 15, 2008, and interim periods within those years. All prior-period EPS data presented shall be adjusted retrospectively (including interim financial statements) to conform to the provisions of this FSP. The Company adopted this standard on January 1, 2009, as required. See Note 12 for further details on the impact of the adoption of this Staff Position.

In May 2008, the FASB issued FSP APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion (Including Partial Cash Settlement)" ("FSP APB 14-1"). This standard requires the initial proceeds from convertible debt that may be settled in cash be bifurcated between a liability component and an equity component. The objective of the guidance is to require the liability and equity components of convertible debt to be separately accounted for in a manner such that the interest expense recorded on the convertible debt would not equal the contractual rate of interest on the convertible debt, but instead would be recorded at a rate that would reflect the issuer's conventional non-convertible debt borrowing rate at the date of issuance. This is accomplished through the creation of a discount on the debt that would be accreted using the effective interest method as additional non-cash interest expense over the period the debt is expected to remain outstanding. The provisions of FSP APB 14-1 will be applied retrospectively to all periods presented for fiscal years beginning after December 31, 2008. The adoption of FSP APB 14-1 on January 1, 2009 resulted in a reduction of the carrying value of the debt and an increase to additional paid in capital (or equity) of \$37.4 million, representing the conversion feature. In addition, beginning retained earnings was reduced by \$7.8 million

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 3—Summary of Significant Accounting Policies (Continued)**

representing additional accretion of the new debt discount using the effective interest method of non-cash interest expense from inception to adoption. The Consolidated Statements of Operations for the three and six months ended June 30, 2008 were retroactively adjusted to include an additional \$1.6 million and \$3.2 million, respectively, of interest expense from the adoption of the guidance. See Notes 8 and 12 for further details on the impact of the adoption of this guidance.

In April 2008, the FASB issued FSP FAS 142-3, "Determination of the Useful Life of Intangible Assets" ("FSP FAS 142-3"). FSP FAS 142-3 removes the requirement of SFAS No. 142, "Goodwill and Other Intangible Assets" ("SFAS No. 142") for an entity to consider, when determining the useful life of an acquired intangible asset, whether the intangible asset can be renewed without substantial cost or material modifications to the existing terms and conditions associated with the intangible asset. FSP FAS 142-3 replaces the previous useful-life assessment criteria with a requirement that an entity considers its own experience in renewing similar arrangements. If the entity has no relevant experience, it would consider market participant assumptions regarding renewal. FSP FAS 142-3 is effective prospectively for financial statements issued for fiscal years beginning after December 15, 2008, and interim periods within those fiscal years. Early adoption was prohibited. The Company adopted this interpretation on January 1, 2009, as required, and it did not have a significant impact on the Company's Consolidated Financial Statements.

In March 2008, the FASB issued Statement No. 161, "Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133" ("SFAS No. 161"). The Statement requires companies to provide enhanced disclosures regarding derivative instruments and hedging activities. It requires companies to better convey the purpose of derivative use in terms of the risks that the Company is intending to manage. Disclosures about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS No. 133"), and its related interpretations, and (c) how derivative instruments and related hedged items affect a company's financial position, financial performance, and cash flows are required. This Statement retains the same scope as SFAS No. 133, is effective for fiscal years and interim periods beginning after November 15, 2008 and does not require comparative period disclosures in the year of adoption. The Company adopted SFAS No. 161 on January 1, 2009, as required. See Note 10 for the disclosures required by the adoption of this standard.

In February 2008, the FASB issued a FASB Staff Position on Accounting for Transfers of Financial Assets and Repurchase Financing Transactions ("FSP FAS 140-3"). This FSP addresses the issue of whether or not these transactions should be viewed as two separate transactions or as one "linked" transaction. The FSP includes a "rebuttable presumption" that presumes linkage of the two transactions unless the presumption can be overcome by meeting certain criteria. The FSP became effective for fiscal years beginning after November 15, 2008 and applies only to original transfers made after that date; early adoption was not allowed. The Company adopted this interpretation on January 1, 2009, as required, and it did not have a significant impact on the Company's Consolidated Financial Statements.

In February 2008, the FASB issued FASB Staff Position FSP 157-2, "Effective Date of FASB Statement No. 157" ("FSP 157-2"). FSP 157-2 provided a one-year deferral of the effective date of SFAS No. 157 for all non-financial assets and non-financial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis. These non-financial items include assets and liabilities such as reporting units measured at fair value in a goodwill impairment test and

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 3—Summary of Significant Accounting Policies (Continued)**

non-financial assets acquired and liabilities assumed in a business combination. The Company adopted the provisions of FSP 157-2 on January 1, 2009, as required, and made the required fair value disclosures for non-recurring non-financial assets and non-financial liabilities (see Note 15 for further details).

In December 2007, the FASB issued SFAS No. 141(R), "Business Combinations" ("SFAS No. 141(R)"). SFAS No. 141(R) expands the definition of transactions and events that qualify as business combinations, requires that the acquired assets and liabilities, including contingencies, be recorded at the fair value determined on the acquisition date and changes thereafter are reflected in revenue, not goodwill; changes the recognition timing for restructuring costs, and requires acquisition costs to be expensed as incurred. Adoption of SFAS No. 141(R) is required for combinations made in annual reporting periods on or after December 15, 2008. Early adoption and retroactive application of SFAS No. 141(R) to fiscal years preceding the effective date are not permitted. The Company adopted SFAS No. 141(R) on January 1, 2009, as required, and it did not have a significant impact on the Company's Consolidated Financial Statements.

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interest in Consolidated Financial Statements an amendment of ARB No. 51" ("SFAS No. 160"). SFAS No. 160 re-characterizes minority interests in consolidated subsidiaries as noncontrolling interests and requires the classification of minority interests as a component of equity. Under SFAS 160, a change in control is measured at fair value, with any gain or loss recognized in earnings. The effective date for SFAS No. 160 is for annual periods beginning on or after December 15, 2008. Early adoption and retroactive application of SFAS No. 160 to fiscal years preceding the effective date are not permitted. The Company adopted this standard on January 1, 2009, as required, and reclassified the carrying value of certain noncontrolling interests (previously referred to as minority interests) from the mezzanine section of the balance sheet to equity. Net income on the Consolidated Statements of Operations includes the operating results of both the Company and its related noncontrolling interest holders. In accordance with EITF Topic D-98, "Classification and Measurement of Redeemable Securities," subsidiaries where the noncontrolling interest holder has certain redemption rights have been classified as "Redeemable noncontrolling interests" on the Consolidated Balance Sheets and their related operating income or loss have been included in "Net (income) loss attributable to noncontrolling interests" on the Consolidated Statements of Operations. See Note 9 for additional disclosures required by the adoption of this standard.

**iStar Financial Inc.**
**Notes to Consolidated Financial Statements (Continued)**
**(unaudited)**
**Note 4—Loans and Other Lending Investments, net**

The following is a summary description of the Company's loans and other lending investments (\$ in thousands)(1):

Type of Investment	Underlying Property Type	# of Borrowers In Class	Principal Balances Outstanding	Carrying Value as of		Effective Maturity Dates	Contractual Interest Payment Rates(2)	Contractual Interest Accrual Rates(2)
				June 30, 2009	December 31, 2008			
Senior Mortgages(3)(4)(5)(6)	Residential/Retail/Land/Industrial, R&D/Mixed Use/Office/Hotel/Entertainment, Leisure/Other	233	\$ 9,108,903	\$ 9,023,727	\$ 9,261,424	2009 to 2026	Fixed: 5.71% to 21% Variable: LIBOR + 2% to LIBOR + 8.5%	Fixed: 5.71% to 21% Variable: LIBOR + 2% to LIBOR + 8.5%
Subordinate Mortgages(3)(4)(5)(6)	Residential/Retail/Land/Mixed Use/Office/Hotel/Entertainment, Leisure/Other	22	518,692	515,960	589,414	2009 to 2018	Fixed: 7.32% to 10.5% Variable: LIBOR + 2.85% to LIBOR + 11.5%	Fixed: 7.32% to 15% Variable: LIBOR + 2.85% to LIBOR + 11.5%
Corporate/Partnership Loans(3)(4)(5)(6)	Residential/Retail/Land/Mixed Use/Office/Hotel/Other	34	1,262,491	1,241,716	1,435,941	2009 to 2046	Fixed: 4.5% to 15% Variable: LIBOR + 2.15% to LIBOR + 7%	Fixed: 8.5% to 17% Variable: LIBOR + 2.15% to LIBOR + 14%
Total Loans				10,781,403	11,286,779			
Reserve for Loan Losses				(1,469,415)	(976,788)			
Total Loans, net				9,311,988	10,309,991			
Other Lending Investments—Securities(3)	Retail/Industrial, R&D/Entertainment, Leisure/Other	6	446,664	266,253	276,653	2012 to 2023	Fixed: 6% to 9.25%	Fixed: 6% to 9.25%
Total Loans and Other Lending Investments, net				\$ 9,578,241	\$ 10,586,644			

**Explanatory Notes:**

- Details (other than carrying values) are for loans outstanding as of June 30, 2009. Differences between principal and carrying value primarily relate to unamortized deferred fees on loans and impairments on securities.
- Substantially all variable-rate loans are based on either 30-day LIBOR and reprice monthly or six-month LIBOR and reprice semi-annually. The 30-day LIBOR and six-month LIBOR rates on June 30, 2009 were 0.31% and 1.11%, respectively.
- Certain loans require fixed payments of principal resulting in partial principal amortization over the term of the loan with the remaining principal due at maturity.
- As of June 30, 2009, 90 loans with a combined carrying value of \$4.16 billion are on non-accrual status. As of December 31, 2008, 68 loans with a combined carrying value of \$3.11 billion were on non-accrual status.
- As of June 30, 2009, 18 loans with a combined carrying value of \$846.1 million have a stated accrual rate that exceeds the stated pay rate. Of these, 11 loans with a combined carrying value of \$533.8 million have stated accrual rates of up to 17%, however, no interest is due until their scheduled maturities ranging from 2009 to 2017. One Corporate/Partnership loan, with a carrying value of \$56.7 million, has a stated accrual rate of 7.54% and no interest is due until its scheduled maturity in 2046.
- As of June 30, 2009, balances include foreign denominated loans with combined carrying values of approximately £133.5 million, €180.5 million, CAD 59.1 million and SEK 101.3 million that have been converted to \$536.9 million based on exchange rates in effect at June 30, 2009.

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 4—Loans and Other Lending Investments, net (Continued)**

During the six months ended June 30, 2009, the Company funded \$734.1 million under existing loan commitments and received gross principal repayments of \$905.5 million, a portion of which was allocable to the Fremont Participation (as defined below). During the six months ended June 30, 2008, the Company funded \$1.91 billion under existing loan commitments, originated or acquired an aggregate of \$11.6 million in loans and other lending investments and received gross principal repayments of \$2.40 billion, a portion of which was allocable to the Fremont Participation.

During the three and six months ended June 30, 2009, the Company sold loans for net proceeds of \$154.1 million and \$412.2 million, respectively, for which it recognized charge-offs of \$41.0 million and \$92.1 million, respectively. During the three and six months ended June 30, 2008, the Company sold loans for net proceeds of \$20.3 million and \$179.0 million, respectively, for which it recorded net realized losses of \$1.5 million and \$0.6 million, respectively.

**Reserve for loan losses**—Changes in the Company's reserve for loan losses were as follows (in thousands):

<b>Reserve for loan losses, December 31, 2007</b>	<b>\$ 217,910</b>
Provision for loan losses	1,029,322
Charge-offs	(270,444)
<b>Reserve for loan losses, December 31, 2008</b>	<b>976,788</b>
Provision for loan losses	693,112
Charge-offs	(200,485)
<b>Reserve for loan losses, June 30, 2009</b>	<b><u>\$1,469,415</u></b>

As of June 30, 2009 and December 31, 2008, the Company identified loans with carrying values of \$4.51 billion and \$3.37 billion, respectively, and Managed Loan Values (as defined below) of \$5.01 billion and \$3.78 billion, respectively, that were impaired in accordance with FASB Statement No. 114, "Accounting by Creditors for Impairments of a Loan (an amendment of FASB Statement No. 5 and 15)" ("SFAS No. 114"). As of June 30, 2009, the Company assessed the impaired loans for specific impairment and determined that non-performing loans with a Managed Loan Value of \$4.29 billion required specific reserves totaling \$1.25 billion and that the remaining impaired loans did not require any specific reserves. The provision for loan losses for the three and six months ended June 30, 2009 was \$435.0 million and \$693.1 million, respectively, and \$276.7 million and \$366.2 million for the three and six months ended June 30, 2008, respectively. The total reserve for loan losses at June 30, 2009 and December 31, 2008, included SFAS No. 114 asset specific reserves of \$1.25 billion and \$799.6 million, respectively, and general reserves of \$220.3 million and \$177.2 million, respectively, in accordance with FASB Statement No. 5, "Accounting Contingencies" ("SFAS No. 5").

The average Managed Loan Value of total impaired loans was approximately \$4.27 billion and \$1.12 billion during the six months ended June 30, 2009 and 2008, respectively. The Company recorded interest income on cash payments from impaired loans of \$5.9 million and \$8.9 million for the three and six months ended June 30, 2009, respectively, and \$0.9 million and \$2.8 million for the three and six months ended June 30, 2008, respectively.



**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 4—Loans and Other Lending Investments, net (Continued)**

**Managed Loan Value**—Managed Loan Value represents the Company's carrying value of loans, gross of specific reserves, and the Fremont Participation interest (as defined below) outstanding on the Fremont CRE portfolio. The Fremont Participation receives 70% of all loan principal repayments, including repayments of principal that the Company has funded subsequent to the sale of the participation interest. Therefore, the Company is in the first loss position and believes that the total recorded investment is more relevant than the Company's carrying value when assessing the Company's risk of loss on the loans in the Fremont CRE portfolio and has disclosed both values where applicable.

**Securities**—As of June 30, 2009, Other lending investments-securities included available-for-sale debt securities with an amortized cost of \$3.8 million and a fair value of \$7.3 million. In addition, as of June 30, 2009, available-for-sale debt securities included a gross unrealized gain of \$3.5 million recorded in "Accumulated other comprehensive income." During the six months ended June 30, 2009, the Company sold available-for-sale securities with a cumulative carrying value of \$7.2 million, for which it recorded a net realized gain of \$0.5 million in "Other income" on the Company's Consolidated Statements of Operations.

In addition, as of June 30, 2009, Other lending investments-securities included held-to-maturity debt securities with an amortized cost basis and carrying value of \$256.9 million, a fair value of \$257.7 million and gross unrealized gains of \$0.8 million.

During the six months ended June 30, 2009, the Company determined that unrealized losses on certain held-to-maturity and available-for-sale debt securities were other-than-temporary and recorded impairment charges totaling \$9.5 million. During the three and six months ended June 30, 2008, the Company recorded impairment charges on held-to-maturity and available-for-sale debt securities totaling \$40.0 million. There are no other-than-temporary impairments recorded in "Accumulated other comprehensive income" in the Consolidated Balance Sheet as of June 30, 2009.

As of June 30, 2009, \$221.1 million of held-to-maturity securities mature in one to five years and \$35.8 million of held-to-maturity securities and \$7.3 million of available-for-sale securities mature in five to ten years.

**SOP 03-3 loans**—AICPA Statement of Position 03-3 ("SOP 03-3") prescribes the accounting treatment for acquired loans with evidence of credit deterioration for which it is probable, at acquisition, that all contractually required payments will not be received. As of June 30, 2009 and December 31, 2008, the Company had SOP 03-3 loans with a cumulative principal balance of \$202.4 million and \$208.8 million, respectively, and a cumulative carrying value of \$175.5 million and \$175.1 million, respectively. The Company does not have a reasonable expectation about the timing and amount of cash flows expected to be collected on the SOP 03-3 loans and is recognizing income using the cash basis of accounting or applying cash to reduce the carrying value of the loans, using the cost recovery method. The majority of the Company's SOP 03-3 loans were acquired in the acquisition of Fremont CRE.

**Fremont Participation**—On July 2, 2007, the Company sold a \$4.20 billion participation interest ("Fremont Participation") in the \$6.27 billion Fremont CRE portfolio. Under the terms of the participation, the Company pays 70% of all principal collected from the Fremont CRE portfolio, including principal collected from amounts funded on the loans subsequent to the acquisition of the portfolio, until the participation is fully repaid. The Fremont CRE participation pays floating interest at LIBOR + 1.50%.

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 4—Loans and Other Lending Investments, net (Continued)**

Changes in the outstanding Fremont CRE participation balance were as follows (in thousands):

<b>Loan participation, December 31, 2008</b>	<b>\$1,297,944</b>
Principal repayments(1)	(432,382)
<b>Loan participation, June 30, 2009</b>	<b>\$ 865,562</b>

**Explanatory Note:**

- (1) Includes \$47.8 million of principal repayments received by the Company as of June 30, 2009 that had not yet been remitted to the Fremont Participation holder and are reflected as a payable in "Accounts payable, accrued expenses and other liabilities" on the Company's Consolidated Balance Sheets.

**Unfunded commitments**—As of June 30, 2009, the Company had 122 loans with unfunded commitments totaling \$1.34 billion, of which \$161.8 million were discretionary and \$1.17 billion were non-discretionary. Unfunded loan commitments are primarily related to construction loans.

**Other Real Estate Owned**—During the six months ended June 30, 2009 and 2008, the Company received titles to properties in satisfaction of senior mortgage loans with cumulative carrying values of \$375.8 million and \$265.3 million, respectively, for which those properties had served as collateral, and recorded charge-offs totaling \$96.2 million and \$46.6 million, respectively, related to these loans. During the three and six months ended June 30, 2009, the Company sold OREO assets for net proceeds of \$72.3 million and \$145.6 million, respectively, resulting in net losses of \$5.8 million and \$10.7 million, respectively. During the six months ended June 30, 2008, the Company sold OREO assets for net proceeds of \$81.3 million, and a net gain of \$0.5 million.

Capital expenditures related to OREO assets totaled \$3.3 million and \$4.9 million during the three and six months ended June 30, 2009, respectively, and \$8.0 million and \$9.5 million during the three and six months ended June 30, 2008, respectively.

During the three and six months ended June 30, 2009, the Company recorded impairment charges to existing OREO properties totaling \$16.4 million and \$18.2 million, respectively, resulting from changing market conditions. In addition, the Company recorded expense related to holding costs for OREO properties of \$7.0 million and \$13.4 million during the three and six months ended June 30, 2009, respectively, and \$4.8 million and \$7.1 million during the three and six months ended June 30, 2008, respectively.

**Encumbered loans and OREO assets**—As of June 30, 2009, loans and other lending investments with a cumulative carrying value of \$4.36 billion and OREO assets with a cumulative carrying value \$166.7 million were pledged as collateral under the Company's secured indebtedness. As of December 31, 2008, loans and other lending investments with a cumulative carrying value of \$1.18 billion were pledged as collateral under the Company's secured indebtedness. See Note 8 for further details.

**Note 5—Corporate Tenant Lease Assets, net**

During the three and six months ended June 30, 2009, the Company disposed of CTL assets for net proceeds of \$4.1 million and \$36.5 million, respectively, which resulted in no gains for the three months ended June 30, 2009 and gains of \$11.6 million for the six months ended June 30, 2009. During the three and six months ended June 30, 2008, the Company disposed of CTL assets for net proceeds of \$245.1 million and \$253.3 million, respectively, which resulted in gains of \$23.3 million and \$25.4 million, respectively.

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 5—Corporate Tenant Lease Assets, net (Continued)**

The Company's investments in CTL assets, at cost, were as follows (in thousands):

	As of June 30, 2009	As of December 31, 2008
Facilities and improvements	\$2,810,083	\$2,828,747
Land and land improvements	668,987	669,320
Less: accumulated depreciation	(486,784)	(453,256)
Corporate tenant lease assets, net	<u>\$2,992,286</u>	<u>\$3,044,811</u>

Under certain leases, the Company is entitled to receive additional participating lease payments to the extent gross revenues of the corporate customer exceed a base amount. The Company earned an additional \$0.1 million in participating lease payments on such leases during the six months ended June 30, 2009 and earned \$1.4 million for the six months ended June 30, 2008. In addition, the Company also receives reimbursements from customers for certain facility operating expenses including common area costs, insurance and real estate taxes. Customer expense reimbursements were \$10.4 million and \$18.9 million for the three and six months ended June 30, 2009, respectively, and \$10.0 million and \$19.4 million for the three and six months ended June 30, 2008, respectively. Customer expense reimbursements are included as a reduction of "Operating costs—corporate tenant lease assets" on the Company's Consolidated Statements of Operations.

**Capitalized interest**—Capitalized interest was approximately \$0.2 million and \$2.1 million for the six months ended June 30, 2009 and 2008, respectively.

**Allowance for doubtful accounts**—As of June 30, 2009 and December 31, 2008, the total allowance for doubtful accounts was \$2.9 million and \$5.3 million, respectively.

**Unfunded commitments**—As of June 30, 2009, the Company had \$11.3 million of non-discretionary unfunded commitments related to six existing customers in the form of tenant improvements which were negotiated between the Company and the customers at the commencement of the leases.

**Encumbered CTL assets**—As of June 30, 2009 and December 31, 2008, CTL assets with an aggregate net book value of \$2.61 billion and \$1.52 billion, respectively, were encumbered with mortgages or pledged as collateral securing the Company's debt (see Note 8 for further detail).

**Note 6—Other Investments**

Other investments consist of the following items (in thousands):

	As of June 30, 2009	As of December 31, 2008
Equity method investments	\$303,868	\$326,248
CTL intangibles, net(1)	55,049	58,499
Cost method investments	12,573	54,488
Marketable securities at fair value	19,802	8,083
Other investments	<u>\$391,292</u>	<u>\$447,318</u>

**Explanatory Note:**

- (1) Accumulated amortization on CTL intangibles was \$29.5 million and \$24.1 million as of June 30, 2009 and December 31, 2008, respectively.

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 6—Other Investments (Continued)****Equity method investments**

**Oak Hill**—As of June 30, 2009, the Company owned 47.5% interests in Oak Hill Advisors, L.P., Oak Hill Credit Alpha MGP, LLC, Oak Hill Credit Opportunities MGP, LLC, OHA Finance MGP, LLC, OHA Capital Solutions MGP, LLC and OHA Strategic Credit Fund, LLC, OHA Leveraged Loan Portfolio GenPar, LLC, Oak Hill Credit OPP Fund, LP and 48.1% interests in OHSF GP Partners II, LLC and OHSF GP Partners (Investors), LLC, (collectively, "Oak Hill"). Oak Hill engages in investment and asset management services. The Company has determined that all of these entities are variable interest entities and that an external member is the primary beneficiary. As such, the Company accounts for these ventures under the equity method. Upon acquisition of the original interests in Oak Hill there was a difference between the Company's book value of the equity investments and the underlying equity in the net assets of Oak Hill of approximately \$200.2 million. The Company allocated this value to identifiable intangible assets of approximately \$81.8 million and goodwill of \$118.4 million. The unamortized balance related to intangible assets for these investments was approximately \$48.3 million and \$51.2 million as of June 30, 2009 and December 31, 2008, respectively. The Company's carrying value in Oak Hill was \$171.4 million and \$181.3 million at June 30, 2009 and December 31, 2008, respectively. The Company recognized equity in earnings from these entities of \$2.6 million and \$4.5 million for the three months ended June 30, 2009 and 2008, respectively, and \$4.9 million and \$7.9 million for the six months ended June 30, 2009 and 2008, respectively.

**Madison Funds**—As of June 30, 2009, the Company owned a 29.52% interest in Madison International Real Estate Fund II, LP, a 32.92% interest in Madison International Real Estate Fund III, LP and a 29.52% interest in Madison GP1 Investors, LP (collectively, the "Madison Funds"). The Madison Funds invest in illiquid ownership positions of entities that own real estate assets. The Company's carrying value in the Madison Funds was \$65.6 million and \$60.4 million at June 30, 2009 and December 31, 2008, respectively. The Company recognized equity in earnings from the Madison Funds of \$0.9 million and \$1.1 million for the three months ended June 30, 2009 and 2008, respectively, and equity in losses of \$7.6 million and \$1.5 million for the six months ended June 30, 2009 and 2008, respectively.

**Other equity method investments**—The Company also had smaller investments in several other entities that were accounted for under the equity method where the Company has ownership interests up to 50.0%. The Company's aggregate carrying value in these investments was \$66.9 million and \$84.5 million as of June 30, 2009 and December 31, 2008, respectively. During the six months ended June 30, 2009, the Company recognized a \$4.7 million non-cash impairment charge for an equity method investment that was determined to be impaired. The Company recognized cumulative net equity in losses of \$1.6 million and earnings of \$0.5 million for the three months ended June 30, 2009 and 2008, respectively, and losses of \$15.9 million and \$2.9 million for the six months ended June 30, 2009 and 2008, respectively.

**TimberStar Southwest**—Prior to selling its interest, the Company owned a 46.7% interest in TimberStar Southwest Holdco LLC ("TimberStar Southwest"), through its majority owned subsidiary TimberStar. The Company accounted for this investment under the equity method due to the venture's external partners having certain participating rights giving them shared control. In April 2008, the Company closed on the sale of TimberStar Southwest for a gross sales price of \$1.71 billion, including the assumption of debt. The Company received net proceeds of approximately \$417.0 million for its interest in the venture and recorded a gain of \$280.2 million, which includes \$18.6 million attributable to noncontrolling interests. The amounts were recorded in "Gain on sale of joint venture interest" and "Gain on sale of joint venture interest attributable to noncontrolling interests" on the Company's Consolidated Statements of Operations.

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 6—Other Investments (Continued)**

The following table presents the investee level summarized financial information of the Company's equity method investments (in thousands):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008	2009	2008
<b>Income Statement</b>				
Revenues	\$40,639	\$ 38,542	\$(237,707)	\$114,199
Costs and expenses	\$35,108	\$ 50,199	\$ 89,341	\$124,537
Net income (loss)	\$ 5,531	\$(11,657)	\$(327,048)	\$ (10,338)

During the three months ended March 31, 2009, the Company recorded a non-cash out-of-period charge of \$9.4 million to recognize additional losses from an equity method investment as a result of additional depreciation expense that should have been recorded at the equity method entity. This adjustment was recorded as a reduction to "Other investments" in the Company's Consolidated Balance Sheets and an increase to "Loss from equity method investments," in the Company's Consolidated Statements of Operations. The Company concluded that the amount of losses that should have been recorded in periods beginning in July 2007 were not material to any of its previously issued financial statements. The Company also concluded that the cumulative out-of-period charge is not material to the quarter or estimated fiscal year in which it was recorded. As such, the charge was recorded in the Company's Consolidated Statements of Operations for the six months ended June 30, 2009, rather than restating prior periods.

**Unfunded commitments**—As of June 30, 2009, the Company had \$49.2 million of non-discretionary unfunded commitments related to nine equity method investments.

**CTL intangible assets, net**

As of June 30, 2009 and December 31, 2008, the Company had \$55.0 million and \$58.5 million, respectively, of unamortized finite lived intangible assets primarily related to the acquisition of prior CTL facilities. The total amortization expense for these intangible assets was \$3.0 million and \$2.5 million for the three months ended June 30, 2009 and 2008, respectively, and \$5.1 million and \$5.1 million for the six months ended June 30, 2009 and 2008, respectively.

**Cost method investments**

The Company has investments in several real estate related funds or other strategic investment opportunities within niche markets that are accounted for under the cost method and had cumulative carrying values of \$12.6 million and \$54.5 million as of June 30, 2009 and December 31, 2008, respectively.

During the six months ended June 30, 2008, the Company redeemed its interest in a profits participation that was originally received as part of a prior lending investment and carried as a cost method investment prior to redemption. As a result of the transaction, the Company received cash of \$44.2 million and recorded an equal amount of income in "Other income" on the Company's Consolidated Statements of Operations.

**Timber and timberlands**

On June 30, 2008, the Company closed on the sale of its Maine timber property for net proceeds of \$152.7 million, resulting in a total gain of \$27.0 million, which includes \$3.7 million attributable to noncontrolling interests. These gains are included in "Gain from discontinued operations" and "Gain from

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 6—Other Investments (Continued)**

discontinued operations attributable to noncontrolling interests" on the Company's Consolidated Statements of Operations. The Company reflected net income from the operations of its Maine timber property of \$0.6 million and \$2.4 million in "Income from discontinued operations" for the three and six months ended June 30, 2008, respectively.

**Unfunded commitments**—As of June 30, 2009, the Company had \$8.0 million of non-discretionary unfunded commitments related to two cost method investments.

**Note 7—Other Assets and Other Liabilities**

Deferred expenses and other assets, net, consist of the following items (in thousands):

	As of June 30, 2009	As of December 31, 2008
Deferred financing fees, net(1)	\$ 52,730	\$ 25,387
Other receivables	22,164	29,036
Corporate furniture, fixtures and equipment, net(2)	15,861	16,640
Leasing costs, net(3)	15,226	16,072
Receivables due from asset sales	12,505	—
Derivative assets	2,786	3,872
Intangible assets, net(4)	2,020	2,687
Deferred tax asset	1,333	1,415
Goodwill	—	4,186
Other assets	13,149	19,729
Deferred expenses and other assets, net	<u>\$137,774</u>	<u>\$ 119,024</u>

**Explanatory Notes:**

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- (1) Accumulated amortization on deferred financing fees was \$36.3 million and \$24.1 million as of June 30, 2009 and December 31, 2008, respectively.
  - (2) Accumulated depreciation on corporate furniture, fixture and equipment was \$8.0 million and \$7.2 million as of June 30, 2009 and December 31, 2008, respectively.
  - (3) Accumulated amortization on leasing costs was \$9.9 million and \$8.7 million as of June 30, 2009 and December 31, 2008, respectively.
  - (4) Accumulated amortization on intangible assets was \$2.0 million and \$1.6 million as of June 30, 2009 and December 31, 2008, respectively.

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 7—Other Assets and Other Liabilities (Continued)**

Accounts payable, accrued expenses and other liabilities consist of the following items (in thousands):

	As of June 30, 2009	As of December 31, 2008
Accrued interest payable	\$ 64,769	\$ 87,057
Fremont Participation payable (see Note 4)	49,206	141,717
Accrued expenses	24,844	41,745
Lease settlement liability	21,190	—
Security deposits from customers	16,937	17,550
Unearned operating lease income	16,818	21,659
Deferred tax liabilities	8,160	6,900
Property taxes payable	5,719	5,187
Deferred income & liabilities	3,576	3,980
Other liabilities	19,272	28,697
Accounts payable, accrued expenses and other liabilities	<u>\$ 230,491</u>	<u>\$ 354,492</u>

As a result of the Company's decision to remain in its current space that is leased through 2021, the Company entered into a settlement agreement with its landlord regarding a long-term lease for new headquarters space dated May 22, 2007 (as amended and restated, the "Lease"). Under the settlement, the Company agreed to pay the landlord a \$42.4 million settlement payment over a period of six months in order to settle all disputes between the Company and the landlord relating to the Lease and the landlord agreed among other things, to terminate the Lease. For the three and six months ended June 30, 2009, the Company recognized a \$42.4 million lease termination expense in "Other expense" on the Consolidated Statements of Operations.

**iStar Financial Inc.**
**Notes to Consolidated Financial Statements (Continued)**
**(unaudited)**
**Note 8—Debt Obligations, net**

As of June 30, 2009 and December 31, 2008, the Company had debt obligations under various arrangements with financial institutions as follows (in thousands):

	<u>Carrying Value as of</u>		<u>Stated Interest Rates(2)</u>	<u>Scheduled Maturity Date(2)</u>
	<u>June 30, 2009</u>	<u>December 31, 2008, As Adjusted(1)</u>		
<b>Secured revolving credit facilities:</b>				
Line of credit	\$ —	\$ 306,867	—	—
Line of credit(3)	626,471	—	LIBOR + 1.50%(4)	June 2011
Line of credit	334,180	—	LIBOR + 1.50%(4)	June 2012
<b>Unsecured revolving credit facilities:</b>				
Line of credit(5)	501,396	2,122,904	LIBOR + 0.85%(4)	June 2011
Line of credit(6)	244,326	1,158,369	LIBOR + 0.85%(4)	June 2012
Total revolving credit facilities	1,706,373	3,588,140		
<b>Secured term loans:</b>				
Collateralized by investments in corporate debt	—	300,000	—	—
Collateralized by CTL assets	947,862	947,862	Greater of 6.25% or LIBOR + 3.40%	April 2011
Collateralized by loans, CTL and OREO assets	1,055,000	—	LIBOR + 1.50%(4)	June 2011
Collateralized by loans, CTL and OREO assets(7)	617,325	—	LIBOR + 1.50%(4)	June 2012
Collateralized by loans, CTL and OREO assets	1,000,000	—	LIBOR + 2.50%	June 2012
Collateralized by CTL assets	115,220	117,371	11.438%	December 2020
Collateralized by CTL and OREO assets	272,711	241,094	LIBOR + 1.65% 6.4% – 8.4%	Various through 2029
Total secured term loans	4,008,118	1,606,327		
<b>Secured notes:</b>				
8.0% senior notes	155,253	—	8.0%	March 2011
10.0% senior notes	479,548	—	10.0%	June 2014
Total secured notes	634,801	—		
<b>Unsecured notes:</b>				
4.875% senior notes	—	249,627	—	—
LIBOR + 0.55% senior notes	—	176,550	—	—
LIBOR + 0.34% senior notes	290,767	465,000	LIBOR + 0.34%	September 2009
LIBOR + 0.35% senior notes	324,040	480,000	LIBOR + 0.35%	March 2010
5.375% senior notes	173,989	245,000	5.375%	April 2010
6.0% senior notes	298,638	334,820	6.0%	December 2010
5.80% senior notes	197,890	239,500	5.80%	March 2011
5.125% senior notes	200,608	241,150	5.125%	April 2011
5.650% senior notes	345,710	461,595	5.650%	September 2011
5.15% senior notes	476,061	603,768	5.15%	March 2012
5.500% senior notes	160,480	230,700	5.500%	June 2012
LIBOR + 0.50% senior convertible notes	787,750	787,750	LIBOR + 0.50%	October 2012
8.625% senior notes	600,201	697,293	8.625%	June 2013
5.95% senior notes	509,130	795,227	5.95%	October 2013
6.5% senior notes	94,635	128,715	6.5%	December 2013
5.70% senior notes	206,601	295,099	5.70%	March 2014
6.05% senior notes	105,765	201,880	6.05%	April 2015
5.875% senior notes	290,668	407,748	5.875%	March 2016
5.850% senior notes	99,722	189,530	5.850%	March 2017
Total unsecured notes	5,162,655	7,230,952		
Other debt obligations	100,000	100,000	LIBOR + 1.5%	October 2035
<b>Total debt obligations</b>	<b>11,611,947</b>	<b>12,525,419</b>		
Debt premiums/(discounts), net(1)(8)	214,556	(39,015)		
<b>Total debt obligations, net</b>	<b>\$ 11,826,503</b>	<b>\$ 12,486,404</b>		



**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 8—Debt Obligations, net (Continued)****Explanatory Notes:**

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- (1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1. The standard requires retroactive application for prior periods presented. See Note 3 and below for further details.
  - (2) All interest rates and maturity dates are for debt outstanding as of June 30, 2009. Some variable-rate debt obligations are based on 30-day LIBOR and reprice monthly. The 30-day LIBOR rate on June 30, 2009 was 0.31%. Foreign variable-rate debt obligations are based on 30-day UK LIBOR for British pound borrowing, 30-day EURIBOR for euro borrowing and 30-day Canadian LIBOR for Canadian dollar borrowing. The 30-day UK LIBOR, EURIBOR and Canadian LIBOR rates on June 30, 2009 were 0.65%, 0.75% and 0.40%, respectively. Other variable-rate debt obligations are based on 90-day LIBOR and reprice every three months. The 90-day LIBOR rate on June 30, 2009 was 0.60%.
  - (3) As of June 30, 2009, included foreign borrowings of £16.9 million and €80.0 million. Amounts in the table have been converted to U.S. dollars based on exchange rates in effect at June 30, 2009.
  - (4) These revolving and term loan commitments have an annual commitment fee of 0.20%.
  - (5) As of June 30, 2009, included foreign borrowings of £14.0 million, €31.4 million, and CAD 7.5 million. Amounts in the table have been converted to U.S. dollars based on exchange rates in effect at June 30, 2009.
  - (6) As of June 30, 2009, included foreign borrowings of £11.0 million and CAD 3.1 million. Amounts in the table have been converted to U.S. dollars based on exchange rates in effect at June 30, 2009.
  - (7) As of June 30, 2009, included foreign borrowings of £86.0 million, €68.0 million, and CAD 46.9 million. Amounts in the table have been converted to U.S. dollars based on exchange rates in effect at June 30, 2009.
  - (8) As of June 30, 2009, includes debt premiums related to secured senior notes of \$247.7 million and a debt discount related to unsecured convertible notes of \$37.8 million, as well as other premiums and discounts on other debt obligations.

As discussed in Note 3, the Company adopted the provisions of FSP APB 14-1 on January 1, 2009, as required. FSP APB 14-1 requires the Company to account for proceeds from the issuance of convertible notes separately between the liability component and the conversion option (or the equity component). This standard is applicable to the Company's issued \$800.0 million aggregate principal amount of convertible senior floating rate notes due October 2012 ("Convertible Notes"). The Convertible Notes are convertible at the option of the holders, into approximately 22.2 shares per \$1,000 principal amount of Convertible Notes, on or after August 15, 2012, or prior to that date if (1) the price of the Company's Common Stock trades above 130% of the conversion price for a specified duration, (2) the trading price of the Convertible Notes is below a certain threshold, subject to specified exceptions, (3) the Convertible Notes have been called for redemption, or (4) specified corporate transactions have occurred. None of the conversion triggers have been met as of June 30, 2009. The conversion rate is subject to certain adjustments and was \$45.05 per share as of June 30, 2009. If the conditions for conversion are met, the Company may choose to pay in cash and/or common stock; however, if this occurs, it is the Company's policy to settle the conversion obligation in cash.

As of June 30, 2009, the carrying value of the additional paid-in-capital, or equity component of the Convertible Notes, was \$37.4 million. As of June 30, 2009, the principal outstanding of the Convertible Notes was \$787.8 million, the unamortized discount was \$37.8 million and the net carrying amount of the liability was \$750.0 million. As required, the adoption was applied retrospectively to all periods presented for fiscal years beginning before December 31, 2008. For the three months ended June 30, 2009 and 2008, the Company recognized interest on the Convertible Notes of \$5.9 million and \$8.9 million, respectively, in "Interest expense" on its Consolidated Statements of Operations, of which \$2.5 million and \$2.4 million, respectively, related to the amortization of the debt discount. For the six months ended June 30, 2009 and 2008, the Company recognized interest expense on the Convertible Notes of \$12.1 million and \$21.8 million, respectively, in "Interest expense" on its Consolidated Statements of Operations, of which

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 8—Debt Obligations, net (Continued)**

\$4.9 million and \$4.7 million, respectively, related to the amortization of the debt discount. (see Note 12 for further details on the earnings per share impact from adoption).

**Unsecured/Secured Credit Agreements**—In March 2009, the Company entered into a \$1.00 billion First Priority Credit Agreement with participating members of its existing bank lending group. The First Priority Credit Agreement will mature in June 2012. Borrowings bear interest at the rate of LIBOR + 2.50% per year, subject to adjustment based upon the Company's corporate credit ratings (see Ratings Triggers below) and are collateralized by a first-priority lien on the same pool of assets collateralizing the Second Priority Secured Exchange Notes and the Second Priority Credit Agreements (see below). As of June 30, 2009, the First Priority Credit Agreement was fully drawn.

Also in March 2009, the Company restructured its two unsecured revolving credit facilities by entering into two Second Priority Credit Agreements, with \$1.70 billion maturing in 2011 and \$950.0 million maturing in 2012, with the same lenders participating in the First Priority Credit Agreement. Such lenders' commitments under the Company's unsecured facilities have been terminated and replaced by their commitments under the Second Priority Credit Agreements. Under these agreements, the participating lenders will have a second priority lien on the same collateral pool securing the First Priority Credit Agreement and the Second Priority Secured Exchange Notes (see below). Borrowings bear interest at the rate of LIBOR + 1.50% per year, subject to adjustment based upon the Company's corporate credit ratings (see Ratings Triggers below). As of June 30, 2009, the two Second Priority Credit Agreements were fully drawn.

At June 30, 2009, the total carrying value of assets pledged as collateral under the First and Second Priority Credit Agreements and the Second Priority Secured Exchange Notes was \$5.72 billion. Under certain circumstances, the First and Second Priority Credit Agreements require that payments of principal and net sale proceeds received by the Company in respect of assets constituting collateral for the Company's obligations under these agreements be applied toward the mandatory prepayment of loans and commitment reductions under them. The Company would be required to make such prepayments (i) during any time that the ratio of its EBITDA to fixed charges, as defined under the agreements, is less than 1.25 to 1.00, (ii) if, after receiving a payment of principal or net sale proceeds in respect of collateral, the Company has insufficient eligible assets available to pledge as replacement collateral or (iii) if, and for so long as, the aggregate principal amount of loans outstanding under the First Priority Credit Agreement exceeds \$500 million at any time on or after September 30, 2010, or zero at any time on or after March 31, 2011.

Concurrently with entering into the First and Second Priority Credit Agreements, the Company entered into amendments to its \$2.22 billion and \$1.20 billion unsecured revolving credit facilities. As of June 30, 2009, after giving effect to the amendments, outstanding balances on the unsecured credit facilities were \$501.4 million, which will expire in June 2011, and \$244.3 million, which will expire in June 2012. The amendments eliminated certain covenants and events of default. The unsecured revolving credit facilities may not be repaid prior to maturity while the First and Second Priority Credit Agreements remain outstanding. These facilities remain unsecured and no changes were made to the pricing terms of these facilities in connection with these amendments.

In connection with the First and Second Priority Credit Agreements as well as the amendments of the unsecured revolving credit facilities, the Company paid an aggregate of \$38.3 million in fees to lenders and

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 8—Debt Obligations, net (Continued)**

third party costs, which are recorded in "Deferred expenses and other assets, net," on the Company's Consolidated Balance Sheets and are being amortized to interest expense over the contractual term of the new and amended facilities.

During the three months ended June 30, 2009, the Company also repaid and terminated its LIBOR-based secured revolving credit facility due September 2009.

**Capital Markets Activity**—On May 8, 2009, the Company completed a series of private offers in which the Company issued \$155.3 million aggregate principal amount of its 8.00% second-priority senior secured guaranteed notes due 2011 ("2011 Notes") and \$479.5 million aggregate principal amounts of its 10.0% second-priority senior secured guaranteed notes due 2014 ("2014 Notes" and together with the 2011 Notes, the "Second Priority Secured Exchange Notes") in exchange for \$1.01 billion aggregate principal amount of its senior unsecured notes of various series. The Second Priority Secured Exchange Notes are collateralized by a second-priority lien on the same pool of collateral pledged under the First and Second Priority Credit Agreements consisting of loans, debt securities and the equity interests of certain of the Company's subsidiaries that own loans and debt securities, corporate tenant leases and other assets. The indentures governing the Second Priority Secured Exchange Notes contain a number of covenants, including that the Company maintain collateral coverage of at least 1.3x the aggregate borrowings under the First Priority Credit Agreement, the Second Priority Credit Agreements and the Second Priority Secured Exchange Notes, see "Debt Covenants." In conjunction with the exchange, the Company also repurchased \$12.5 million par value of its outstanding senior floating rate notes due September 2009.

The Company has accounted for the issuance of the 2014 Notes in exchange for various series of senior unsecured notes ("TDR Notes") as a troubled debt restructuring in accordance with SFAS No. 15, "Accounting by Debtors and Creditors for Troubled Debt Restructurings." As such, the Company recognized a gain on the TDR Notes to the extent that the prior carrying value exceeded the total future contractual cash payments of the 2014 Notes, consisting of both principal and interest. The issuance of the 2011 Notes in exchange for senior unsecured notes was considered a modification of the original debt resulting in adjustments to the carrying amounts for any new premiums or discounts. As a result of these transactions, including the repurchase of \$12.5 million of outstanding senior floating notes due September 2009, the Company recognized a \$108.0 million gain on early extinguishment of debt, net of closing costs of \$11.8 million and recorded a deferred gain of \$262.7 million which is reflected as premiums to the par value of the new debt. These premiums will be amortized over the terms of the 2011 Notes and the 2014 Notes as a reduction to interest expense. In addition, in connection with the exchange for the 2011 Notes, the Company incurred \$4.3 million of direct costs which were recorded in "Other expense" on the Consolidated Statements of Operations.

During the six months ended June 30, 2009, the Company repurchased, through open market and private transactions, \$658.2 million par value of its senior unsecured notes with various maturities ranging from September 2009 to March 2016. In connection with these repurchases, the Company recorded an aggregate net gain on early extinguishment of debt of approximately \$92.9 million and \$247.3 million, for the three and six months ended June 30, 2009, respectively.

During the six months ended June 30, 2009, the Company also repaid its 4.875% senior notes due January 2009 and its LIBOR + 0.55% senior notes due March 2009.

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 8—Debt Obligations, net (Continued)**

**Other Financing Activity**—In May 2009, the Company obtained ownership rights to a property, through an assignment of ownership interests, that was financed by a senior secured term loan funded by a third party lender and a mezzanine loan funded by the Company. Upon assignment, the Company recorded the \$35.2 million non-recourse senior secured term loan with the third party lender as a debt obligation on its Consolidated Balance Sheets. The loan bears interest at LIBOR + 3.675% with a floor of 6.75% and matures in November 2010.

During the six months ended June 30, 2009, the Company repaid and terminated its LIBOR + 4.50% secured term loan due September 2009.

**Debt Covenants**—The Company's ability to borrow under its secured credit facilities depends on maintaining compliance with various covenants, including minimum net worth levels, as well as specified financial ratios, such as fixed charge coverage, unencumbered assets to unsecured indebtedness, and leverage ratios. All of these covenants are maintenance covenants and, if breached could result in an acceleration of the Company's facilities if a waiver or modification is not agreed upon with the requisite percentage of lenders. The Company's secured credit facilities also impose limitations on repayments, repurchases, refinancings and optional redemptions of its existing unsecured notes or secured exchange notes issued pursuant to the Company's exchange offer, as well as limitations on repurchases of its Common Stock. For so long as the Company maintains its qualification as a REIT, the secured credit facilities permit the Company to distribute 100% of its REIT taxable income on an annual basis. The Company may not pay common dividends if it ceases to qualify as a REIT.

The Company's publicly held debt securities also contain covenants that include fixed charge coverage and unencumbered assets to unsecured indebtedness ratios. The fixed charge coverage ratio is an incurrence test. If the Company does not meet the fixed charge coverage ratio, its ability to incur additional indebtedness will be restricted. The unencumbered assets to unsecured indebtedness covenant is a maintenance covenant and, if breached and not cured within applicable cure periods, could result in acceleration of the Company's publicly held debt unless a waiver or modification is agreed upon with the requisite percentage of the bondholders. Based on the Company's unsecured credit ratings at June 30, 2009, the financial covenants in its publicly held debt securities, including the fixed charge coverage ratio and maintenance of unencumbered assets to unsecured indebtedness ratio, are operative.

The Company's secured credit facilities and its public debt securities contain cross default provisions that allow the lenders and the bondholders to declare an event of default and accelerate the Company's indebtedness to them if the Company fails to pay amounts due in respect of its other recourse indebtedness in excess of specified thresholds. In addition, the Company's secured credit facilities, unsecured credit facilities and the indentures governing its public debt securities provide that the lenders and bondholders may declare an event of default and accelerate its indebtedness to them if there is a non payment default under the Company's other recourse indebtedness in excess of specified thresholds and, if the holders of the other indebtedness are permitted to accelerate, in the case of the secured credit facilities, or accelerate, in the case of its unsecured credit facilities and the bond indentures, the other recourse indebtedness.

**Ratings Triggers**—The Company's First and Second Priority Secured Credit Agreements bear interest at LIBOR based rates plus an applicable margin which varies between the First Priority Credit Agreement and the Second Priority Credit Agreement and is determined based on the Company's corporate credit ratings. The interest rate on borrowings under the Company's unsecured revolving credit facilities also

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 8—Debt Obligations, net (Continued)**

varies based upon its corporate credit ratings. At June 30, 2009, the Company's credit ratings were BB from S&P, Caa1 from Moody's and B- from Fitch. The Company's ability to borrow under its unsecured and revolving credit facilities is not dependent on the level of its credit ratings. Based on the Company's current credit ratings, downgrades in the Company's credit ratings will have no effect on its borrowing rates under these facilities.

**Future Scheduled Maturities**—As of June 30, 2009, future scheduled maturities of outstanding long-term debt obligations, net are as follows (in thousands):

2009 (remaining six months)	\$ 290,767
2010	837,356
2011	4,111,278
2012	3,620,121
2013	1,260,378
Thereafter	1,492,047
Total principal maturities	11,611,947
Unamortized debt premiums, net	214,556
Total long-term debt obligations, net	<u>\$11,826,503</u>

**Unfunded Commitments**—As of June 30, 2009, the Company had \$1.44 billion of total unfunded commitments relating to loans, CTLs, and other investments, of which \$1.27 billion was non-discretionary and \$161.8 million was discretionary. See Notes 2, 4, 5 and 6 for further details.

**Note 9—Equity**

**DRIP/Stock Purchase Plan**—During the six months ended June 30, 2009, the Company did not issue any Common Stock under the plan. During the six months ended June 30, 2008, the Company issued approximately 57,000 shares of its Common Stock resulting in net proceeds of \$1.1 million.

**Stock Repurchase Program**—On March 13, 2009, the Company's Board of Directors authorized the repurchase of up to \$50 million of Common Stock from time to time in open market and privately negotiated purchases, including pursuant to one or more trading plans.

During the six months ended June 30, 2009 and 2008, the Company repurchased 6.3 million shares and 0.3 million shares, respectively, of its outstanding Common Stock for a cost of approximately \$16.7 million and \$5.2 million, respectively, at an average cost of \$2.65 per share and \$15.52 per share, respectively.

As of June 30, 2009, the Company had \$34.5 million available to repurchase Common Stock under the authorized stock repurchase program.

**Noncontrolling Interest**—The Company adopted SFAS No. 160, as required, on January 1, 2009, which requires the Company to report noncontrolling interests as a component of equity (see Note 3 for further details).

**iStar Financial Inc.**
**Notes to Consolidated Financial Statements (Continued)**
**(unaudited)**
**Note 9—Equity (Continued)**

Below is net income (loss) attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders (in thousands):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008	2009	2008
<b>Amounts attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders</b>				
Income (loss) from continuing operations	\$(281,871)	\$ (5,495)	\$(380,781)	\$ 69,447
Net loss attributable to noncontrolling interests	271	771	1,514	567
Gain on sale of joint venture interest attributable to noncontrolling interests	—	(18,560)	—	(18,560)
Income (loss) from discontinued operations	(102)	5,994	119	14,025
Gain from discontinued operations	—	50,476	11,617	52,532
Gain from discontinued operations attributable to noncontrolling interests	—	(3,689)	—	(3,689)
Net income (loss) attributable to iStar Financial Inc.	(281,702)	29,497	(367,531)	114,322
Preferred dividend requirements	(10,580)	(10,580)	(21,160)	(21,160)
Net income (loss) attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders.	<u>\$(292,282)</u>	<u>\$ 18,917</u>	<u>\$(388,691)</u>	<u>\$ 93,162</u>

The following table presents a reconciliation of the carrying amount of equity for the six months ended June 30, 2008 (in thousands):

	iStar Financial, Inc. Shareholders' Equity	Noncontrolling Interests	Total Equity
Balance at December 31, 2007, As Adjusted	\$ 2,899,481	\$ 36,175	\$2,935,656
Adoption of FSP APB 14-1	36,514	—	36,514
Adjusted beginning balance January 1, 2008(1)	<u>\$ 2,935,995</u>	<u>\$ 36,175</u>	<u>\$2,972,170</u>
Exercise of options	5,868	—	5,868
Dividends declared—preferred	(21,160)	—	(21,160)
Dividends declared—common	(118,146)	—	(118,146)
Dividends declared—HPU	(2,452)	—	(2,452)
Repurchase of stock	(5,209)	—	(5,209)
Issuance of stock—vested restricted stock units	10,252	—	10,252
Issuance of stock—DRIP/stock purchase plan	1,087	—	1,087
Net income for the period(2)	114,322	(837)	113,485
Sale/purchase of certain noncontrolling interests	—	22,249	22,249
Contributions from noncontrolling interests	—	107	107
Distributions to noncontrolling interests	—	(3,061)	(3,061)
Change in accumulated other comprehensive (losses)	10,171	—	10,171
Balance at June 30, 2008	<u>\$ 2,930,728</u>	<u>\$ 54,633</u>	<u>\$2,985,361</u>

**Explanatory Notes:**

- (1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1. This new standard requires retroactive application for prior periods presented. See Notes 3 and 8 for further details.
- (2) For the six months ended June 30, 2008, net income excludes \$270 attributable to redeemable noncontrolling interests.

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

(unaudited)

**Note 10—Risk Management and Derivatives**

**Risk management**—In the normal course of its on-going business operations, the Company encounters economic risk. There are three main components of economic risk: interest rate risk, credit risk and market risk. The Company is subject to interest rate risk to the degree that its interest-bearing liabilities mature or reprice at different points in time and potentially at different bases, than its interest-earning assets. Credit risk is the risk of default on the Company's investments that result from a property's borrower's or corporate tenant's inability or unwillingness to make contractually required payments. Market risk reflects changes in the value of loans and other lending investments due to changes in interest rates or other market factors, including the rate of prepayments of principal and the value of the collateral underlying loans, the valuation of CTL facilities and OREO assets held by the Company and changes in foreign currency exchange rates.

**Use of derivative financial instruments**—The Company's use of derivative financial instruments is primarily limited to the utilization of interest rate hedges or other instruments to manage interest rate risk exposure and foreign exchange hedges to manage market risk exposure. The principal objective of such hedges are to minimize the risks and/or costs associated with the Company's operating and financial structure as well as to hedge specific anticipated debt issuances and to manage its exposure to foreign exchange rate movements.

**Non-designated hedges**—Derivatives not designated as hedges are not speculative and are used to manage the Company's exposure to interest rate movements, foreign exchange rate movements, and other identified risks, but may not meet the strict hedge accounting requirements of SFAS No. 133. There were no designated hedges outstanding as of June 30, 2009. Changes in the fair value of derivatives not designated in hedging relationships are recorded directly in earnings.

The table below presents the fair value of the Company's derivative financial instruments as well as their classification on the Consolidated Balance Sheets as of June 30, 2009 and December 31, 2008 (in thousands):

	Asset Derivatives				Liability Derivatives			
	As of June 30, 2009		As of December 31, 2008		As of June 30, 2009		As of December 31, 2008	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives not designated as hedging instruments under SFAS No. 133								
Interest rate caps	Other Assets	\$ 1,110	Other Assets	\$ 726	Other Liabilities	\$ (495)	Other Liabilities	\$(131)
Foreign exchange contracts	Other Assets	1,676	Other Assets	2,949	Other Liabilities	(895)	Other Liabilities	—
Fair value interest rate swap	Other Assets	—	Other Assets	197	N/A	—	N/A	—
Total		<u>\$2,786</u>		<u>\$ 3,872</u>		<u>\$(1,390)</u>		<u>\$(131)</u>

**iStar Financial Inc.**
**Notes to Consolidated Financial Statements (Continued)**
**(unaudited)**
**Note 10—Risk Management and Derivatives (Continued)**

The tables below present the effect of the Company's derivative financial instruments on the Consolidated Statements of Operations for the three and six months ended June 30, 2009 (in thousands):

Derivatives Not Designated as Hedging Instruments Under SFAS No. 133	For the three months ended June 30, 2009		For the six months ended June 30, 2009	
	Location of Gain (Loss) Recognized in Income on Derivative	Amount of Gain (Loss) Recognized in Income on Derivative	Location of Gain (Loss) Recognized in Income on Derivative	Amount of Gain (Loss) Recognized in Income on Derivative
Interest rate caps	Other expense	\$ 383	Other expense	\$ 19
Foreign exchange contracts	Other expense	(1,028)	Other expense	(73)
<b>Total</b>		<b>\$ (645)</b>		<b>\$ (54)</b>

**Foreign currency hedges**—The following table presents the Company's foreign currency derivatives outstanding as of June 30, 2009 (in thousands):

Derivative Type	Notional Amount	Notional (USD Equivalent)	Maturity
Sell SEK/Buy USD forward	SEK 104,228	13,463	July 2009
Sell EUR/Buy USD forward	€ 5,000	7,024	September 2009
Buy USD/Sell INR forward	INR 486,438	10,000	November 2009

**Interest rate caps**—The following table represents the notional principal amounts of interest rate caps by class (in thousands):

	As of	
	June 30, 2009	December 31, 2008
Interest rate cap bought	\$ 947,862	\$ 947,862
Interest rate cap sold	(947,862)	(947,862)
<b>Total interest rate caps</b>	<b>\$ —</b>	<b>\$ —</b>

**Credit-risk-related Contingent Features**—The Company has agreements with each of its derivative counterparties that contain a provision where if the Company either defaults or is capable of being declared in default on any of its indebtedness, then the Company could also be declared in default on its derivative obligations.

**Note 11—Stock-Based Compensation Plans and Employee Benefits**

On May 27, 2009, the Company's shareholders approved the Company's 2009 Long-Term Incentive Plan (the "2009 LTIP") which is designed to provide incentive compensation for officers, key employees, directors and advisors of the Company. The 2009 LTIP provides for awards of stock options, shares of restricted stock, phantom shares (also known as restricted stock units), dividend equivalent rights and other share-based performance awards. A maximum of 8,000,000 shares of Common Stock may be awarded under the 2009 LTIP, plus up to an additional 500,000 shares to the extent that a corresponding number of equity awards previously granted under the Company's 1996 Long-Term Incentive Plan expire or are cancelled or forfeited. All awards under the 2009 LTIP are made at the discretion of the Board of



**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

(unaudited)

**Note 11—Stock-Based Compensation Plans and Employee Benefits (Continued)**

Directors or a committee of the Board of Directors. The awards of the 2.0 million restricted stock units approved on May 27, 2009 and the 10.2 million restricted stock units granted on December 19, 2008 are required to be settled on a net, after-tax basis (after deducting shares for taxes and other applicable withholdings); therefore, the actual number of shares issued will be less than the gross amount of the awards. As of June 30, 2009, approximately 105,000 shares remain available for awards under the 2009 LTIP Plan.

The Company's 2006 Long-Term Incentive Plan (the "2006 LTIP") is designed to provide equity-based incentive compensation for officers, key employees, directors, consultants and advisers of the Company. The 2006 LTIP provides for awards of stock options, shares of restricted stock, phantom shares, dividend equivalent rights and other share-based performance awards. A maximum of 4,550,000 shares of Common Stock may be subject to awards under the 2006 LTIP provided that the number of shares of Common Stock reserved for grants of options designated as incentive stock options is 1.0 million, subject to certain anti-dilution provisions in the 2006 LTIP. All awards under this Plan are at the discretion of the Board of Directors or a committee of the Board of Directors. As of June 30, 2009, approximately 592,000 shares remain available for awards under the 2006 LTIP.

**Stock Options**—Changes in options outstanding during the six months ended June 30, 2009, are as follows (shares and aggregate intrinsic value in thousands, except for weighted average strike price):

	Number of Shares			Weighted Average Strike Price	Aggregate Intrinsic Value
	Employees	Non- Employee Directors	Other		
<b>Options Outstanding, December 31, 2008</b>	396	86	47	\$ 19.43	
Issued in 2009	—	—	—	—	
Exercised in 2009	—	—	—	—	
Forfeited in 2009	(4)	(2)	(3)	\$ 40.01	
<b>Options Outstanding, June 30, 2009</b>	<u>392</u>	<u>84</u>	<u>44</u>	\$ 19.08	\$ —

The following table summarizes information concerning outstanding and exercisable options as of June 30, 2009 (options, in thousands):

Exercise Price	Options Outstanding and Exercisable	Remaining Contractual Life (Years)
\$16.88	364	0.51
\$17.38	14	0.71
\$19.69	47	1.51
\$24.94	40	1.88
\$27.00	11	1.99
\$29.82	44	2.92
	<u>520</u>	<u>0.95</u>

## iStar Financial Inc.

## Notes to Consolidated Financial Statements (Continued)

(unaudited)

## Note 11—Stock-Based Compensation Plans and Employee Benefits (Continued)

**Restricted Stock Units**—Changes in non-vested restricted stock units during the six months ended June 30, 2009 are as follows (in thousands, except per share amounts):

Non-Vested Shares	Number of Shares	Weighted Average Grant Date Fair Value Per Share	Aggregate Intrinsic Value
<b>Non-vested at December 31, 2008</b>	14,987	\$ 3.32	
Granted	2,000	\$ 2.37	
Vested	(581)	\$ 31.33	
Forfeited	(158)	\$ 2.15	
<b>Non-vested at June 30, 2009</b>	16,248	\$ 3.68	\$46,143

On May 27, 2009, the Company's shareholders approved the grant of 2,000,000 market-condition based restricted stock units which were contingently awarded to its Chairman and Chief Executive Officer as a special retention award on October 9, 2008. These units will cliff vest in one installment on October 9, 2011 only if the total shareholder return on the Company's Common Stock is at least 25% per year (compounded at the end of the three year vesting period, including dividends). Total shareholder return will be based on the average NYSE closing prices for the Company's Common Stock for the 20 days prior to (a) the date of the award on October 9, 2008 (which was \$3.38) and (b) the vesting date. No dividends will be paid on these units prior to vesting. The Company measured the fair value of the grant on May 27, 2009 and will record compensation expense based on this fair value ratably over the remaining vesting period.

As of June 30, 2009, there were 10,159,000 market condition-based restricted stock units ("Units") outstanding, which were granted to executives and other officers of the Company on December 19, 2008. The Units will vest only if specified price targets for the Company's Common Stock are achieved and if the employee is thereafter employed on the vesting date, as follows: (a) if the Common Stock achieves a price of \$4.00 or more (average NYSE closing price over 20 consecutive trading days) during the first year following the grant date (i.e., prior to December 19, 2009), the Units will vest in three equal installments on January 1, 2010, January 1, 2011, and January 1, 2012; (b) if the Units do not achieve the price target in the first year, but the Common Stock achieves a price of \$7.00 or more (average NYSE closing price over 20 consecutive trading days) prior to December 19, 2010, the Units will vest in two equal installments on January 1, 2011 and January 1, 2012; and (c) if the Units do not achieve the price target in the first or second year, but the Common Stock achieves a price of \$10.00 or more (average NYSE closing price over 20 consecutive trading days) prior to December 19, 2011, the Units will vest in one installment on January 1, 2012. If an applicable price target has been achieved, the Units will thereafter be entitled to dividend equivalent payments as dividends are paid on the Company's Common Stock. Upon vesting of the Units, holders will receive shares of the Company's Common Stock in the amount of the vested Units, net of statutory minimum tax withholdings. On May 27, 2009, the Company's shareholders approved the 2009 LTIP, which authorized additional shares of the Company's Common Stock to be available for awards under the Company's equity compensation plans. The approval converted the Company's accounting for these awards from liability-based to equity-based, and accordingly, the Company reclassified its liability recorded in "Accounts Payable, accrued expenses and other liabilities" to "Additional paid-in capital" on the Consolidated Balance Sheets. The aggregate fair value of the grants on May 27, 2009 was approximately \$27.0 million. The Company has recorded the liability-based expense of \$3.9 million

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 11—Stock-Based Compensation Plans and Employee Benefits (Continued)**

through May 27, 2009 and will record the remaining portion of compensation expense based on the fair value ratably over the vesting period.

As of June 30, 2009, there were 433,623 market condition-based restricted stock units outstanding that were granted to employees on January 18, 2008 and cliff vest on December 31, 2010, only if the total shareholder return on the Company's Common Stock is at least 20% (compounded annually, including dividends) from the date of the award through the end of the vesting period. Total shareholder return will be based on the average NYSE closing prices for the Company's Common Stock for the 20 days prior to (a) the date of the award on January 18, 2008 (which was \$25.04) and (b) the vesting date. No dividends will be paid on these units unless and until they are vested.

The fair value of the market condition-based restricted stock units is based on the market value of the awards utilizing a Monte Carlo model to simulate a range of possible future stock prices for the Company's Common Stock. The following assumptions were used to estimate the fair value of market condition-based awards:

	Valued as of		
	January 18, 2008	May 27, 2009(1)	May 27, 2009(2)
Risk-free interest rate	2.39%	1.16%	1.28%
Expected stock price volatility	27.46%	152.03%	145.45%
Expected annual dividend	—	—	—

**Explanatory Notes:**

- 
- (1) Contingent equity-based restricted stock units awarded on October 9, 2008 were measured on May 27, 2009, the date the Company's shareholders approved the grant of the award.
  - (2) Equity-based restricted stock units granted on December 19, 2008 were re-measured on May 27, 2009 when they became equity-based awards, in accordance with SFAS No. 123(R).

As of June 30, 2009, there were 3.7 million unvested service-based restricted stock units outstanding that are entitled to be paid dividends as dividends are paid on shares of the Company's Common Stock and these dividends are accounted for as a reduction to retained earnings in a manner consistent with the Company's Common Stock dividends.

The Company recorded \$7.5 million and \$8.0 million of stock-based compensation expense in "General and administrative" on the Company's Consolidated Statements of Operations for the three months ended June 30, 2009 and 2008, respectively and \$13.1 million and \$12.8 million for the six months ended June 30, 2009 and 2008, respectively. As of June 30, 2009, there was \$45.1 million of total unrecognized compensation cost related to non-vested restricted stock units, including the Units. That cost is expected to be recognized over the remaining vesting/service period for the respective grants.

**401(k) Plan**—The Company made gross contributions of \$0.2 million and \$0.2 million for the three months ended June 30, 2009 and 2008, respectively, and \$1.0 million and \$1.1 million for the six months ended June 30, 2009 and 2008, respectively.

**Note 12—Earnings Per Share**

Pursuant to Emerging Issues Task Force 03-6, "Participating Securities and the Two-Class Method under FASB Statement No. 128, Earnings Per Share" ("EITF 03-6"), EPS is calculated using the two-class method. The two-class method allocates earnings among common stock and participating securities to

**iStar Financial Inc.**
**Notes to Consolidated Financial Statements (Continued)**
**(unaudited)**
**Note 12—Earnings Per Share (Continued)**

calculate EPS when an entity's capital structure includes either two or more classes of common stock or common stock and participating securities. HPU holders are Company employees or former employees who purchased high performance common stock units under the Company's High Performance Unit (HPU) Program. The program is more fully described in the Company's annual proxy statement and in the Company's Annual Report on Form 10-K for the year ended December 31, 2008. These HPU units have been treated as a separate class of common stock under EITF 03-6.

As discussed in Note 3, the Company adopted FSP EITF 03-6-1 on January 1, 2009. Under the standard, all unvested share-based payment awards that contain non-forfeitable rights to dividends or dividend equivalents (whether paid or unpaid) are deemed a Participating Security and shall be included in the computation of earnings per share pursuant to the two-class method. Accordingly, the Company's unvested restricted stock units and common stock equivalents issued under its Long-Term Incentive Plans are considered participating securities and have been included in the two-class method when calculating EPS. As required, the Company adjusted all prior-period EPS data presented to conform to the provisions of this guidance.

The following table presents a reconciliation of the numerators of the basic and diluted EPS calculations for the three and six months ended June 30, 2009 and 2008 (in thousands, except for per share data):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008, As Adjusted(1)	2009	2008, As Adjusted(1)
Income (loss) from continuing operations	\$(281,871)	\$ (5,495)	\$(380,781)	\$ 69,447
Net loss attributable to noncontrolling interests	271	771	1,514	567
Gain on sale of joint venture interest attributable to noncontrolling interests	—	(18,560)	—	(18,560)
Preferred dividend requirements	(10,580)	(10,580)	(21,160)	(21,160)
Dividends paid to Participating Security holders(2)	—	—	—	(1,122)
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to common shareholders and HPU holders	<u>\$(292,180)</u>	<u>\$ (33,864)</u>	<u>\$(400,427)</u>	<u>\$ 29,172</u>

**Explanatory Note:**

(1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1, SFAS No. 160, and FSP EITF 03-6-1. These new standards require retroactive application for prior periods presented. See Notes 3 and 8 for further details.

(2) In accordance with Emerging Issues Task Force 07-4, "Application of the Two-Class Method under FASB Statement No. 128 to Master Limited Partnerships," ("EITF 07-4") the total dividends paid to Participating Security holders during the period have been deducted from income (loss) from continuing operations, because total dividends distributed by the Company exceeded earnings for the period.

**iStar Financial Inc.**
**Notes to Consolidated Financial Statements (Continued)**
**(unaudited)**
**Note 12—Earnings Per Share (Continued)**

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008, As Adjusted(1)	2009	2008, As Adjusted(1)
<b>Earnings allocable to common shares:</b>				
<i>Numerator for basic earnings per share:</i>				
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to common shareholders(2)	\$ (284,098)	\$ (33,163)	\$ (389,655)	\$ 28,569
Income (loss) from discontinued operations	(99)	5,870	116	13,735
Gain from discontinued operations, net of noncontrolling interests	—	45,819	11,304	47,832
Net income (loss) attributable to iStar Financial Inc. and allocable to common shareholders	<u>\$ (284,197)</u>	<u>\$ 18,526</u>	<u>\$ (378,235)</u>	<u>\$ 90,136</u>
<i>Numerator for diluted earnings per share:</i>				
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to common shareholders(2)(3)	\$ (284,098)	\$ (33,163)	\$ (389,655)	\$ 28,572
Income (loss) from discontinued operations	(99)	5,870	116	13,736
Gain from discontinued operations, net of noncontrolling interests	—	45,819	11,304	47,836
Net income (loss) attributable to iStar Financial Inc. and allocable to common shareholders	<u>\$ (284,197)</u>	<u>\$ 18,526</u>	<u>\$ (378,235)</u>	<u>\$ 90,144</u>
<i>Denominator (basic and diluted):</i>				
Weighted average common shares outstanding for basic earnings per common share	99,769	134,399	102,671	134,330
Add: effect of assumed shares issued under treasury stock method for stock options and restricted shares without non-forfeitable rights to dividends	—	—	—	103
Add: effect of joint venture shares	—	—	—	349
Weighted average common shares outstanding for diluted earnings per common share	<u>99,769</u>	<u>134,399</u>	<u>102,671</u>	<u>134,782</u>
<b>Basic earnings per common share:</b>				
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to common shareholders(2)	\$ (2.85)	\$ (0.24)	\$ (3.79)	\$ 0.21
Income (loss) from discontinued operations	—	0.04	—	0.10
Gain from discontinued operations, net of noncontrolling interests	—	0.34	0.11	0.36
Net income (loss) attributable to iStar Financial Inc. and allocable to common shareholders	<u>\$ (2.85)</u>	<u>\$ 0.14</u>	<u>\$ (3.68)</u>	<u>\$ 0.67</u>
<b>Diluted earnings per common share:</b>				
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to common shareholders(2)	\$ (2.85)	\$ (0.24)	\$ (3.79)	\$ 0.22
Income (loss) from discontinued operations	—	0.04	—	0.10
Gain from discontinued operations, net of noncontrolling interests	—	0.34	0.11	0.35
Net income (loss) attributable to iStar Financial Inc. and allocable to common shareholders	<u>\$ (2.85)</u>	<u>\$ 0.14</u>	<u>\$ (3.68)</u>	<u>\$ 0.67</u>

**Explanatory Notes:**

- (1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1, SFAS No. 160, and FSP EITF 03-6-1. These new standards require retroactive application for prior periods presented. See Notes 3 and 8 for further details.
- (2) Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to common shareholders have been adjusted for net (income) loss attributable to noncontrolling interests and preferred dividend requirements. In addition, for the six months ended June 30, 2008, income from continuing operations attributable to iStar Financial Inc. and allocable to common shareholders was adjusted to exclude dividends paid to Participating Security holders (see preceding table).
- (3) For the six months ended June 30, 2008, amount includes the allocable portion of \$2 of joint venture income.

**iStar Financial Inc.**
**Notes to Consolidated Financial Statements (Continued)**
**(unaudited)**
**Note 12—Earnings Per Share (Continued)**

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008, As Adjusted(1)	2009	2008, As Adjusted(1)
<b>Earnings allocable to High Performance Units:</b>				
<i>Numerator for basic earnings per HPU share:</i>				
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to HPU holders(2)	\$ (8,082)	\$ (701)	\$(10,772)	\$ 603
Income (loss) from discontinued operations	(3)	124	3	290
Gain from discontinued operations, net of noncontrolling interests	—	968	313	1,011
Net income (loss) attributable to iStar Financial Inc. and allocable to HPU holders	<u>\$ (8,085)</u>	<u>\$ 391</u>	<u>\$(10,456)</u>	<u>\$ 1,904</u>
<i>Numerator for diluted earnings per HPU share:</i>				
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to HPU holders(2)	\$ (8,082)	\$ (701)	\$(10,772)	\$ 602
(3)	(3)	124	3	289
Income (loss) from discontinued operations	(3)	124	3	289
Gain from discontinued operations, net of noncontrolling interests	—	968	313	1,007
Net income (loss) attributable to iStar Financial Inc. and allocable to HPU holders	<u>\$ (8,085)</u>	<u>\$ 391</u>	<u>\$(10,456)</u>	<u>\$ 1,898</u>
<i>Denominator (basic and diluted):</i>				
Weighted average High Performance Units outstanding for basic and diluted earnings per share	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>
<b>Basic earnings per HPU share:</b>				
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to HPU holders(2)	\$(538.80)	\$ (46.73)	\$(718.14)	\$ 40.20
Income (loss) from discontinued operations	(0.20)	8.27	0.20	19.33
Gain from discontinued operations, net of noncontrolling interests	—	64.53	20.87	67.40
Net income (loss) attributable to iStar Financial Inc. and allocable to HPU holders	<u>\$(539.00)</u>	<u>\$ 26.07</u>	<u>\$(697.07)</u>	<u>\$ 126.93</u>
<b>Diluted earnings per HPU share:</b>				
Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to HPU holders(2)	\$(538.80)	\$ (46.73)	\$(718.14)	\$ 40.13
Income (loss) from discontinued operations	(0.20)	8.27	0.20	19.27
Gain from discontinued operations, net of noncontrolling interests	—	64.53	20.87	67.13
Net income (loss) attributable to iStar Financial Inc. and allocable to HPU holders	<u>\$(539.00)</u>	<u>\$ 26.07</u>	<u>\$(697.07)</u>	<u>\$ 126.53</u>

**Explanatory Notes:**

- (1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1, SFAS No. 160, and FSP EITF 03-6-1. These new standards require retroactive application for prior periods presented. See Notes 3 and 8 for further details.
- (2) Income (loss) from continuing operations attributable to iStar Financial Inc. and allocable to HPU holders have been adjusted for net (income) loss attributable to noncontrolling interests and preferred dividend requirements. In addition, for the six months ended June 30, 2008, income from continuing operations allocable attributable to iStar Financial Inc. and to HPU holders was adjusted to exclude dividends paid to Participating Security holders (see preceding table).
- (3) For the six months ended June 30, 2008, amount includes the allocable portion of \$2 of joint venture income.

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 12—Earnings Per Share (Continued)**

For the three and six months ended June 30, 2008, basic and diluted net income allocable to common shareholders and HPU holders per share were retroactively adjusted to reflect the adoption of FSP EITF 03-6-1. The Company reduced its diluted weighted average common shares outstanding for the reporting period by unvested restricted stock units and common stock equivalents deemed to be Participating Securities. In addition, pursuant to EITF 07-4, as a result of dividends paid in excess of earnings during the six months ended June 30, 2008, the Company allocated \$1.1 million of earnings from common shares and HPU shares to Participating Securities. This adoption, along with the adoption of FSP APB 14-1 (see Notes 3 and 8) changed basic and diluted earnings per share as follows: (a) for the three months ended June 30, 2008, basic and diluted net income allocable to common shareholders decreased by (\$0.01) per share, and basic and diluted net income allocable to HPU holders decreased by (\$2.20) per share and (\$2.13) per share, respectively, and (b) for the six months ended June 30, 2008, basic and diluted net income allocable to common shareholders decreased by (\$0.03) per share, and basic and diluted net income allocable to HPU holders decreased by (\$6.00) per share and (\$5.80) per share, respectively.

For the three and six months ended June 30, 2009 and 2008, the following shares were anti-dilutive (in thousands):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008	2009	2008
Joint venture shares	298	349	298	—
Stock options	520	531	520	153
Restricted stock units	12,593	487	12,593	487

In addition, as of June 30, 2009, the conditions for conversion related to the Company's Convertible Notes have not been met. If the conditions for conversion are met, the Company may choose to settle in cash and/or Common Stock, however, if this occurs it is the Company's policy to settle the conversion obligation in cash. Accordingly, there was no impact on the Company's diluted earnings per share, for any of the periods presented.

**iStar Financial Inc.**
**Notes to Consolidated Financial Statements (Continued)**
**(unaudited)**
**Note 13—Comprehensive Income (loss)**

The statement of comprehensive income (loss) attributable to iStar Financial Inc. is as follows (in thousands):

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008, As Adjusted(1)	2009	2008, As Adjusted(1)
Net income (loss)	\$(281,973)	\$ 50,975	\$(369,045)	\$ 136,004
Other comprehensive income:				
Reclassification of losses on available-for-sale securities into earnings upon realization	—	4,967	4,058	4,967
Reclassification of (gains)/losses on cash flow hedges into earnings upon realization	(2,112)	3,370	(3,593)	3,076
Unrealized gains/(losses) on available-for-sale securities	3,472	(683)	3,472	(1,043)
Unrealized gains/(losses) on cash flow hedges	—	14,449	(30)	3,171
Unrealized gains/(losses) on cumulative translation adjustment	650	—	(1,232)	—
Comprehensive income (loss)	\$(279,963)	\$ 73,078	\$(366,370)	\$ 146,175
Net loss attributable to noncontrolling interests	271	771	1,514	567
Gain on sale of joint venture interest attributable to noncontrolling interests	—	(18,560)	—	(18,560)
Gain from discontinued operations attributable to noncontrolling interests	—	(3,689)	—	(3,689)
Comprehensive income (loss) attributable to iStar Financial Inc.	<u>\$(279,692)</u>	<u>\$ 51,600</u>	<u>\$(364,856)</u>	<u>\$ 124,493</u>

**Explanatory Note:**

- (1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1 and SFAS No. 160. Both new standards require retroactive application for prior periods presented. See Notes 3 and 8 for further details.

Accumulated other comprehensive income reflected in the Company's shareholders' equity is comprised of the following (in thousands):

	As of June 30, 2009	As of December 31, 2008
Unrealized gains (losses) on available-for-sale securities	\$ 2,247	\$ (5,283)
Unrealized gains on cash flow hedges	4,920	8,544
Unrealized losses on cumulative translation adjustment	(2,786)	(1,554)
Accumulated other comprehensive income	<u>\$ 4,381</u>	<u>\$ 1,707</u>



**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 14—Dividends**

In order to maintain its election to qualify as a REIT, the Company must currently distribute, at a minimum, an amount equal to 90% of its taxable income and must distribute 100% of its taxable income to avoid paying corporate federal income taxes. The Company's current policy is to distribute all of its taxable income, if any, to its shareholders. Because taxable income differs from cash flow from operations due to non-cash revenues and expenses (such as depreciation and certain asset impairments), in certain circumstances, the Company may generate operating cash flow in excess of its dividends or, alternatively, may be required to borrow to make sufficient dividend payments. The Company did not declare any Common Stock dividends for the quarters ended March 31, 2009 and June 30, 2009.

The Company declared and paid dividends aggregating \$4.0 million, \$5.5 million, \$3.9 million, \$3.1 million and \$4.7 million on its Series D, E, F, G, and I preferred stock, respectively, during the six months ended June 30, 2009. There are no dividend arrearages on any of the preferred shares currently outstanding.

**Note 15—Fair Value of Financial Instruments**

SFAS No. 157 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. SFAS No. 157 establishes a fair value hierarchy which prioritizes the inputs used in valuation techniques to measure fair value into three levels as follows:

Level 1: Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities;

Level 2: Quoted prices in markets that are not active, or inputs which are observable, either directly or indirectly, for substantially the full term of the asset or liability;

Level 3: Prices or valuation techniques that require inputs that are both significant to the fair value measurement and unobservable (i.e., supported by little or no market activity).

Certain of the Company's assets and liabilities are recorded at fair value as of June 30, 2009 and December 31, 2008. SFAS No. 157 requires disclosures for assets and liabilities that are measured on a recurring basis and on a nonrecurring basis. Assets required to be marked-to-market and reported at fair value every reporting period are classified as being valued on a recurring basis. Other assets not required to be recorded at fair value every period may be recorded at fair value if a specific provision or other impairment is recorded within the period to mark the carrying value of the asset to market as of the reporting date. Such assets are classified as being valued on a nonrecurring basis.

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 15—Fair Value of Financial Instruments (Continued)**

The following table summarizes the Company's assets and liabilities recorded at fair value on a recurring and non-recurring basis by the above categories as of June 30, 2009 and December 31, 2008 (in thousands):

	Total	Quoted market prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
<b>As of June 30, 2009:</b>				
<b>Recurring basis:</b>				
Financial Assets:				
Derivative assets	\$ 2,786	\$ —	\$ 2,786	\$ —
Other lending investments—available-for-sale debt securities	\$ 7,250	\$ 7,250	\$ —	\$ —
Marketable securities	\$ 19,802	\$ 180	\$ 19,622	\$ —
Financial Liabilities:				
Derivative liabilities	\$ 1,390	\$ —	\$ 1,390	\$ —
<b>Nonrecurring basis:</b>				
Financial Assets:				
Impaired loans	\$1,825,360	\$ —	\$ —	\$1,825,360
Non-financial Assets:				
Impaired OREO	\$ 114,049	\$ —	\$ —	\$ 114,049
<b>As of December 31, 2008:</b>				
<b>Recurring basis:</b>				
Financial Assets:				
Derivative assets	\$ 3,872	\$ —	\$ 3,872	\$ —
Other lending investments—available-for-sale securities	\$ 10,856	\$ 10,856	\$ —	\$ —
Marketable securities	\$ 8,083	\$ 8,083	\$ —	\$ —
Financial Liabilities:				
Derivative liabilities	\$ 131	\$ —	\$ 131	\$ —
<b>Nonrecurring basis:</b>				
Financial Assets:				
Impaired loans	\$1,821,012	\$ —	\$ —	\$1,821,012
Impaired other lending investments—securities	\$ 10,128	\$ 10,128	\$ —	\$ —
Impaired cost method investments	\$ 3,888	\$ —	\$ —	\$ 3,888

The methods the Company used to estimate the fair values presented in the table are described more fully below for each type of asset and liability.

**Derivatives**—The Company uses interest rate swaps, interest rate caps and foreign currency derivatives to manage its interest rate and foreign currency risk. The valuation of these instruments is determined using widely accepted valuation techniques including discounted cash flow analysis on the expected cash flows of each derivative. This analysis reflects the contractual terms of the derivatives, including the period to maturity, and uses observable market-based inputs, including interest rate curves, foreign exchange rates, and implied volatilities. To comply with the provisions of SFAS No. 157, the Company incorporates credit valuation adjustments to appropriately reflect both its own non-performance risk and the respective counterparty's non-performance risk in the fair value measurements. In adjusting the fair value of its derivative contracts for the effect of non-performance risk, the Company has

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 15—Fair Value of Financial Instruments (Continued)**

considered the impact of netting and any applicable credit enhancements, such as collateral postings, thresholds, mutual puts, and guarantees.

Although the Company has determined that the majority of the inputs used to value its derivatives fall within Level 2 of the fair value hierarchy, the credit valuation adjustments associated with its derivatives utilize Level 3 inputs, such as estimates of current credit spreads to evaluate the likelihood of default by itself and its counterparties. However, as of June 30, 2009, the Company has assessed the significance of the impact of the credit valuation adjustments on the overall valuation of its derivative positions and has determined that the credit valuation adjustments are not significant to the overall valuation of its derivatives. As a result, the Company has determined that its derivative valuations in their entirety are classified in Level 2 of the fair value hierarchy.

**Securities**—All of the Company's available-for-sale and impaired held-to-maturity debt and equity securities are actively traded and have been valued using quoted market prices. The Company's traded marketable securities are valued using market quotes, to the extent they are available, or broker quotes.

**Impaired loans**—The Company's loans identified as being impaired under the provisions of SFAS No. 114 are collateral dependent loans and are evaluated for impairment by comparing the estimated fair value of the underlying collateral, less costs to sell, to the carrying value of each loan. Due to the nature of the individual properties collateralizing the Company's loans, the Company generally uses the income approach through internally developed valuation models to estimate the fair value of the collateral. This approach requires the Company to make significant judgments in respect to discount rates, capitalization rates and the timing and amounts of estimated future cash flows that are considered Level 3 inputs in accordance with SFAS No. 157. These cash flows include costs of completion, operating costs, and lot and unit sale prices.

**Impaired OREO**—The Company periodically evaluates its OREO assets to determine if events or changes in circumstances have occurred during the reporting period that may have a significant adverse effect on their fair value. Due to the nature of the individual properties in the OREO portfolio, the Company uses the income approach through internally developed valuation models to estimate the fair value of the assets. This approach requires the Company to make significant judgments with respect to discount rates, capitalization rates and the timing and amounts of estimated future cash flows that are considered Level 3 inputs in accordance with SFAS No. 157. These cash flows include costs of completion, operating costs, and lot and unit sale prices.

**Cost method investments**—The Company periodically evaluates its cost method investments to determine if events or changes in circumstances have occurred in that period that may have a significant adverse effect on the fair value of an investment. The Company estimates the fair value of impaired cost method investments using its ratable share of net asset value of the impaired funds.

**Disclosures about fair value of financial instruments**

In addition to the disclosures required by SFAS No. 157, SFAS No. 107, "Disclosures About Fair Value of Financial Instruments" ("SFAS No. 107"), requires the disclosure of the estimated fair values of all financial instruments. Whereas SFAS No. 157 only requires disclosure regarding assets and liabilities recorded at fair value in the financial statements, SFAS No. 107 requires disclosures of estimated fair

**iStar Financial Inc.****Notes to Consolidated Financial Statements (Continued)****(unaudited)****Note 15—Fair Value of Financial Instruments (Continued)**

values for all financial instruments regardless of if they are recorded at fair value in the financial statements. The fair value of financial instruments presented in the table below are calculated in accordance with the provisions of SFAS No. 157, as described above.

The book and fair values of financial instruments as of June 30, 2009 were as follows (in thousands):

	As of June 30, 2009	
	Book Value	Fair Value
<b>Financial assets:</b>		
Loans and other lending investments, net	\$ 9,578,241	\$8,402,573
Derivative assets	2,786	2,786
Marketable securities	19,802	19,802
<b>Financial liabilities:</b>		
Debt obligations, net	\$11,826,503	\$7,762,306
Derivative liabilities	1,390	1,390

The valuation techniques used to estimate the fair values for individual classifications of financial instruments in the table that were not previously described above, are described more fully below. Different assumptions could significantly affect these estimates. Accordingly, the net realizable values could be materially different from the estimates presented above.

In addition, the estimates are only indicative of the value of individual financial instruments and should not be considered an indication of the fair value of the Company as an operating business.

**Short-term financial instruments**—The carrying values of short-term financial instruments including cash and cash equivalents and short-term investments approximate the fair values of these instruments. These financial instruments generally expose the Company to limited credit risk and have no stated maturities, or have an average maturity of less than 90 days and carry interest rates which approximate market.

**Loans and other lending investments**—For the Company's interest in performing loans and other lending investments, the fair values were determined using a discounted cash flow methodology. This method discounts future estimated cash flows using rates the Company determined best reflect current market interest rates that would be offered for loans with similar characteristics and credit quality. The Company has used the carrying value net of specific reserves for non-performing loans, which represents the Company's estimated fair value of such loans.

**Other financial instruments**—The carrying values of other financial instruments including restricted cash, accrued interest receivable, accounts payable, accrued expenses and other liabilities approximate the fair values of the instruments.

**Debt obligations, net**—For debt obligations traded in secondary markets, the Company uses market quotes, to the extent they are available, or broker quotes. For debt obligations not traded in secondary markets, the Company determined fair value using the discounted cash flow methodology, whereby contractual cash flows are discounted at rates that the Company determined best reflect current market interest rates that would be charged for debt with similar characteristics and credit quality.

## iStar Financial Inc.

## Notes to Consolidated Financial Statements (Continued)

(unaudited)

**Note 16—Segment Reporting**

The Company has determined that it has two reportable operating segments: Real Estate Lending and Corporate Tenant Leasing. The reportable segments were determined based on the management approach, which looks to the Company's internal organizational structure. These two lines of business require different support infrastructures. The Real Estate Lending segment includes all of the Company's activities related to senior and mezzanine real estate debt and senior and mezzanine corporate capital investment activities and the financing thereof, including other real estate owned. The Corporate Tenant Leasing segment includes all of the Company's activities related to the ownership and leasing of corporate facilities.

The Company evaluates performance based on the following financial measures for each segment (in thousands):

	Real Estate Lending(1)	Corporate Tenant Leasing	Corporate/ Other(2)	Company Total
<b>Three months ended June 30, 2009</b>				
Total revenues(3)	\$ 140,774	\$ 77,835	\$ 5,967	\$ 224,576
Earnings from equity method investments	—	606	1,258	1,864
Total operating and interest expense(4)	469,785	55,265	184,140	709,190
Net operating income (loss)(5)	(329,011)	23,176	(176,915)	(482,750)
<b>Three months ended June 30, 2008</b>				
Total revenues(3)	\$ 242,020	\$ 77,304	\$ 1,085	\$ 320,409
Earnings from equity method investments	—	616	5,454	6,070
Total operating and interest expense(4)	381,008	44,000	187,185	612,193
Net operating income (loss)(5)	(138,988)	33,920	(180,646)	(285,714)
<b>Six months ended June 30, 2009</b>				
Total revenues(3)	\$ 317,405	\$ 156,846	\$ 8,715	\$ 482,966
Earnings (loss) from equity method investments	—	1,268	(19,904)	(18,636)
Total operating and interest expense(4)	756,410	110,544	333,413	1,200,367
Net operating income (loss)(5)	(439,005)	47,570	(344,602)	(736,037)
<b>Six months ended June 30, 2008</b>				
Total revenues(3)	\$ 574,877	\$ 155,540	\$ 2,316	\$ 732,733
Earnings from equity method investments	—	1,266	2,207	3,473
Total operating and interest expense(4)	476,393	72,626	397,959	946,978
Net operating income (loss)(5)	98,484	84,180	(393,436)	(210,772)
<b>As of June 30, 2009</b>				
Total long-lived assets(6)	\$ 9,578,241	\$2,992,286	\$ —	\$12,570,527
Total assets(7)	10,058,228	3,262,424	797,942	14,118,594
<b>As of December 31, 2008</b>				
Total long-lived assets(5)	\$10,586,644	\$3,044,811	\$ —	\$13,631,455
Total assets(7)(8)	11,037,624	3,330,907	928,217	15,296,748

**Explanatory Notes:**

(1) Real Estate Lending includes the Company's OREO assets and related operating expenses.

**iStar Financial Inc.**

**Notes to Consolidated Financial Statements (Continued)**

**(unaudited)**

**Note 16—Segment Reporting (Continued)**

- (2) Corporate/Other represents all corporate level items, including general and administrative expenses and any intercompany eliminations necessary to reconcile to the consolidated Company totals. This caption also includes the Company's timber operations, non-CTL related joint venture investments, strategic investments and marketable securities, which are not considered material separate segments.
- (3) Total revenue represents all revenue earned during the period from the assets in each segment. Revenue from the Real Estate Lending business primarily represents interest income and revenue from the Corporate Tenant Leasing business primarily represents operating lease income.
- (4) Total operating and interest expense primarily includes provision for loan losses for the Real Estate Lending business and operating costs on CTL assets for the Corporate Tenant Leasing business, as well as interest expense specifically related to each segment. Interest expense on secured and unsecured notes, the interim financing facility, unsecured and secured revolving credit facilities and general and administrative expense are included in Corporate/Other for all periods. Depreciation and amortization of \$24.8 million and \$24.0 million for the three months ended June 30, 2009 and 2008, respectively, and \$48.5 million and \$47.9 million for the six months ended June 30, 2009 and 2008, respectively, are included in the amounts presented above.
- (5) Net operating income (loss) represents income attributable to iStar Financial Inc. before gain on early extinguishment of debt, gain on sale of joint venture interest, income from discontinued operations and gain from discontinued operations.
- (6) Total long-lived assets are comprised of Loans and other lending investments, net and Corporate tenant lease assets, net for the Real Estate Lending and Corporate Tenant Leasing segments, respectively.
- (7) Intangible assets included in Corporate Tenant Leasing at June 30, 2009 and December 31, 2008 was \$55.0 million and \$58.5 million, respectively. Intangible assets included in Corporate/Other at June 30, 2009 and December 31, 2008 was \$2.0 million and \$2.7 million, respectively.
- (8) Goodwill included in Corporate Tenant Leasing at December 31, 2008 was \$4.2 million.

**Note 17—Subsequent Events**

The Company has evaluated events occurring through August 10, 2009 and did not identify any events that would require adjustment to or disclosure in its Consolidated Financial Statements.

## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

Certain statements in this report, other than purely historical information, including estimates, projections, statements relating to our business plans, objectives and expected operating results, and the assumptions upon which those statements are based, are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements are included with respect to, among other things, iStar Financial Inc.'s (the "Company's") current business plan, business strategy, portfolio management and liquidity. These forward-looking statements generally are identified by the words "believe," "project," "expect," "anticipate," "estimate," "intend," "strategy," "plan," "may," "should," "will," "would," "will be," "will continue," "will likely result," and similar expressions. Forward-looking statements are based on current expectations and assumptions that are subject to risks and uncertainties which may cause actual results or outcomes to differ materially from those contained in the forward-looking statements. We undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise. In assessing all forward-looking statements, readers are urged to read carefully all cautionary statements contained in this Form 10-Q and the uncertainties and risks described in Item 1a—"Risk Factors" in our 2008 Annual Report (as defined below), all of which could affect our future results of operations, financial condition and liquidity. For purposes of Management's Discussion and Analysis of Financial Condition and Results of Operations, the terms "we," "our" and "us" refer to iStar Financial Inc. and its consolidated subsidiaries, unless the context indicates otherwise.

The discussion below should be read in conjunction with our consolidated financial statements and related notes in this quarterly report on form 10-Q and our annual report on Form 10-K for the year ended December 31, 2008 (the "2008 Annual Report"). These historical financial statements may not be indicative of our future performance. We have reclassified certain items in our consolidated financial statements of prior periods to conform to our current financial statements presentation.

### ***Introduction***

iStar Financial Inc. is a publicly traded finance company focused on the commercial real estate industry. We primarily provide custom tailored financing to high-end private and corporate owners of real estate, including senior and mezzanine real estate debt, senior and mezzanine corporate capital, as well as corporate net lease financing and equity. We are taxed as a real estate investment trust, or "REIT" and provide innovative and value added financing solutions to our customers. We deliver customized financial products to sophisticated real estate borrowers and corporate customers who require a high level of flexibility and service. Our two primary lines of business are lending and corporate tenant leasing.

Our primary sources of revenues are interest income, which is the interest that borrowers pay on loans, and operating lease income, which is the rent that corporate customers pay to lease our CTL properties. We primarily generate income through the "spread" or "margin," which is the difference between the revenues generated from loans and leases and interest expense and the cost of CTL operations. We generally seek to match-fund our revenue generating assets with either fixed or floating rate debt of a similar maturity so that changes in interest rates or the shape of the yield curve will have a minimal impact on earnings.

### ***Executive Overview***

Financial market conditions, including the ongoing credit crisis and economic downturn, have continued to adversely affect our business and operating results through the second quarter of 2009. The market deterioration has led to a decline in commercial real estate values. This decline in value, combined with a lack of available debt financing for commercial real estate assets have limited borrowers' ability to repay or refinance their loans. The combination of these factors resulted in a further increase in non-performing loans and the related provision for loan losses during the second quarter. These factors

and their effect on our operations have also resulted in increases in our financing costs, a continuing inability to access the unsecured debt markets, depressed prices for our Common Stock and continued suspension of quarterly Common Stock dividends. We expect these trends to continue in the foreseeable future.

During the second quarter of 2009, we incurred a net loss of \$(292.3) million on \$224.6 million of revenue, resulting in \$(2.85) of diluted net loss per common share and \$(2.51) of adjusted diluted loss per share. These financial results primarily resulted from a provision for loan losses of \$435.0 million and impairments of other assets of \$24.8 million, which were recognized during the quarter. The provision for loan losses was driven by an increase in non-performing loans to \$4.61 billion, or 39.6% of Managed Loan Value (as defined below in "Risk Management"), as of June 30, 2009, from \$3.46 billion, or 27.5% of Managed Loan Value, at December 31, 2008. The increase in non-performing loans resulted from the continued deterioration in the commercial real estate market and weakened economic conditions impacting our borrowers, who continue to have difficulty refinancing or selling their projects in order to repay their loans in a timely manner. These losses were partially offset by the repurchase of \$371.8 million face amount of senior unsecured notes and the completion of our secured note exchange transactions together resulting in the recognition of \$200.9 million in net gains on the early extinguishment of debt. In addition, general and administrative expenses have declined 12.7% to \$38.4 million for the three months ended June 30, 2009 from \$44.0 million for the three months ended June 30, 2008. This was primarily achieved through reductions in head count and continued integration of our operations. Second quarter results were also impacted by a charge of \$42.4 million relating to the termination of a long-term lease for new headquarters space and the settlement of disputes with the landlord. The new lease was terminated based on our decision to remain in our current space, which is leased through 2021.

As liquidity in the capital markets has continued to be severely constrained and our repayments have become more uncertain, we have utilized asset sales, additional secured financing and a secured note exchange transaction to supplement our liquidity. As part of this strategy we completed a new secured term loan facility and restructuring of our existing unsecured revolving credit facilities with participating members of our bank lending group during the first quarter of 2009. The new and restructured facilities also provide us with additional operating flexibility through the modification of certain financial covenants. In addition, during the second quarter of 2009, we completed a series of private offers through which \$1.01 billion aggregate principal amount of our senior unsecured notes of various series were exchanged for \$634.8 million aggregate principal amount of new second-lien senior secured notes issued by us and guaranteed by certain of our subsidiaries. Concurrent with the exchange offer, we purchased for cash \$12.5 million par value of our outstanding senior floating rate notes due September 2009 pursuant to a cash tender offer. As of June 30, 2009, we had \$417.4 million of cash and available capacity under our credit facilities.

### ***Key Performance Measures***

We use the following metrics to measure our profitability:

- Adjusted Diluted EPS, calculated as adjusted diluted earnings (loss) attributable to iStar Financial Inc. and allocable to common shareholders divided by diluted weighted average common shares outstanding. (See section captioned "Adjusted Earnings" for more information on this metric).
- Net Finance Margin, calculated as the rate of return on assets less the rate of cost on debt. The rate of return on assets is the sum of interest income and operating lease income, divided by the sum of the average book value of gross loans and other lending investments, corporate tenant lease assets, purchased intangibles and assets held for sale over the period. The rate of cost on debt is the sum of interest expense and operating costs for corporate tenant lease assets, divided by the average book value of gross debt obligations during the period.



- Return on Average Common Book Equity, calculated as net income (loss) attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders divided by average iStar Financial Inc.'s common book equity.
- Adjusted Return on Average Common Book Equity, calculated as adjusted basic earnings (loss) attributable to iStar Financial and allocable to common shareholders, HPU holders and Participating Security holders divided by average iStar Financial Inc.'s common book equity.

The following table summarizes these key metrics:

	For the Three Months Ended June 30,	
	2009	2008, As Adjusted(1)
Adjusted Diluted EPS	\$ (2.51)	\$ (1.46)
Net Finance Margin(2)	1.5%	3.1%
Return on Average Common Book Equity	(70.1)%	3.1%
Adjusted Return on Average Common Book Equity	(61.7)%	(33.3)%

#### Explanatory Notes:

- (1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion (including Partial Cash Settlement)" and FSP EITF 03-6-1, "Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities." These new standards require retroactive application for prior periods presented. See Notes 3, 8 and 12 of the Notes to the Company's Consolidated Financial Statements for further details
- (2) For the three months ended June 30, 2008, operating lease income used to calculate the net finance margin includes amounts from discontinued operations of \$7,094. For the three months ended June 30, 2009 and 2008, operating costs—corporate tenant lease assets used to calculate the net finance margin includes amounts from discontinued operations of \$89 and \$325, respectively.

#### Results of Operations for the Three Months Ended June 30, 2009 compared to the Three Months Ended June 30, 2008

	2009	2008, As Adjusted(1)	\$ Change	% Change
	(in thousands)			
Interest income	\$ 142,181	\$ 235,354	\$ (93,173)	(40)%
Operating lease income	76,835	77,295	(460)	(1)%
Other income	5,560	7,760	(2,200)	(28)%
Total revenue	\$ 224,576	\$ 320,409	\$ (95,833)	(30)%
Interest expense	\$ 127,186	\$ 164,470	\$ (37,284)	(23)%
Operating costs—corporate tenant lease assets	5,615	4,546	1,069	24%
Depreciation and amortization	24,825	24,025	800	3%
General and administrative	38,421	44,004	(5,583)	(13)%
Provision for loan losses	435,016	276,660	158,356	57%
Impairment of other assets	24,817	57,692	(32,875)	(57)%
Impairment of goodwill	—	39,092	(39,092)	(100)%
Other expense	53,310	1,704	51,606	>100%
Total costs and expenses	\$ 709,190	\$ 612,193	\$ 96,997	16%
Gain on early extinguishment of debt	\$ 200,879	\$ —	\$ 200,879	100%
Gain on sale of joint venture interest	\$ —	\$ 280,219	\$ (280,219)	(100)%
Earnings (loss) from equity method investments	\$ 1,864	\$ 6,070	\$ (4,206)	(69)%
Income (loss) from discontinued operations	\$ (102)	\$ 5,994	\$ (6,096)	>(100)%
Gain from discontinued operations	\$ —	\$ 50,476	\$ (50,476)	(100)%

**Explanatory Note:**

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(1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1 and SFAS No. 160. Both new standards require retroactive application for prior periods presented. See Notes 3, 8 and 9 of the Notes to the Company's Consolidated Financial Statements for further details.

*Revenue*—The decrease in total revenue was primarily due to lower interest income, which decreased primarily as a result of the increasing level of non-performing loans within the portfolio. In addition, interest income was lower due to a decrease in loans outstanding and a decrease in the average one-month LIBOR rates to 0.37% in the second quarter of 2009 from 2.59% in the second quarter of 2008.

*Costs and expenses*—Total costs and expenses increased primarily due to the increase in our provision for loan losses and other expenses and was offset by decreases in interest expense, impairments of goodwill and other assets.

The increase in our provision for loan losses was primarily due to additional asset-specific reserves that were required due to the increasing level of non-performing loans within the portfolio, resulting from the continued deterioration in the commercial real estate market and weakened economic conditions that have negatively impacted our borrowers' ability to service their debt and refinance their loans at maturity. See "Risk Management" and "Executive Overview."

Other expense increased primarily due to a \$42.4 million charge pursuant to a settlement agreement under which we terminated a long-term lease for new headquarters space and settled all disputes with the landlord. The remaining increase in other expense primarily relates to bond exchange fees of \$4.3 million and additional holding costs of OREO assets for the period.

Interest expense decreased primarily due to the repayment and retirement of debt during the last twelve months. In addition, a decrease in average borrowing rates to 4.26% from 4.71% contributed to the decrease in interest expense.

At the end of the second quarter of 2008, due to an overall deterioration in market conditions within the commercial real estate market, we determined our goodwill was impaired and recorded a non-cash impairment charge of \$39.1 million, eliminating goodwill in our corporate real estate lending reporting unit.

During the three months ended June 30, 2009, as a result of the continued deterioration in the commercial real estate market, we recorded a \$22.2 million non-cash impairment to reduce the carrying value of OREO assets to their revised estimated fair values less costs to sell. In addition, we recorded a \$2.6 million non-cash impairment charge related to a single CTL asset to reflect a decline in value due to deteriorating sub-market conditions prior to its sale. During the same period in 2008, we recorded non-cash impairment charges, including \$40.0 million of impairments for certain held-to-maturity and available-for-sale securities in our loans and other lending investments portfolio that were other-than-temporarily impaired, \$5.2 million related to a cost method equity investment included in our other investments portfolio and \$12.5 million to reduce Fremont CRE intangibles to their revised estimated fair values.

General and administrative expenses were reduced primarily due to lower payroll and payroll related costs, which declined 24% from the first three months ended June 30, 2009 compared to the same period in 2008. This is primarily the result of reductions in headcount.

*Gain on early extinguishment of debt*—During the three months ended June 30, 2009, we retired \$371.8 million par value of our senior unsecured notes through open market repurchases, completed our secured note exchange transactions and purchased \$12.5 million of our outstanding senior floating rate notes which resulted in an aggregate net gain on early extinguishment of debt of \$200.9 million.

*Gain on sale of joint venture interest*—In April 2008, we closed on the sale of our TimberStar Southwest joint venture for a gross sales price of \$1.71 billion, including the assumption of debt. We

received net proceeds of approximately \$417.0 million for our interest in the venture and recorded a gain of \$280.2 million.

*Earnings (loss) from equity method investments*—Earnings (loss) from equity method investments decreased primarily due to weaker market performance that affected our strategic investments.

*Income (loss) from discontinued operations*—For the three months ended June 30, 2009 and 2008, operating results for CTL and TimberStar assets sold during 2008 and the first half of 2009 are classified as discontinued operations.

*Gain from discontinued operations*—We sold one CTL asset during the three months ended June 30, 2009 and recognized no gains or losses on the sale. During the three months ended June 30, 2008, we sold several CTL assets and our Maine timber property for gains of \$50.5 million.

#### Results of Operations for the Six Months Ended June 30, 2009 compared to the Six Months Ended June 30, 2008

	2009	2008, As Adjusted(1)	\$ Change	% Change
	(in thousands)			
Interest income	\$ 319,408	\$ 511,453	\$ (192,045)	(38)%
Operating lease income	155,485	155,495	(10)	0%
Other income	8,073	65,785	(57,712)	(88)%
Total revenue	<u>\$ 482,966</u>	<u>\$ 732,733</u>	<u>\$ (249,767)</u>	<u>(34)%</u>
Interest expense	\$ 258,351	\$ 334,250	\$ (75,899)	(23)%
Operating costs—corporate tenant lease assets	12,161	9,613	2,548	27%
Depreciation and amortization	48,477	47,887	590	1%
General and administrative	77,810	86,780	(8,970)	(10)%
Provision for loan losses	693,112	366,160	326,952	89%
Impairment of other assets	45,962	57,692	(11,730)	(20)%
Impairment of goodwill	4,186	39,092	(34,906)	(89)%
Other expense	60,308	5,504	54,804	>100%
Total costs and expenses	<u>\$ 1,200,367</u>	<u>\$ 946,978</u>	<u>\$ 253,389</u>	<u>27%</u>
Gain on early extinguishment of debt	\$ 355,256	\$ —	\$ 355,256	100%
Gain on sale of joint venture interest	\$ —	\$ 280,219	\$ (280,219)	(100)%
Earnings (loss) from equity method investments	\$ (18,636)	\$ 3,473	\$ (22,109)	>(100)%
Income (loss) from discontinued operations	\$ 119	\$ 14,025	\$ (13,906)	(99)%
Gain from discontinued operations	\$ 11,617	\$ 52,532	\$ (40,915)	(78)%

#### Explanatory Note:

(1) On January 1, 2009, the Company adopted the provisions of FSP APB 14-1 and SFAS No. 160. Both new standards require retroactive application for prior periods presented. See Notes 3, 8 and 9 of the Notes to the Company's Consolidated Financial Statements for further details.

*Revenue*—The decrease in total revenue was primarily due to lower interest income and other income. Interest income decreased primarily due to the increasing level of non-performing loans within the portfolio. In addition, interest income was lower due to a decrease in total loans outstanding and a decrease in the average one-month LIBOR rates to 0.42% in the first half of 2009, from 2.94% in the first half of 2008.

Other income for the first half of 2008 included a \$44.2 million gain recognized from the redemption of a participation interest in a lending investment. Other income also decreased as the result of fewer prepayment penalties during the first half of 2009 as compared to the same period in 2008.

*Costs and expenses*—Total costs and expenses increased primarily due to the increase in our provision for loan losses and other expenses and was offset by decreases in interest expense, impairments of goodwill and other assets and general and administrative expenses.

The increase in our provision for loan losses was primarily due to additional asset-specific reserves that were required due to the increasing level of non-performing loans within the portfolio, resulting from the continued deterioration in the commercial real estate market and weakened economic conditions that have negatively impacted our borrowers' ability to service their debt and refinance their loans at maturity. See "Risk Management" and "Executive Overview."

Other expense was higher primarily due to a \$42.4 million charge incurred during the second quarter of 2009 pursuant to a settlement agreement under which we terminated a long-term lease for new headquarters space and settled all disputes with the landlord. The remaining increase in other expense primarily relates to bond exchange fees of \$4.3 million and additional holding costs of OREO assets for the period.

Interest expense decreased primarily due to the repayment and retirement of debt. In addition, a decrease in average borrowing rates to 4.20% from 5.03% contributed to the decrease in interest expense.

At the end of the first quarter of 2009, due to the overall deterioration in the commercial real estate market, we determined our goodwill was impaired and recorded a non-cash impairment charge of \$4.2 million, eliminating goodwill in our corporate tenant leasing reporting unit. At the end of the second quarter of 2008, due to the overall deterioration in the commercial real estate market, we determined our goodwill was impaired and recorded a non-cash impairment charge of \$39.1 million, eliminating goodwill in our corporate real estate lending reporting unit.

During the six months ended June 30, 2009, we recorded non-cash impairment charges related to various assets including \$28.9 million to reduce the carrying value of OREO assets to their revised estimated fair values less costs to sell, \$9.5 million for certain held-to-maturity and available-for-sale securities in our loans and other lending investments portfolio that were other-than-temporarily impaired, \$5.0 million in our other investment portfolio and \$2.6 million related to a single CTL asset to reflect a decline in value due to deteriorating sub-market conditions prior to its sale. During the same period in 2008, we recorded non-cash impairment charges related to various assets including \$40.0 million for certain held-to-maturity and available-for-sale securities in our loans and other lending investments portfolio that were other-than-temporarily impaired, \$5.2 million for a cost method equity investment included in our other investments portfolio and \$12.5 million to reduce the Fremont CRE intangible carrying value to its revised estimated fair values.

General and administrative expenses were reduced primarily due to lower payroll and payroll related costs, which declined 23% from the first half of 2009 compared to the same period in 2008. This is primarily the result of reductions in headcount.

*Gain on early extinguishment of debt*—During the six months ended June 30, 2009, we retired \$658.2 million par value of our senior unsecured notes through open market repurchases, completed our secured note exchange transactions and purchased \$12.5 million of our outstanding senior floating rate notes which resulted in an aggregate net gain on early extinguishment of debt of \$355.3 million.

*Gain on sale of joint venture interest*—In April 2008, we closed on the sale of our TimberStar Southwest joint venture for a gross sales price of \$1.71 billion, including the assumption of debt. We received net proceeds of approximately \$417.0 million for our interest in the venture and recorded a gain of \$280.2 million.

*Earnings (loss) from equity method investments*—Earnings (loss) from equity method investments decreased primarily due to a \$9.4 million non-cash out of period charge to recognize additional losses from an equity method investment as a result of additional depreciation expense that should have been recorded at the equity method entity in prior periods (see Note 6 of the Notes to the Consolidated Financial Statements). The decrease was also attributable to weaker market performance that affected our strategic investments during the first half of 2009.

*Income (loss) from discontinued operations*—For the six months ended June 30, 2009 and 2008, operating results for CTL and TimberStar assets sold during 2008 and the first half of 2009 are classified as discontinued operations.

*Gain from discontinued operations*—We sold three CTL assets during the six months ended June 30, 2009 and recognized gains of approximately \$11.6 million. During the six months ended June 30, 2008, we sold several CTL assets and our Maine timber property for gains of \$52.5 million.

### **Adjusted Earnings**

We measure our performance using adjusted earnings in addition to net income. Adjusted earnings represent net income attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders computed in accordance with GAAP, before depreciation, depletion, amortization, gain from discontinued operations, ineffectiveness on interest rate hedges, impairments of goodwill and intangible assets, extraordinary items and cumulative effect of change in accounting principle. Adjustments for joint ventures reflect our share of adjusted earnings calculated on the same basis.

We believe that adjusted earnings is a helpful measure to consider, in addition to net income, because this measure helps us to evaluate how our commercial real estate finance business is performing compared to other commercial finance companies, without the effects of certain GAAP adjustments that are not necessarily indicative of current operating performance. The most significant GAAP adjustments that we exclude in determining adjusted earnings are depreciation, depletion, amortization and impairments of goodwill and intangible assets, which are typically non-cash charges. We do not exclude non-cash impairment charges on tangible assets or provisions for loan loss reserves. As a commercial finance company that focuses on real estate lending and corporate tenant leasing, we record significant depreciation on our real estate assets, depletion on our timber assets, and amortization of deferred financing costs associated with our borrowings. Depreciation, depletion and amortization do not affect our daily operations, but they do impact financial results under GAAP. By measuring our performance using adjusted earnings and net income, we are able to evaluate how our business is performing both before and after giving effect to recurring GAAP adjustments such as depreciation, depletion and amortization (including earnings from joint venture interests on the same basis) and excluding impairments of goodwill and intangible assets and gains or losses from the sale of assets that will no longer be part of continuing operations.

Adjusted earnings is not an alternative or substitute for net income in accordance with GAAP as a measure of our performance. Rather, we believe that adjusted earnings is an additional measure that helps us analyze how our business is performing. This measure is also used to track compliance with covenants in certain of our material borrowing arrangements that have covenants based upon this measure. Adjusted earnings should not be viewed as an alternative measure of either our operating liquidity or funds available

for our cash needs or for distribution to our shareholders. In addition, we may not calculate adjusted earnings in the same manner as other companies that use a similarly titled measure.

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2009	2008, As Adjusted(1)	2009	2008, As Adjusted(1)
(in thousands)				
<b>Adjusted earnings:</b>				
Net income (loss).	\$(281,973)	\$ 50,975	\$(369,045)	\$ 136,004
Add: Depreciation, depletion and amortization	24,579	26,064	48,078	53,701
Add: Joint venture depreciation, depletion and amortization	3,506	1,945	14,194	10,570
Add: Amortization of deferred financing costs	6,966	12,017	12,126	21,932
Add: Impairment of goodwill and intangible assets	—	51,549	4,186	51,549
Less: Hedge ineffectiveness, net	—	(2,341)	—	(850)
Less: Gain from discontinued operations	—	(50,476)	(11,617)	(52,532)
Less: Gain on sale of joint venture interest	—	(280,219)	—	(280,219)
Less: Net loss attributable to noncontrolling interests	271	771	1,514	567
Less: Preferred dividend requirements	(10,580)	(10,580)	(21,160)	(21,160)
Adjusted diluted earnings (loss) attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders(2)(3)	\$(257,231)	\$(200,295)	\$(321,724)	\$ (80,438)
Weighted average diluted common shares outstanding	99,769	134,399	102,671	134,330

#### Explanatory Notes:

- (1) On January 1, 2009, we adopted the provisions of FSP APB 14-1 and SFAS No. 160. Both new standards require retroactive application for prior periods presented. See Notes 3, 8 and 9 of the Notes to the Company's Consolidated Financial Statements for further details.
- (2) HPU holders are Company employees who purchased high performance common stock units under the Company's High Performance Unit Program. Participating Security holders are Company employees and directors who hold unvested restricted stock units and common stock equivalents granted under the Company's Long Term Incentive Plan. For the three months ended June 30, 2009 and 2008, adjusted diluted earnings (loss) attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders includes \$(7,155) and \$(4,142), respectively of adjusted earnings (loss) allocable to HPU holders. For the six months ended June 30, 2009 and 2008, adjusted diluted earnings (loss) attributable to iStar Financial Inc. and allocable to common shareholders, HPU holders and Participating Security holders includes \$(8,655) and \$(1,688), respectively of adjusted earnings (loss) allocable to HPU holders.
- (3) For the six months ended June 30, 2008, amount excludes \$1,122 of dividends paid to Participating Security holders.

**Risk Management**

**Loan Credit Statistics**—The table below summarizes our non-performing loans and details the reserve for loan losses associated with our loans (in thousands):

	As of June 30, 2009	As of December 31, 2008
<b>Non-performing loans</b>		
Carrying value	\$4,159,012	\$3,108,798
Participated portion	451,318	349,359
Managed Loan Value(1)	<u>\$4,610,330</u>	<u>\$3,458,157</u>
As a percentage of Managed Loan Value of total loans(2)	39.6%	27.5%
<b>Watch list loans</b>		
Carrying value	\$1,131,455	\$1,026,446
Participated portion	81,017	238,450
Managed Loan Value	<u>\$1,212,472</u>	<u>\$1,264,896</u>
As a percentage of Managed Loan Value of total loans(2)	10.4%	10.1%
<b>Reserve for loan losses</b>		
	\$1,469,415	\$ 976,788
As a percentage of Managed Loan Value of total loans(2)	12.6%	7.8%
As a percentage of Managed Loan Value of non-performing loans	31.9%	28.2%
<b>Other real estate owned</b>		
Carrying value	\$ 382,570	\$ 242,505

**Explanatory Note:**

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- (1) Managed Loan Value of a loan is computed by adding iStar's carrying value of the loan and the participation interest sold on the Fremont CRE portfolio. The participation, receives 70% of all loan principal payments including principal that we have funded. Therefore we are in the first loss position and we believe that presentation of the Managed Loan Value is more relevant than a presentation of our carrying value when discussing our risk of loss on the loans in the Fremont CRE Portfolio.
  - (2) Total Managed Loan Value of total loans was \$11,646,965 and \$12,584,723 as of June 30, 2009 and December 31, 2008, respectively.

**Non-Performing Loans**—We designate loans as non-performing at such time as: (1) management determines the borrower is incapable of, or has ceased efforts towards, curing the cause of an impairment; (2) the loan becomes 90 days delinquent; or (3) the loan has a maturity default. All non-performing loans are placed on non-accrual status and income is only recognized in certain cases upon actual cash receipt. As of June 30, 2009, we had non-performing loans with an aggregate carrying value of \$4.16 billion and an aggregate Managed Loan Value of \$4.61 billion, or 39.6% of the total Managed Loan Value of total loans. Our non-performing loans increased during the first half of 2009, particularly in our residential land development and condominium construction portfolios, due to the weakened economy and the continued disruption in the credit markets, which have adversely impacted the ability of many of our borrowers to service their debt and refinance our loans at maturity. Due to the continuing deterioration of the commercial real estate market, the process of estimating collateral values and reserves will continue to require significant judgment on the part of management, which is inherently uncertain and subject to change. Management currently believes there is adequate collateral and reserves to support the book values of the loans.

Non-performing loans by property/collateral type as of June 30, 2009 were as follows (\$ in thousands):

<b>Property/Collateral Type</b>	<b>Managed Loan Value</b>	<b>% of non- performing loans</b>
Land	\$ 1,610	34.92%
Condo Construction—Completed	829	17.98%
Multifamily	356	7.72%
Retail	338	7.33%
Condo Construction—In Progress	290	6.29%
Entertainment/Leisure	273	5.92%
Mixed Use/Mixed Collateral	245	5.32%
Hotel	198	4.30%
Conversion—Completed	162	3.51%
Conversion—In Progress	156	3.38%
Industrial/R&D	88	1.91%
Office	53	1.16%
Corporate—Real Estate	12	0.26%
<b>Total</b>	<b>\$ 4,610</b>	<b>100.00%</b>

**Watch List Assets**—We conduct a quarterly comprehensive credit review, resulting in an individual risk rating being assigned to each asset in our portfolio. This review is designed to enable management to evaluate and proactively manage asset-specific credit issues and identify credit trends on a portfolio-wide basis as an "early warning system." As of June 30, 2009, we had assets on the credit watch list, (excluding non-performing loans), with an aggregate carrying value of \$1.13 billion and an aggregate Managed Loan Value of \$1.21 billion, or 10.4% of total managed loans.

**Reserve For Loan Losses**—During the six months ended June 30, 2009, the reserve for loan losses increased \$492.6 million, which was the result of \$693.1 million of provisioning for loan losses reduced by \$200.5 million of charge-offs. The reserve is increased through the provision for loan losses, which reduces income in the period recorded and the reserve is reduced through charge-offs.

The reserve for loan losses includes an asset-specific component and a formula-based component. An asset-specific reserve is established for an impaired loan when the estimated fair value of the loan's collateral less costs to sell is lower than the carrying value of the loan. As of June 30, 2009, we had \$1.25 billion of asset-specific reserves compared to \$799.6 million of asset-specific reserves at December 31, 2008. The increase in asset-specific reserves during the six months ended June 30, 2009 was primarily due to the increase in non-performing loans as previously discussed. The increase was also due to additional reserves required for existing non-performing loans further impacted by the continued deterioration in the commercial real estate market.

The formula-based general reserve is derived from estimated probabilities of principal loss and loss given default severities assigned to the portfolio during our quarterly internal risk rating assessment. Probabilities of principal loss and severity factors are based on industry and/or internal experience and may be adjusted for significant factors that, based on our judgment, impact the collectability of the loans as of the balance sheet date. The general reserve was \$220.3 million as of June 30, 2009 and has increased from \$177.2 million at December 31, 2008.

**Other Real Estate Owned (OREO)**—During the six months ended June 30, 2009, we received titles to properties in satisfaction of senior mortgage loans with cumulative carrying values of \$375.8 million, for which those properties had served as collateral, and recorded charge-offs totaling \$96.2 million related to these loans. We recorded impairment charges totaling \$28.9 million during this same period due to changing market conditions as well as net losses on property sales. During the six months ended June 30,



2009, we sold OREO assets for net proceeds of \$145.6 million and recognized net losses of \$10.7 million which were included in "Impairment of other assets" on our Consolidated Statements of Operations.

**Tenant credit characteristics**—As of June 30, 2009, our CTL assets had 97 different tenants, of which 66% were public companies and 34% were private companies. In addition, 28% of the tenants were rated investment grade by one or more national rating agencies and 36% were rated non-investment grade and the remaining tenants were not rated.

## Liquidity and Capital Resources

We require significant capital to fund our investment activities and operating expenses. We currently estimate that we will fund approximately \$525.0 million, primarily consisting of outstanding commitments associated with our loan portfolio, during the remainder of 2009. However, the timing of funding these commitments and the amounts of the individual fundings are largely dependent on construction projects meeting certain milestones, and therefore they are difficult to predict with certainty. In addition we have debt maturities totaling approximately \$290.8 million remaining in 2009.

Our capital sources in today's financing environment include repayments from our loan assets, asset sales, financings secured by our assets, cash flow from operations and potential joint ventures. Historically we have also issued unsecured corporate debt, convertible debt and preferred and common equity—however current market conditions have effectively eliminated our access to these sources of capital in the near term.

In March 2009, we obtained additional financing and consummated a restructuring of our existing unsecured revolving credit facilities by entering into new secured credit facilities (the "Secured Credit Facilities Transaction"). In connection with this transaction, we entered into a \$1.00 billion First Priority Credit Agreement which will mature in June 2012 and will be secured by a pool of collateral consisting of loan assets, corporate tenant lease assets and securities. We also entered into a \$1.70 billion Second Priority Credit Agreement maturing in June 2011 and a \$950.0 million Second Priority Credit Agreement maturing in June 2012 with the same lenders participating in the First Priority Credit Agreement, who will have a second lien on the same collateral pool. Refer to the Unsecured/Secured Credit Agreements section below for further details on these transactions.

In May 2009, we completed a series of private offers through which \$1.01 billion aggregate principal amount of our senior unsecured notes of various series were exchanged for \$634.8 million aggregate principal amount of new second-lien senior secured notes issued by us and guaranteed by certain of our subsidiaries. Concurrent with the exchange offer, we repurchased for cash \$12.5 million par value of our outstanding senior floating rate notes due September 2009 pursuant to a cash tender offer.

In addition, during the three months ended June 30, 2009, we received gross principal repayments from borrowers of approximately \$414.9 million and \$263.9 million in proceeds from strategic completed asset sales. We funded \$358.2 million of loan commitments during the quarter and repaid outstanding debt of \$434.3 million. We also repurchased \$371.8 million par value of senior unsecured notes and completed our secured note exchange transactions during the second quarter. These transactions resulted in the recognition of \$200.9 million in net gains on the early extinguishment of debt during the quarter. We may from time to time seek to retire or repurchase additional outstanding debt through cash purchases and/or exchanges, in open market purchases, privately negotiated transactions or otherwise.

As of June 30, 2009, we had \$417.4 million of cash and available capacity under our credit facilities. We actively manage our liquidity and continually work on initiatives to address both our debt covenants compliance and our liquidity needs. We expect proceeds from asset sales to supplement loan repayments and intend to continue to analyze additional asset sales and secured financing alternatives in order to maintain adequate liquidity for the balance of the year. Under the terms of our credit agreements, we can issue a total of up to \$1.00 billion of second priority secured notes in exchange or refinancing transactions involving our unsecured notes. After giving effect to the private exchange offers in May 2009, described

above, we can issue up to \$365.2 million of new notes in exchange or refinancing transactions. Our liquidity plan is dynamic and we expect to monitor the markets and adjust our plan as market conditions change. There is a risk that we will not be able to meet all of our funding and debt service obligations. Management's failure to successfully implement our liquidity plan could have a material adverse effect on our financial position and covenant compliance, results of operations and cash flows.

Our ability to obtain additional debt and equity financing will depend in part on our ability to comply with the financial covenants in our secured credit facilities and our publicly held debt securities, as further described in the Debt Covenants section below. In addition, any decision by our lenders and investors to provide us with additional financing will depend upon a number of other factors, such as our compliance with the terms of existing credit arrangements, our financial performance, our credit ratings, industry or market trends, the general availability of and rates applicable to financing transactions, such lenders' and investors' resources and policies concerning the terms under which they make capital commitments and the relative attractiveness of alternative investment or lending opportunities.

The following table outlines the contractual obligations related to our long-term debt agreements and operating lease obligations as of June 30, 2009. We have no other long-term liabilities that would constitute a contractual obligation.

	Principal And Interest Payments Due By Period					
	Total	Less Than 1 Year	2 – 3 Years	4 – 5 Years	6 – 10 Years	After 10 Years
	(In thousands)					
<b>Long-Term Debt Obligations:</b>						
Unsecured notes	\$ 4,374,905	\$ 788,796	\$1,679,387	\$1,410,567	\$ 496,155	\$ —
Secured notes	634,801	—	155,253	479,548	—	—
Convertible notes	787,750	—	—	787,750	—	—
Unsecured revolving credit facilities	745,722	—	745,722	—	—	—
Secured term loans	4,008,118	—	3,741,961	56,412	22,042	187,703
Secured revolving credit facility	960,651	—	960,651	—	—	—
Trust preferred	100,000	—	—	—	—	100,000
<b>Total</b>	<b>11,611,947</b>	<b>788,796</b>	<b>7,282,974</b>	<b>2,734,277</b>	<b>518,197</b>	<b>287,703</b>
<b>Interest Payable(1)</b>	<b>1,809,435</b>	<b>492,840</b>	<b>764,445</b>	<b>331,325</b>	<b>153,692</b>	<b>67,133</b>
<b>Operating Lease Obligations</b>	<b>53,406</b>	<b>6,317</b>	<b>12,040</b>	<b>9,710</b>	<b>19,459</b>	<b>5,880</b>
<b>Total(2)</b>	<b>\$13,474,788</b>	<b>\$1,287,953</b>	<b>\$8,059,459</b>	<b>\$3,075,312</b>	<b>\$ 691,348</b>	<b>\$360,716</b>

#### Explanatory Notes:

- (1) All variable-rate debt assumes a 30-day LIBOR rate of 0.31% (the 30-day LIBOR rate at June 30, 2009).
- (2) We also have letters of credit outstanding totaling \$14.4 million additional collateral for several of our investments. See "Off-Balance Sheet Transactions" below, for a discussion of certain unfunded commitments related to our lending and CTL business.

**Unsecured/Secured Credit Agreements**—In March 2009, we entered into a \$1.00 billion First Priority Credit Agreement with participating members of our existing bank lending group. The First Priority Credit Agreement will mature in June 2012. Borrowings bear interest at the rate of LIBOR + 2.50% per year, subject to adjustment based upon our corporate credit ratings (see Ratings Triggers below) and are collateralized by a first-priority lien on the same pool of assets collateralizing the Second Priority Secured Exchange Notes and the Second Priority Credit Agreements (see below). As of June 30, 2009, the First Priority Credit Agreement was fully drawn.

Also in March 2009, we restructured our two unsecured revolving credit facilities by entering into two Second Priority Credit Agreements, with \$1.70 billion maturing in 2011 and \$950.0 million maturing in 2012, with the same lenders participating in the First Priority Credit Agreement. Such lenders' commitments under our unsecured facilities have been terminated and replaced by their commitments under the Second Priority Credit Agreements. Under these agreements, the participating lenders will have a second priority lien on the same collateral pool securing the First Priority Credit Agreement and the Second Priority Secured Exchange Notes (see below). Borrowings bear interest at the rate of LIBOR + 1.50% per year, subject to adjustment based upon our corporate credit ratings (see Ratings Triggers below). As of June 30, 2009, the two Second Priority Credit Agreements were fully drawn.

At June 30, 2009, the total carrying value of assets pledged as collateral under the First and Second Priority Credit Agreements and the Second Priority Secured Exchange Notes was \$5.72 billion. Under certain circumstances, the First and Second Priority Credit Agreements require that payments of principal and net sale proceeds received by us in respect of assets constituting collateral for our obligations under these agreements be applied toward the mandatory prepayment of loans and commitment reductions under them. We would be required to make such prepayments (i) during any time that the ratio of our EBITDA to fixed charges, as defined under the agreements, is less than 1.25 to 1.00, (ii) if, after receiving a payment of principal or net sale proceeds in respect of collateral, we have insufficient eligible assets available to pledge as replacement collateral or (iii) if, and for so long as, the aggregate principal amount of loans outstanding under the First Priority Credit Agreement exceeds \$500 million at any time on or after September 30, 2010, or zero at any time on or after March 31, 2011.

Concurrently with entering into the First and Second Priority Credit Agreements, we entered into amendments to our \$2.22 billion and \$1.20 billion unsecured revolving credit facilities. As of June 30, 2009, after giving effect to the amendments, outstanding balances on the unsecured credit facilities were \$501.4 million, which will expire in June 2011, and \$244.3 million, which will expire in June 2012. The amendments eliminated certain covenants and events of default. The unsecured revolving credit facilities may not be repaid prior to maturity while the First and Second Priority Credit Agreements remain outstanding. These facilities remain unsecured and no changes were made to the pricing terms of these facilities in connection with these amendments.

In connection with the First and Second Priority Credit Agreements as well as the amendments of the unsecured revolving credit facilities, we paid an aggregate of \$38.3 million in fees to lenders and third party costs, which are recorded in "Deferred expenses and other assets, net," on our Consolidated Balance Sheets and are being amortized to interest expense over the contractual term of the new and amended facilities.

During the three months ended June 30, 2009, we also repaid and terminated our LIBOR-based secured revolving credit facility due September 2009.

**Unencumbered Assets/Unsecured Debt**—The following table shows the ratio of unencumbered assets to unsecured debt at June 30, 2009 and December 31, 2008 (in thousands):

	As of June 30, 2009	As of December 31, 2008
Total Unencumbered Assets	\$8,428,042	\$13,540,138
Total Unsecured Debt(1)	\$6,008,376	\$10,612,225
Unencumbered Assets/Unsecured Debt	140%	128%

**Explanatory Note:**

- (1) See Note 8 of the Notes to Consolidated Financial Statements for a more detailed description of our unsecured debt.

**Capital Markets Activity**—On May 8, 2009, we completed a series of private offers in which we issued \$155.3 million aggregate principal amount of our 8.00% second-priority senior secured guaranteed notes due 2011 ("2011 Notes") and \$479.5 million aggregate principal amounts of our 10.0% second-priority senior secured guaranteed notes due 2014 ("2014 Notes" and together with the 2011 Notes, the "Second Priority Secured Exchange Notes") in exchange for \$1.01 billion aggregate principal amount of our senior unsecured notes of various series. The Second Priority Secured Exchange Notes are collateralized by a second-priority lien on the same pool of collateral pledged under the First and Second Priority Credit Agreements consisting of loans, debt securities and the equity interests of certain of our subsidiaries that own loans and debt securities, corporate tenant leases and other assets. The indentures governing the Second Priority Secured Exchange Notes contain a number of covenants, including that we maintain collateral coverage of at least 1.3x the aggregate borrowings under the First Priority Credit Agreement, the Second Priority Credit Agreements and the Second Priority Secured Exchange Notes, see "Debt Covenants." In conjunction with the exchange, we also repurchased \$12.5 million par value of our outstanding senior floating rate notes due September 2009.

We accounted for the issuance of the 2014 Notes in exchange for various series of senior unsecured notes ("TDR Notes") as a troubled debt restructuring in accordance with SFAS No. 15, "Accounting by Debtors and Creditors for Troubled Debt Restructurings". As such, we recognized a gain on the TDR Notes to the extent that the prior carrying value exceeded the total future contractual cash payments of the 2014 Notes, consisting of both principal and interest. The issuance of the 2011 Notes in exchange for senior unsecured notes was considered a modification of the original debt resulting in adjustments to the carrying amounts for any new premiums or discounts. As a result of these transactions, including the repurchase of \$12.5 million of outstanding senior floating notes due September 2009, we recognized a \$108.0 million gain on early extinguishment of debt, net of closing costs of \$11.8 million and recorded a deferred gain of \$262.7 million which is reflected as premiums to the par value of the new debt. These premiums will be amortized over the terms of the 2011 Notes and the 2014 Notes as a reduction to interest expense. In addition, in connection with the exchange for the 2011 Notes, we incurred \$4.3 million of direct costs which were recorded in "Other expense" on the Consolidated Statements of Operations.

During the six months ended June 30, 2009, we repurchased, through open market and private transactions, \$658.2 million par value of our senior unsecured notes with various maturities ranging from September 2009 to March 2016. In connection with these repurchases, we recorded an aggregate net gain on early extinguishment of debt of approximately \$92.9 million and \$247.3 million for the three and six months ended June 30, 2009, respectively. We may repurchase additional debt securities that we have issued from time to time in open market transactions, privately negotiated purchases or exchanges. There can be no assurance as to the timing or amount of any such repurchases or whether we will recognize gains from such repurchases.

During the six months ended June 30, 2009, we also repaid our 4.875% senior notes due January 2009 and our LIBOR + 0.55% senior notes due March 2009.

**Other Financing Activity**—In May 2009, we obtained ownership rights to a property, through an assignment of ownership interests, that was financed by a senior secured term loan funded by a third party lender and a mezzanine loan funded by us. Upon assignment, we recorded the \$35.2 million non-recourse senior secured term loan with the third party lender as a debt obligation on our Consolidated Balance Sheets. The loan bears interest at LIBOR + 3.675% with a floor of 6.75% and matures in November 2010.

During the six months ended June 30, 2009, we repaid our LIBOR + 4.50% secured term loan due September 2009.

As of June 30, 2009, future scheduled maturities of outstanding long-term debt obligations, net are as follows (in thousands):

2009 (remaining six months)	\$ 290,767
2010	837,356
2011	4,111,278
2012	3,620,121
2013	1,260,378
Thereafter	1,492,047
Total principal maturities	11,611,947
Unamortized debt premiums, net	214,556
Total long-term debt obligations, net	<u>\$11,826,503</u>

**Debt Covenants**—Our ability to borrow under our secured credit facilities depends on maintaining compliance with various covenants, including minimum net worth levels, as well as specified financial ratios, such as fixed charge coverage, unencumbered assets to unsecured indebtedness, and leverage ratios. In addition, we are required to maintain a minimum consolidated tangible net worth of at least \$1.5 billion. As of June 30, 2009, our minimum tangible net worth was approximately \$2.1 billion. Further loan loss reserves and impairment charges will adversely impact our tangible net worth. All of these covenants are maintenance covenants and, if breached could result in an acceleration of our facilities if a waiver or modification is not agreed upon with the requisite percentage of lenders. Our secured credit facilities also impose limitations on repayments, repurchases, refinancings and optional redemptions of our existing unsecured notes or secured exchange notes issued pursuant to our exchange offer, as well as limitations on repurchases of our Common Stock. For so long as we maintain our qualification as a REIT, the secured credit facilities permit us to distribute 100% of our REIT taxable income on an annual basis. We may not pay common dividends if we cease to qualify as a REIT.

Our publicly held debt securities also contain covenants that include fixed charge coverage and unencumbered assets to unsecured indebtedness ratios. The fixed charge coverage ratio is an incurrence test. If we do not meet the fixed charge coverage ratio, our ability to incur additional indebtedness will be restricted. The unencumbered assets to unsecured indebtedness covenant is a maintenance covenant and, if breached and not cured within applicable cure periods, could result in acceleration of our publicly held debt unless a waiver or modification is agreed upon with the requisite percentage of the bondholders. Based on our unsecured credit ratings at June 30, 2009, the financial covenants in our publicly held debt securities, including the fixed charge coverage ratio and maintenance of unencumbered assets to unsecured indebtedness ratio, are operative.

Our secured credit facilities and our public debt securities contain cross default provisions that allow the lenders and the bondholders to declare an event of default and accelerate our indebtedness to them if we fail to pay amounts due in respect of our other recourse indebtedness in excess of specified thresholds. In addition, our secured credit facilities, unsecured credit facilities and the indentures governing our public debt securities provide that the lenders and bondholders may declare an event of default and accelerate our indebtedness to them if there is a non payment default under our other recourse indebtedness in excess of specified thresholds and, if the holders of the other indebtedness are permitted to accelerate, in the case of the secured credit facilities, or accelerate, in the case of our unsecured credit facilities and the bond indentures, the other recourse indebtedness.

**Ratings Triggers**—Our First and Second Priority Secured Credit Agreements bear interest at LIBOR based rates plus an applicable margin which varies between the First Priority Credit Agreement and the Second Priority Credit Agreement and is determined based on the Company's corporate credit ratings. The interest rate on borrowings under our unsecured revolving credit facilities also varies based upon our corporate credit ratings. At June 30, 2009, our credit ratings were BB from S&P, Caa1 from Moody's and B- from Fitch. Our ability to borrow under our unsecured and revolving credit facilities is not dependent on the level of our credit ratings. Based on our current credit ratings, downgrades in our credit ratings will have no effect on our borrowing rates under these facilities.

**Hedging Activities**—We have variable-rate lending assets and variable-rate debt obligations. These assets and liabilities create a natural hedge against changes in variable interest rates. This means that, as interest rates increase, we earn more on our variable-rate lending assets and pay more on our variable-rate debt obligations and, conversely, as interest rates decrease, we earn less on our variable-rate lending assets and pay less on our variable-rate debt obligations. When our variable-rate debt obligations differ significantly from our variable-rate lending assets, we utilize derivative instruments to limit the impact of changing interest rates on our net income. Our interest rate risk management policy requires that we enter into hedging transactions when it is determined, based on sensitivity models, that the impact of various increasing or decreasing interest rate scenarios could have a significant negative effect on our expected net interest income. We do not use derivative instruments for speculative purposes. The derivative instruments we use are typically in the form of interest rate swaps and interest rate caps. Interest rate swaps can effectively either convert variable-rate debt obligations to fixed-rate debt obligations or convert fixed-rate debt obligations into variable-rate debt obligations. Interest rate caps effectively limit the maximum interest rate payable on variable-rate debt obligations.

We also seek to match-fund our assets denominated in foreign currencies so that changes in foreign exchange rates will have a minimal impact on earnings. Foreign currency denominated assets and liabilities are presented in our financial statements in US dollars at current exchange rates each reporting period with changes related to foreign currency fluctuations flowing through earnings. For investments denominated in currencies other than British pounds, Canadian dollars and Euros, we primarily use forward contracts to hedge our exposure to foreign exchange risk.

The primary risks related to our use of derivative instruments are the risks that a counterparty to a hedging arrangement could default on their obligation and the risk that we may have to pay certain costs, such as transaction fees or breakage costs, if we terminate a hedging arrangement. As a matter of policy, we enter into hedging arrangements with counterparties that are large, creditworthy financial institutions typically rated at least "A/A2" by S&P and Moody's, respectively.

Developing an effective strategy for dealing with movements in interest rates and currencies is complex and no strategy can completely insulate us from risks associated with such fluctuations. There can be no assurance that our hedging activities will have the desired beneficial impact on our results of operations or financial condition.

The table below presents the fair value of our derivative financial instruments as well as their classification on the Consolidated Balance Sheets as of June 30, 2009 and December 31, 2008 (in thousands):

Derivatives Not Designated as Hedging Instruments Under SFAS No. 133(1)	Asset Derivatives				Liability Derivatives			
	As of June 30, 2009		As of December 31, 2008		As of June 30, 2009		As of December 31, 2008	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Interest rate caps	Other Assets	\$1,110	Other Assets	\$ 726	Other Liabilities	\$ (495)	Other Liabilities	\$(131)
Foreign exchange contracts	Other Assets	1,676	Other Assets	2,949	Other Liabilities	(895)	Other Liabilities	—
Fair value interest rate swap	Other Assets	—	Other Assets	197	N/A	—	N/A	—
Total		<u>\$2,786</u>		<u>\$ 3,872</u>		<u>\$(1,390)</u>		<u>\$(131)</u>

**Explanatory Note:**

- (1) Pursuant to FASB Statement No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS No. 133").

The tables below present the effect of our derivative financial instruments on the Consolidated Statements of Operations for the three and six months ended June 30, 2009 (in thousands):

Derivatives Not Designated as Hedging Instruments Under SFAS No. 133	For the three months ended June 30, 2009		For the six months ended June 30, 2009	
	Location of Gain (Loss) Recognized in Income on Derivative	Amount of Gain (Loss) Recognized in Income on Derivative	Location of Gain (Loss) Recognized in Income on Derivative	Amount of Gain (Loss) Recognized in Income on Derivative
Interest rate caps	Other expense	\$ 383	Other expense	\$ 19
Foreign exchange contracts	Other expense	(1,028)	Other expense	(73)
<b>Total</b>		<b>\$ (645)</b>		<b>\$ (54)</b>

**Foreign currency hedges**—The following table presents our foreign currency derivatives outstanding as of June 30, 2009 (in thousands):

Derivative Type	Notional Amount	Notional (USD Equivalent)	Maturity	Fair Value
Sell SEK/Buy USD forward	SEK 104,228	13,463	July 2009	\$ (895)
Sell EUR/Buy USD forward	€ 5,000	7,024	September 2009	27
Buy USD/Sell INR forward	INR 486,438	10,000	November 2009	1,649

**Interest rate caps**—The following table represents the notional principal amounts and fair values of interest rate caps by class (in thousands):

	As of	
	June 30, 2009	December 31, 2008
Interest rate cap bought	\$ 947,862	\$ 947,862
Interest rate cap sold	(947,862)	(947,862)
<b>Total interest rate caps</b>	<b>\$ —</b>	<b>\$ —</b>

**Off-Balance Sheet Transactions**—We are not dependent on the use of any off-balance sheet financing arrangements for liquidity.

We have certain discretionary and non-discretionary unfunded commitments related to our loans, CTLs and other lending investments that we may be required to, or choose to, fund in the future. Discretionary commitments are those under which we have sole discretion with respect to future funding. Non-discretionary commitments are those that we are generally obligated to fund at the request of the borrower or upon the occurrence of events outside of our direct control. As of June 30, 2009, we had 122 loans with unfunded commitments totaling \$1.34 billion, of which \$161.8 million was discretionary and \$1.17 billion was non-discretionary. In addition, we had \$11.3 million of non-discretionary unfunded commitments related to six existing customers in the form of tenant improvements which were negotiated between us and the customers at the commencement of the leases. Further, we had 12 strategic investments with unfunded non-discretionary commitments of \$89.4 million.

**Transactions with Related Parties**—We have substantial investments in a non-controlling interest of Oak Hill Advisors, L.P., Oak Hill Credit Alpha MGP, OHSF GP Partners II, LLC, Oak Hill Credit Opportunities MGP, LLC, OHSF GP Partners (Investors), LLC, OHA Finance MGP, LLC, OHA Capital Solutions MGP, LLC, OHA Strategic Credit GenPar, LLC, OHA Leveraged Loan Portfolio GenPar, LLC and Oakhill Credit Opp Fund, LP (see Note 6 to the Company's Notes to Consolidated Financial Statements for more detail). In relation to our investment in these entities, we appointed to our Board of Directors a member that holds a substantial investment in these same nine entities. As of June 30, 2009, the carrying value in these ventures was \$171.4 million. We recorded equity in earnings from these investments of \$4.9 million for the six months ended June 30, 2009. We have also invested directly in six

funds managed by Oak Hill Advisors, L.P., which have a cumulative carrying value of \$0.4 million as of June 30, 2009.

**DRIP/Stock Purchase Plans**—During the six months ended June 30, 2009, we did not issue any Common Stock under the plan. During the six months ended June 30, 2008, we issued approximately 57,000 shares of Common Stock resulting in net proceeds of \$1.1 million.

**Stock Repurchase Program**—On March 13, 2009, our Board of Directors authorized the repurchase of up to \$50 million of Common Stock from time to time in open market and privately negotiated purchases, including pursuant to one or more trading plans.

During the six months ended June 30, 2009 and 2008, we repurchased 6.3 million shares and 0.3 million shares, respectively, of our outstanding Common Stock for a cost of approximately \$16.7 million and \$5.2 million, respectively, at an average cost of \$2.65 per share and \$15.52 per share, respectively.

As of June 30, 2009, we had \$34.5 million available to repurchase Common Stock under the authorized stock repurchase program.

**Subsequent Events**—We have evaluated events occurring through August 10, 2009 and did not identify any events that would require adjustment to or disclosure in our Consolidated Financial Statements.

### **Critical Accounting Policies**

The preparation of financial statements in accordance with GAAP requires management to make estimates and judgments in certain circumstances that affect amounts reported as assets, liabilities, revenues and expenses. We have established detailed policies and control procedures intended to ensure that valuation methods, including any judgments made as part of such methods, are well controlled, reviewed and applied consistently from period to period. We base our estimates on historical corporate and industry experience and various other assumptions that we believe to be appropriate under the circumstances. For all of these estimates, we caution that future events rarely develop exactly as forecasted, and, therefore, routinely require adjustment.

A summary of our critical accounting policies is included in our Annual Report on Form 10-K for the year ended December 31, 2008 in Management's Discussion and Analysis of Financial Condition. There have been no significant changes to our policies as of June 30, 2009.

**Recently Issued Accounting Pronouncements**—For a discussion of the impact of new accounting pronouncements on our financial condition or results of operations, see Note 3 of the Notes to Consolidated Financial Statements.

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.**

There have been no material changes in Quantitative and Qualitative Disclosures About Market Risk for the first six months of 2009 as compared to the disclosures included in our Annual Report on Form 10-K for the year ended December 31, 2008. See discussion of quantitative and qualitative disclosures about market risk under Item 7a—"Quantitative and Qualitative Disclosures about Market Risk," included in our Annual Report on Form 10-K for the year ended December 31, 2008.



#### ITEM 4. CONTROLS AND PROCEDURES

The Company maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed in the Company's Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the Company's management, including its Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. The Company has formed a disclosure committee that is responsible for considering the materiality of information and determining the disclosure obligations of the Company on a timely basis. The disclosure committee reports directly to the Company's Chief Executive Officer and Chief Financial Officer. The Chief Financial Officer is currently a member of the disclosure committee.

As of the end of the period covered by this report, the Company carried out an evaluation, under the supervision and with the participation of the disclosure committee and other members of management, including its Chief Executive Officer and Chief Financial Officer, of the effectiveness of the Company's disclosure controls and procedures pursuant to Exchange Act Rule 13a-15. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures are effective to provide reasonable assurance that the information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act of 1934 is (i) recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and (ii) accumulated and communicated to management, including the Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding disclosure.

There have been no changes during the last fiscal quarter in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

Notwithstanding the foregoing, a control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that it will detect or uncover failures within the Company to disclose material information otherwise required to be set forth in the Company's periodic reports.

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## PART II. OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

#### **Citiline Holdings, Inc., et al. v. iStar Financial, Inc., et al.**

In April 2008, two putative class action complaints were filed in the United States District Court for the Southern District of New York naming the Company and certain of its current and former executive officers as defendants and alleging violations of the Securities Act of 1933, as amended. Both suits were purportedly filed on behalf of the same putative class of investors who purchased common stock in the Company's December 13, 2007 public offering (the "Company's Offering"). The two complaints were consolidated in a single proceeding (the "Citiline Action") on April 30, 2008.

On November 17, 2008, Plumbers Union Local No. 12 Pension Fund and Citiline Holdings, Inc. were appointed Lead Plaintiffs to pursue the Citiline Action. Plaintiffs filed a Consolidated Amended Complaint on February 2, 2009, purportedly on behalf of a putative class of investors who purchased iStar common stock between December 6, 2007 and March 6, 2008 (the "Complaint"). The Complaint named as defendants the Company, certain of its current and former executive officers, and certain investment banks who served as underwriters in the Company's Offering. The Complaint reasserted claims for alleged violations of Sections 11, 12(a)(2) and 15 of the Securities Act of 1933, as amended, and added claims for alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, as amended. Plaintiffs allege the defendants made certain material misstatements and omissions relating to the Company's continuing operations, including the value of the Company's loan portfolio and certain debt securities held by the Company. The Complaint seeks certification as a class action, unspecified compensatory damages plus interest and attorneys fees, and rescission of the public offering. No class has been certified and discovery has not begun. The Company and its current and former officers filed a motion to dismiss the Complaint on April 27, 2009.

The Company believes the Citiline Action has no merit and intends to defend itself vigorously against it.

#### **Shareholder Letters**

In June 2009, the Company received a letter from a law firm stating that the firm represented a shareholder of the Company holding an unidentified number of shares. The letter states that the shareholder is concerned that certain officers and directors of the Company published misleading statements and made material omissions between July 2007 and March 2008 and defrauded the Company and wasted its assets by repurchasing \$10 million of common stock of the Company during that period. The letter demands that the board of directors of the Company commence an independent investigation of these matters, take action to recover damages caused by the alleged misconduct and implement corporate governance reforms to prevent the recurrence of the alleged misconduct. As of the date of this report, no lawsuit has been filed by this shareholder.

In June 2009, the Company received a letter from a law firm stating that the firm represented shareholders of the Company holding more than 329,000 shares of common and preferred stock of the Company. The letter asserts that these shareholders have suffered monetary harm arising from alleged material misrepresentations in and omissions from the Company's proxy statement relating to its 2009 annual meeting and that the officers and directors of the Company have committed breaches of fiduciary duties that have proximately caused damage to all Company shareholders. The letter purports to serve as a demand required by any and all applicable statutes should litigation commence in the future. As of the date of this report, no lawsuit has been filed by these shareholders.

A special committee of the Company's independent directors has been established, which is reviewing the matters described in the letters.

**ITEM 1A. RISK FACTORS**

See the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2008.

**ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

The following table sets forth the information with respect to purchases made by or on behalf of the Company of its common stock during the three months ended June 30, 2009:

	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans	Maximum Dollar Value of Shares that May Yet be Purchased Under the Plans
April 1 – April 30, 2009(1)	2,846,700	\$ 2.81	2,846,700	\$ 34,503,507

**Explanatory Notes:**

- (1) On March 13, 2009, the Company authorized the repurchase, from time to time, on the open market or otherwise, of up to an additional \$50 million of its Common Stock at prevailing market prices or at negotiated prices, including pursuant to one or more trading plans. There is no fixed expiration date to this stock repurchase program.

**ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

None

**ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

The Annual Meeting of Shareholders of the Company was held on May 27, 2009.

1. *Election of Directors:* At the meeting, eight directors were elected for terms expiring in 2010. For each nominee, the numbers of votes cast for and withheld were as follows:

<u>NOMINEE</u>	<u>FOR</u>	<u>WITHHELD</u>
JAY SUGARMAN	87,691,928	2,310,835
GLENN R. AUGUST	87,964,350	2,038,413
ROBERT W. HOLMAN, JR	83,474,043	6,528,720
ROBIN JOSEPHS	83,467,719	6,535,044
JOHN G. McDONALD	87,746,773	2,255,990
GEORGE R. PUSKAR	87,953,406	2,049,357
DALE ANNE REISS	87,961,601	2,041,162
JEFFREY A. WEBER	83,493,946	6,508,817

2. *iStar Financial Inc. 2009 Long-Term Incentive Plan:* At the meeting, the shareholders approved the proposed iStar Financial Inc. 2009 Long-Term Incentive Plan. The numbers of votes cast for and against the proposal, the number of abstentions and the number of broker non-votes were as follows:

<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>NON-VOTES</u>
37,320,211	17,512,166	279,862	34,890,524

3. *Equity Incentive Award to Chairman and Chief Executive Officer:* At the meeting, the shareholders approved a proposed retention award in the form of performance-based restricted stock units for the Company's chairman and chief executive officer. The numbers of votes cast for and against the proposal, the number of abstentions and the number of broker non-votes were as follows:

<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>NON-VOTES</u>
34,883,525	19,904,793	323,921	34,890,524

4. *Ratification of Independent Registered Public Accounting Firm:* Also at the meeting, the shareholders ratified the selection of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the year ending December 31, 2009. The number of votes cast for and against the ratification of the selection of independent registered public accounting firm and the number of abstentions were as follows:

<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>
89,254,907	558,054	189,802

## ITEM 5. OTHER INFORMATION

None

## ITEM 6. EXHIBITS

a. Exhibits

<u>Exhibit Number</u>	<u>Document Description</u>
10.1	Registration Rights Agreement, dated May 8, 2009, by and among iStar Financial Inc., each of the Guarantors (as defined therein), Banc of America Securities LLC, Citigroup Global Markets Inc. and J.P. Morgan Securities Inc. (incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed on May 14, 2009).
10.2	Collateral Trust and Intercreditor Agreement, dated March 13, 2009, by and among iStar Financial Inc., iStar Tara Holdings LLC, iStar Tara LLC, each of the other Grantors (as defined therein), JPMorgan Chase Bank, N.A. and The Bank of New York Mellon Trust Company, N.A.
31.0	Certifications pursuant to Section 302 of the Sarbanes-Oxley Act.
32.0	Certifications pursuant to Section 906 of the Sarbanes-Oxley Act.





## COLLATERAL TRUST AND INTERCREDITOR AGREEMENT

Dated as of March 13, 2009

among

iSTAR FINANCIAL INC.,

iSTAR TARA HOLDINGS LLC,

iSTAR TARA LLC,

AND THE OTHER PARTIES HERETO

JPMORGAN CHASE BANK, N.A.,  
as First Priority AgentJPMORGAN CHASE BANK, N.A.,  
as 2011 Second Priority AgentJPMORGAN CHASE BANK, N.A.,  
as 2012 Second Priority Agent

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Collateral Trustee

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C	Form of Notice of Designation of Additional Debt
D	Form of Notice of Cancellation
E	Form of Notice of Acceleration
F	Form of Notice of Foreclosure

COLLATERAL TRUST AND INTERCREDITOR AGREEMENT, dated as of March 13, 2009, among iSTAR FINANCIAL INC. (the “Company”), a Maryland corporation, iSTAR TARA HOLDINGS LLC, a Delaware limited liability company (“Tara Holdco”), iSTAR TARA LLC, a Delaware limited liability company (“Tara”), the direct and indirect subsidiaries of Tara Holdco from time to time parties hereto (together with Tara Holdco and Tara, the “Grantors”), JPMORGAN CHASE BANK, N.A., as First Priority Agent (as defined below), JPMORGAN CHASE BANK, N.A., as 2011 Second Priority Agent (as defined below), JPMORGAN CHASE BANK, N.A., as 2012 Second Priority Agent (as defined below) and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Collateral Trustee (together with any successors, the “Collateral Trustee”).

W I T N E S S E T H:

WHEREAS, the Grantors have agreed to secure guarantees by them of certain obligations of the Company from time to time outstanding.

DECLARATION OF TRUST:

NOW, THEREFORE, in order to secure the prompt and complete payment and performance when due of the Secured Obligations (such term and certain other capitalized terms used hereinafter being defined in subsection 1.1) and in consideration of the premises and the mutual agreements set forth herein, the Collateral Trustee does hereby declare that it holds and will hold as trustee in trust under this Collateral Trust Agreement all of its right, title and interest in, to and under the Trust Security Documents and the collateral granted to the Collateral Trustee thereunder whether now existing or hereafter arising (and the Grantors do hereby consent thereto).

TO HAVE AND TO HOLD the Trust Security Documents and the entire Collateral (the right, title and interest of the Collateral Trustee in the Trust Security Documents and the Collateral being hereinafter referred to as the “Trust Estate”) unto the Collateral Trustee and its successors in trust under this Collateral Trust Agreement and its assigns forever.

IN TRUST NEVERTHELESS, under and subject to the conditions herein set forth and for the benefit of the Secured Parties, and for the enforcement of the payment of all Secured Obligations, and as security for the performance of and compliance with the covenants and conditions of this Collateral Trust Agreement, each of the Secured Instruments and each of the Trust Security Documents.

PROVIDED, HOWEVER, that these presents are upon the condition that if the Grantors, their successors or assigns, shall satisfy the conditions set forth in subsection 6.11(a), then this Collateral Trust Agreement, and the estates and rights hereby assigned, shall cease and be void; otherwise they shall remain and be in full force and effect.

IT IS HEREBY FURTHER COVENANTED AND DECLARED, that the Trust Estate is to be held and applied by the Collateral Trustee, subject to the further covenants, conditions and trusts hereinafter set forth.

SECTION 1.  
DEFINED TERMS

1.1 Definitions. (a) Unless otherwise defined herein, terms defined in the First Priority Credit Agreement and used herein shall have the meanings given to them in the First Priority Credit Agreement (as defined below but without giving effect to clause (ii) of the definition thereof or any termination thereof).

(b) The following terms shall have the respective meanings set forth below:

“2011 Second Priority Agent” shall mean JPMorgan Chase Bank, N.A., in its capacity as administrative agent under the 2011 Second Priority Credit Agreement, and any successor 2011 Second Priority Agent appointed thereunder.

“2011 Second Priority Credit Agreement” shall mean (i) the \$1,700,000,000 Second Priority Credit Agreement, dated as of the Effective Date, among the Company, the banks from time to time parties thereto, and JPMorgan Chase Bank, N.A., as administrative agent, and the other agents named therein, and (ii) any other credit agreement, loan agreement, note agreement, promissory note, indenture or other agreement or instrument evidencing or governing the terms of any Indebtedness or other financial accommodation that has been incurred to Refinance (whether by the same or different banks) in whole or in part (under one or more agreements) the Indebtedness and other obligations outstanding under the 2011 Second Priority Credit Agreement referred to in clause (i) above or any other agreement or instrument referred to in this clause (ii) (including, without limitation, adding or removing any Person as a borrower, guarantor or other obligor thereunder) unless such agreement or instrument expressly provides that it is not a 2011 Second Priority Credit Agreement hereunder.

“2011 Second Priority Guarantee” shall mean (i) the Guarantee Agreement, dated as of the Effective Date, delivered by, among others, the Grantors pursuant to the 2011 Second Priority Credit Agreement, and (ii) any guarantee or similar document entered into in connection with a Refinancing of the Indebtedness under the 2011 Second Priority Credit Agreement.

“2011 Second Priority Collateral Documents” shall mean (i) the “Collateral Documents” as such term is defined in the 2011 Second Priority Credit Agreement, and (ii) any collateral documents or similar documents entered into in connection with a Refinancing of the Indebtedness under the 2011 Second Priority Credit Agreement.

“2011 Second Priority Loan Documents” shall mean (i) the “Loan Documents” as such term is defined in the 2011 Second Priority Credit Agreement, and (ii) any loan documents or similar documents entered into in connection with a Refinancing of the Indebtedness under the 2011 Second Priority Credit Agreement.

“2011 Second Priority Secured Obligations” shall mean, with respect to any Grantor, all obligations and liabilities of such Grantor which may arise under or in

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connection with the 2011 Second Priority Guarantee or any other 2011 Second Priority Collateral Documents, in each case whether on account of guarantee obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel that are required to be paid by such Grantor pursuant to the terms of the 2011 Second Priority Guarantee or any other 2011 Second Priority Collateral Documents); provided, however, that to the extent any payment with respect to the 2011 Second Priority Secured Obligations (whether by or on behalf of any Grantor, as proceeds of Collateral, enforcement of any right of set off or otherwise) is declared to be fraudulent or preferential in any respect, set aside or required to be paid to a debtor in possession, trustee, receiver or similar Person, then the obligation or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred.

“2012 Second Priority Agent” shall mean JPMorgan Chase Bank, N.A., in its capacity as administrative agent under the 2012 Second Priority Credit Agreement, and any successor 2012 Second Priority Agent appointed thereunder.

“2012 Second Priority Credit Agreement” shall mean (i) the \$950,000,000 Second Priority Credit Agreement, dated as of the Effective Date, among the Company, the banks from time to time parties thereto, JPMorgan Chase Bank, N.A., as administrative agent, and the other agents named therein, and (ii) any other credit agreement, loan agreement, note agreement, promissory note, indenture or other agreement or instrument evidencing or governing the terms of any Indebtedness or other financial accommodation that has been incurred to Refinance (whether by the same or different banks) in whole or in part (under one or more agreements) the Indebtedness and other obligations outstanding under the 2012 Second Priority Credit Agreement referred to in clause (i) above or any other agreement or instrument referred to in this clause (ii) (including, without limitation, adding or removing any Person as a borrower, guarantor or other obligor thereunder) unless such agreement or instrument expressly provides that it is not a 2012 Second Priority Credit Agreement hereunder.

“2012 Second Priority Guarantee” shall mean (i) the Guarantee Agreement, dated as of the Effective Date, delivered by, among others, the Grantors pursuant to the 2012 Second Priority Credit Agreement, and (ii) any guarantee or similar document entered into in connection with a Refinancing of the Indebtedness under the 2012 Second Priority Credit Agreement.

“2012 Second Priority Collateral Documents” shall mean (i) the “Collateral Documents” as such term is defined in the 2012 Second Priority Credit Agreement, and (ii) any collateral documents or similar documents entered into in connection with a Refinancing of the Indebtedness under the 2012 Second Priority Credit Agreement.

“2012 Second Priority Loan Documents” shall mean (i) the “Loan Documents” as such term is defined in the 2012 Second Priority Credit Agreement, and (ii) any loan documents or similar documents entered into in connection with a Refinancing of the Indebtedness under the 2012 Second Priority Credit Agreement.

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“2012 Second Priority Secured Obligations” shall mean, with respect to any Grantor, all obligations and liabilities of such Grantor which may arise under or in connection with the 2012 Second Priority Guarantee or any other 2012 Second Priority Collateral Documents, in each case whether on account of guarantee obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel that are required to be paid by such Grantor pursuant to the terms of the 2012 Second Priority Guarantee or any other 2012 Second Priority Collateral Documents); provided, however, that to the extent any payment with respect to the 2012 Second Priority Secured Obligations (whether by or on behalf of any Grantor, as proceeds of Collateral, enforcement of any right of set off or otherwise) is declared to be fraudulent or preferential in any respect, set aside or required to be paid to a debtor in possession, trustee, receiver or similar Person, then the obligation or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred.

“Acceleration Event” shall mean, with respect to any of the Secured Obligations, (i) such Secured Obligations have not been paid in full at the stated final maturity thereof and any applicable grace period has expired or (ii) a default has occurred under the relevant Secured Instrument and, as a result thereof, all such Secured Obligations outstanding have become due and payable and have not been paid in full or, in the case of any reimbursement obligation in respect of an outstanding letter of credit or similar instrument, a requirement for cash collateralization has not been satisfied as of the time such requirement is to be satisfied pursuant to the relevant Secured Instrument.

“Additional Debt” shall mean, collectively at any time, any Second Priority Additional Debt and any Junior Priority Additional Debt then outstanding.

“Additional Debt Documents” shall mean, collectively at any time, any Second Priority Additional Debt Documents and any Junior Priority Additional Debt Documents then in effect.

“Bankruptcy Code” shall mean the United States Bankruptcy Code (11 U.S.C. §101 et seq.), as amended from time to time.

“Bankruptcy Law” shall mean each of the Bankruptcy Code and any similar federal, state or foreign law for the relief of debtors.

“Capital Stock” shall mean any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

“Class” shall mean, as the context may require, the First Priority Class, the Second Priority Class and the Junior Priority Class.

“Collateral” shall mean, collectively, all collateral in which the Collateral Trustee is granted a security interest pursuant to any Trust Security Document.

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“Collateral Account” shall have the meaning assigned in subsection 3.1.

“Collateral Enforcement Action” shall mean, with respect to any Secured Party, for such Secured Party, whether or not in consultation with any other Secured Party, to exercise, seek to exercise, join any Person in exercising or to institute or to maintain or to participate in any action or proceeding with respect to, any rights or remedies with respect to any Collateral, including (i) instituting or maintaining, or joining any Person in instituting or maintaining, any enforcement, contest, protest, attachment, collection, execution, levy or foreclosure action or proceeding with respect to any Collateral, whether under any Secured Instrument, Trust Security Document or otherwise, (ii) exercising any right of set-off with respect to any Grantor, or (iii) exercising any other right or remedy under the Uniform Commercial Code of any applicable jurisdiction or under any Bankruptcy Law or other applicable law.

“Collateral Trust Agreement” shall mean this Collateral Trust and Intercreditor Agreement.

“Collateral Trustee” shall have the meaning set forth in the preamble hereto.

“Company” shall have the meaning set forth in the recitals hereto.

“Controlling Party” shall mean (a) at any time when any First Priority Secured Obligations or commitments in respect thereof remain outstanding, the First Priority Agent, (b) at any time when the foregoing clause (a) is not applicable and any 2011 Second Priority Secured Obligations or 2012 Second Priority Secured Obligations or commitments in respect thereof remain outstanding, the Second Priority Credit Agents acting together, (c) at any time when the foregoing clauses (a) and (b) are not applicable and any Second Priority Additional Debt Obligations remain outstanding, the Second Priority Additional Debt Representative representing the holders having the greatest amount of Second Priority Additional Debt Obligations outstanding, and (d) at any time when the foregoing clauses (a), (b) and (c) are not applicable and any Junior Priority Additional Debt Obligations remain outstanding, the Junior Priority Additional Debt Representative representing the holders having the greatest amount of Junior Priority Additional Debt Obligations outstanding.

“Deposit Account Control Agreement” shall mean any deposit account control agreement among the Grantors, the Collateral Trustee and JPMorgan Chase Bank, N.A., as depository.

“DIP Financing” shall mean any financing obtained by any Grantor during any Insolvency Proceeding or otherwise pursuant to any Bankruptcy Law, including any such financing obtained by any Grantor under Section 363 or 364 of the Bankruptcy Code or consisting of any arrangement for use of cash collateral held in respect of any Secured Obligation under Section 363 of the Bankruptcy Code or under any similar provision of any Bankruptcy Law.

“Distribution Date” shall mean each date fixed by the Controlling Party for a distribution to the Secured Parties of funds held in the Collateral Account, the first of

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which shall be within 30 days after the Collateral Trustee receives a Notice of Event of Default then in effect and the remainder of which shall be monthly thereafter (or more frequently if requested by the Controlling Party) on the day of the month corresponding to the first Distribution Date (or, if there be no such corresponding day, the last day of such month) provided that if any such day is not a Business Day, such Distribution Date shall be the next Business Day.

“Dollars” and “\$” shall mean the lawful money of the United States.

“Effective Date” shall mean March 13, 2009.

“Enforcement Event” shall mean (i) the receipt by the Collateral Trustee of a Significant Event Notice or (ii) the occurrence of any Event of Default pursuant to Section 6.1(f) or 6.1(g) of the First Priority Credit Agreement, Section 6.1(f) or 6.1(g) of either Second Priority Credit Agreement or any similar provision under any Additional Debt Document; provided, however, to the extent that such Significant Event Notice is no longer in effect, or such Event of Default is no longer continuing, the Enforcement Event shall no longer be continuing.

“Event of Default” shall mean an “Event of Default” or any equivalent term as such term is used in the First Priority Credit Agreement, Second Priority Credit Agreements or any Additional Debt Documents, respectively.

“Extensions of Credit” shall mean, with respect to any holder of First Priority Secured Obligations, Second Priority Secured Obligations or Junior Priority Additional Debt Obligations, the aggregate principal amount of all loans, notes or letters of credit under the First Priority Credit Agreement, the Second Priority Credit Agreements or any Additional Debt Documents, as the case may be, held by such holder then outstanding.

“First Priority Agent” shall mean JPMorgan Chase Bank, N.A., in its capacity as Administrative Agent under the First Priority Credit Agreement, and any successor First Priority Agent appointed thereunder.

“First Priority Class” shall mean, collectively, the Secured Parties which are holders of any First Priority Secured Obligations.

“First Priority Collateral Documents” shall mean the “Collateral Documents” as such term is defined in the First Priority Credit Agreement.

“First Priority Credit Agreement” shall mean (i) the First Priority Credit Agreement, dated as of the Effective Date, among the Company, the Banks from time to time parties thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, and the other agents named therein, and (ii) any other credit agreement, loan agreement, note agreement, promissory note, indenture or other agreement or instrument evidencing or governing the terms of any Indebtedness or other financial accommodation that has been incurred to Refinance (whether by the same or different banks) in whole or in part (under one or more agreements) the Indebtedness and other obligations outstanding under the First Priority Credit Agreement referred to in clause (i) above or any other agreement or

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instrument referred to in this clause (ii) (including, without limitation, adding or removing any Person as a borrower, guarantor or other obligor thereunder) unless such agreement or instrument expressly provides that it is not a First Priority Credit Agreement hereunder.

“First Priority Guarantee” shall mean the Guarantee Agreement, dated as of the Effective Date, delivered by, among others, the Grantors pursuant to the First Priority Credit Agreement.

“First Priority Loan Documents” shall mean the “Loan Documents” as such term is defined in the First Priority Credit Agreement.

“First Priority Secured Obligations” shall mean, with respect to any Grantor, all obligations and liabilities of such Grantor which may arise under or in connection with the First Priority Guarantee or any other First Priority Collateral Documents, in each case whether on account of guarantee obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel to the First Priority Agent or the Banks that are required to be paid by such Grantor pursuant to the terms of the First Priority Guarantee or any other First Priority Collateral Documents); provided, however, that to the extent any payment with respect to the First Priority Secured Obligations (whether by or on behalf of any Grantor, as proceeds of Collateral, enforcement of any right of set off or otherwise) is declared to be fraudulent or preferential in any respect, set aside or required to be paid to a debtor in possession, trustee, receiver or similar Person, then the obligation or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred.

“First Priority Secured Parties” shall mean at any time the Collateral Trustee (in its capacity as the holder of the Lien on the Collateral securing the First Priority Secured Obligations), the First Priority Agent (for the benefit of the Banks under the First Priority Credit Agreement and itself as Administrative Agent thereunder), the other Agents and any other holder of First Priority Secured Obligations outstanding at such time.

“Foreclosure” shall mean, with respect to any Collateral and following a Notice of Foreclosure, any exercise of remedies under any of the Secured Instruments, applicable law or any other act or action taken in preparation for, anticipation of or in connection with any reasonably immediate taking physical possession of, realizing upon, exercising dominion and control over, or otherwise causing the assignment for its benefit of, such Collateral by the Collateral Trustee (acting at the written direction of the Controlling Party) pursuant to the Uniform Commercial Code or any other applicable law (or consensual arrangement in lieu thereof expressly agreed to by the Collateral Trustee (acting at the written direction of the Controlling Party) and the applicable Grantor) and otherwise in the manner and at the times permitted under the Trust Security Documents. The term “Foreclose” shall have a correlative meaning.

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“Governmental Authority” shall mean any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, or any federal, state or municipal court, in each case whether of the United States or foreign.

“Grantors” shall have the meaning assigned in the preamble hereto.

“Holder Representative” shall mean (i) in respect of the First Priority Secured Obligations, the First Priority Agent, (ii) in respect of any Second Priority Secured Obligations, the relevant Second Priority Agent and (iii) in respect of any Junior Priority Additional Debt Obligations, the relevant Junior Priority Additional Debt Representative.

“Insolvency Proceeding” shall mean each of the following, in each case with respect to the Company or any Grantor or any property or Indebtedness of the Company or any Grantor (a)(i) any voluntary or involuntary case or proceeding under any Bankruptcy Law or any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, (ii) any case or proceeding seeking receivership, liquidation, reorganization, winding up or other similar case or proceeding, (iii) any case or proceeding seeking arrangement, adjustment, protection, relief or composition of any debt and (iv) any case or proceeding seeking the entry of an order for relief or the appointment of a custodian, receiver, trustee or other similar official and (b) any general assignment for the benefit of creditors.

“Junior Priority Additional Debt” shall mean, collectively, any “Additional Debt” designated by the Company as “Junior Priority Additional Debt” pursuant to subsection 7.1.

“Junior Priority Additional Debt Documents” shall mean any agreements or other documents entered into in connection with any Junior Priority Additional Debt.

“Junior Priority Additional Debt Obligations” shall mean, collectively, the unpaid principal of, and interest on, any Junior Priority Additional Debt and all other obligations and liabilities of any Grantor (including, without limitation, interest accruing at the then applicable rate provided in the Junior Priority Additional Debt Documents after the maturity of the Indebtedness thereunder and all Post-Petition Interest) to the holders of such Indebtedness or other obligations, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, which may arise under, out of, or in connection with, the Junior Priority Additional Debt Documents or any other document made, delivered or given in connection with any of the foregoing, in each case whether on account of principal, interest, fees, prepayment premiums, indemnities, costs, expenses or otherwise (including without limitation all fees and disbursements of counsel to any Junior Priority Additional Debt

Representative or to the holders of such Junior Priority Additional Debt that are required to be paid by the any of the Grantors pursuant to the terms of any of foregoing agreements).

“Junior Priority Additional Debt Representative” shall mean any Person designated by the Company pursuant to subsection 7.1 as a “Junior Priority Additional Debt Representative” for any Junior Priority Additional Debt, and any successor Junior

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Priority Additional Debt Representative appointed under the Junior Priority Additional Debt Documents for such Junior Priority Additional Debt.

“Junior Priority Class” shall mean, collectively, the Secured Parties which are holders of any Junior Priority Additional Debt Obligations in respect of any Junior Priority Additional Debt.

“Junior Priority Secured Parties” shall mean at any time the Collateral Trustee (in its capacity as the holder of the Lien on the Collateral securing the Junior Priority Additional Debt Obligations), any Junior Priority Additional Debt Representatives and any other holder of Junior Priority Additional Debt Obligations outstanding at such time.

“Lien” shall mean, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, or any other type of preferential arrangement, in each case that has the effect of creating a security interest in respect of such asset.

“Majority Class Holders” shall mean, on any date, each of the following: (i) the Majority First Priority Secured Parties; (ii) the Majority Second Priority Secured Parties and (iii) the Majority Junior Priority Secured Parties.

“Majority First Priority Secured Parties” shall mean, on any date, those First Priority Class members eligible to vote on matters under the First Priority Loan Documents and holding (or representing) more than 50% of the aggregate unfunded commitments and Extensions of Credit under the First Priority Loan Documents (and, if no Notice of Acceleration is outstanding with respect thereto, unfunded commitments) that are outstanding on such date and held by such First Priority Class members so entitled to vote. For the purpose of this definition, the First Priority Agent shall be deemed to hold or represent, and shall be entitled to vote and give notices and directions with respect to, all First Priority Secured Obligations.

“Majority Junior Priority Secured Parties” shall mean, on any date, those Junior Priority Class members eligible to vote on matters under the Junior Priority Additional Debt Documents and holding (or representing) more than 50% of the aggregate unfunded commitments and Extensions of Credit that are outstanding on such date and held by Junior Priority Class members so entitled to vote. For the purpose of this definition, any Junior Priority Additional Debt Representative shall be deemed to hold or represent, and shall be entitled to vote and give notices and directions with respect to, all of its respective Junior Priority Additional Debt Obligations.

“Majority Second Priority Secured Parties” shall mean, on any date, those Second Priority Class members eligible to vote on matters under the Second Priority Loan Documents and any Second Priority Additional Debt Documents and holding (or representing) more than 50% of the aggregate unfunded commitments and Extensions of Credit under the Second Priority Loan Documents and any Second Priority Additional Debt Documents (and, if no Notice of Acceleration is outstanding with respect thereto, unfunded commitments) that are outstanding on such date and held by such Second

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Priority Class members so entitled to vote. For the purpose of this definition, any Second Priority Agent shall be deemed to hold or represent, and shall be entitled to vote and give notices and directions with respect to, all of its respective Second Priority Secured Obligations.

“Majority Secured Parties” shall mean, on any date, Secured Parties eligible to vote on matters under the applicable Secured Instruments and holding (or representing) more than 50% of the sum of (i) the aggregate unfunded commitments and Extensions of Credit under the First Priority Loan Documents (and, if no Notice of Acceleration is outstanding with respect thereto, unfunded commitments) that are outstanding on such date and held by First Priority Class members so entitled to vote, (ii) the aggregate unfunded commitments and Extensions of Credit under the Second Priority Loan Documents and any Second Priority Additional Debt Documents (and, if no Notice of Acceleration is outstanding with respect thereto, unfunded commitments) that are outstanding on such date and held by Second Priority Class members so entitled to vote, and (iii) the aggregate unfunded commitments and Extensions of Credit that are outstanding on such date and held by Junior Priority Class members so entitled to vote. For the purpose of this definition, (a) the First Priority Agent shall be deemed to hold or represent, and shall be entitled to vote and give notices and directions with respect to, all First Priority Secured Obligations, (b) any Second Priority Agent shall be deemed to hold or represent, and shall be entitled to vote and give notices and directions with respect to, all of its respective Second Priority Secured Obligations, and (c) any Junior Priority Additional Debt Representative shall be deemed to hold or represent, and shall be entitled to vote and give notices and directions with respect to, all of its respective Junior Priority Additional Debt Obligations.

“Notice of Acceleration” shall mean (i) a written notice delivered to the Collateral Trustee, while any First Priority Secured Obligations are outstanding, by the First Priority Agent, and thereafter while any Second Priority Secured Obligations are outstanding, by the relevant Holder Representative in respect of such Second Priority Secured Obligations, and thereafter while any Junior Priority Additional Debt Obligations are outstanding, by the relevant Holder Representative in respect of such Junior Priority Additional Debt Obligations, stating that an Acceleration Event has occurred and is continuing in respect of the relevant Secured Obligations or (ii) the occurrence of any Event of Default pursuant to Section 6.1(f) or 6.1(g) of the First Priority Credit Agreement, Section 6.1(f) or 6.1(g) of either Second Priority Credit Agreement or any similar provision under any Additional Debt Document. Each Notice of Acceleration shall be in substantially the form of Exhibit E.

“Notice of Cancellation” shall have the meaning assigned in subsection 2.1(c).

“Notice of Designation of Additional Debt” shall have the meaning assigned in subsection 7.1.

“Notice of Event of Default” shall mean a written notice delivered to the Collateral Trustee, (i) while any First Priority Secured Obligations are outstanding, by the First Priority Agent, (ii) while any Second Priority Secured Obligations are outstanding,

by any Second Priority Agent and (iii) while any Junior Priority Additional Debt Obligations are outstanding, by any Junior Priority Additional Debt Representative, stating that an Event of Default has occurred and is continuing under the First Priority Credit Agreement, the Second Priority Credit Agreements or any Additional Debt Document, as the case may be. Each Notice of Event of Default shall be in substantially the form of Exhibit A.

“Notice of Foreclosure” shall mean, with respect to any Collateral, a written notice delivered to the Company, the applicable Grantor(s) and the Collateral Trustee (unless delivery of such notice would violate an automatic stay or similar prohibition arising from a bankruptcy filing) informing such parties that a written direction has been delivered to the Collateral Trustee instructing the Collateral Trustee to initiate Foreclosure upon the Collateral as identified and described in such written direction (an executed copy of which shall be attached to any such notice). Each Notice of Foreclosure shall be in substantially the form of Exhibit F.

“Opinion of Counsel” shall mean an opinion in writing signed by legal counsel reasonably satisfactory to the Collateral Trustee, who may be counsel regularly or specially retained by the Collateral Trustee or counsel (including, if reasonably satisfactory to the Collateral Trustee, in-house counsel) to the Company.

“paid in full” or “payment in full” or “pay such amounts in full” shall mean, with respect to any Secured Obligations (other than contingent indemnification and expense reimbursement obligations for which no claim has been made), (i) with respect to the First Priority Secured Obligations, the payment in full (other than as part of a Refinancing) in cash (after giving effect to any agreed discount) of the principal of, accrued (but unpaid) interest (including Post-Petition Interest) and premium, if any on all such Secured Obligations, after or concurrently with termination of all commitments thereunder and payment in full of all fees payable at or prior to the time such principal and interest are paid (ii) with respect to the Second Priority Secured Obligations, the payment in full (other than as part of a Refinancing) in cash (after giving effect to any agreed discount) of the principal of, accrued (but unpaid) interest (including Post-Petition Interest) and premium, if any on all such Secured Obligations in compliance with the Second Priority Loan Documents or any Second Priority Additional Debt Documents, as the case may be, after or concurrently with termination of all commitments thereunder and payment in full of all fees payable at or prior to the time such principal and interest are paid, (iii) with respect to the Junior Priority Additional Debt Obligations, the payment in full (other than as part of a Refinancing) in cash (after giving effect to any agreed discount) of the principal of, accrued (but unpaid) interest (including Post-Petition Interest) and premium, if any on all such Secured Obligations, after or concurrently with the payment in full of all fees payable at or prior to the time such principal and interest are paid and (iv) with respect to any other Secured Obligations, the payment in full in cash (after giving effect to any agreed discount) of such other Secured Obligations in compliance with the applicable documentation.

“Person” shall mean an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including, without limitation, a government or political subdivision or an agency or instrumentality thereof.

“Post-Petition Interest” shall mean all interest (or entitlement to fees or expenses or other charges) accruing or that would have accrued, whether as a result of the classification of the Second Priority Secured Obligations and the First Priority Secured Obligations as one secured claim with respect to the Collateral (and not separate classes of senior and junior secured claims), the classification of the Junior Priority Additional Debt Obligations and the Second Priority Secured Obligations as one secured claim with respect to the Collateral (and not separate classes of senior and junior secured claims), the classification of the Junior Priority Additional Debt Obligations, the Second Priority Secured Obligations and the First Priority Secured Obligations as one secured claim with respect to the Collateral (and not separate classes of senior and junior secured claims), or otherwise, after the commencement of any Insolvency Proceeding, irrespective of whether a claim for post-filing or petition interest (or entitlement to fees or expenses or other charges) is allowed in any such Insolvency Proceeding.

“Post-Petition Securities” shall mean any debt securities or other Indebtedness received in full or partial satisfaction of any claim as part of any Insolvency Proceeding.

“Proceeds” shall mean all “proceeds” as such term is defined in Section 9-102(a)(64) of the Uniform Commercial Code in effect in the State of New York on the date hereof.

“Recovery” shall have the meaning assigned in subsection 8.1(h).

“Refinancing or Refinance” shall mean, with respect to any Indebtedness, any other Indebtedness (including under any DIP Financing and under any Post-Petition Securities received on account of such Indebtedness) issued as part of a refinancing, extension, renewal, defeasance, discharge, amendment, restatement, modification, supplement, substitution, restructuring, replacement, exchange, refunding or repayment thereof.

“Required Secured Parties” shall mean, as of any date of determination, each of (i) the Majority First Priority Secured Parties (to the extent there are any First Priority Secured Parties on such date), (ii) the Majority Second Priority Secured Parties (to the extent there are any Second Priority Secured Parties on such date) and (iii) only in the event there are no First Priority Secured Parties or Second Priority Secured Parties, the Majority Junior Priority Secured Parties.

“Requirement of Law” shall mean, as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court of competent jurisdiction or other Governmental Authority, in each case applicable to and binding upon such Person and any of its property, and to which such Person and any of its property is subject.

“Responsible Officer” shall mean, as to the Company or any Grantor, the president, any vice-president, the senior vice president, the executive vice president, the chief operating officer, the chief executive officer or the chief financial officer.

“Second Priority Additional Debt” shall mean, collectively, any “Additional Debt” designated by the Company as “Second Priority Additional Debt” pursuant to subsection 7.1.

“Second Priority Additional Debt Documents” shall mean any agreements or other documents entered into in connection with any Second Priority Additional Debt.

“Second Priority Additional Debt Obligations” shall mean, collectively, the unpaid principal of, and interest on, any Second Priority Additional Debt and all other obligations and liabilities of any Grantor (including, without limitation, interest accruing at the then applicable rate provided in any Second Priority Additional Debt Documents after the maturity of the Indebtedness thereunder and all Post-Petition Interest) to the holders of such Indebtedness or other obligations, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, which may arise under, out of, or in connection with, any Second Priority Additional Debt Documents or any other document made, delivered or given in connection with any of the foregoing, in each case whether on account of principal, interest, fees, prepayment premiums, indemnities, costs, expenses or otherwise (including without limitation all fees and disbursements of counsel to any Second Priority Additional Debt Representative or to the holders of such Second Priority Additional Debt that are required to be paid by the any of the Grantors pursuant to the terms of any of foregoing agreements).

“Second Priority Additional Debt Representative” shall mean any Person designated by the Company pursuant to subsection 7.1 as a “Second Priority Additional Debt Representative” for any Second Priority Additional Debt, and any successor Second Priority Additional Debt Representative appointed under any Second Priority Additional Debt Documents for such Second Priority Additional Debt.

“Second Priority Agents” shall mean, collectively, the Second Priority Credit Agents and all Second Priority Additional Debt Representatives, if any.

“Second Priority Class” shall mean, collectively, the Secured Parties which are holders of any Second Priority Secured Obligations.

“Second Priority Credit Agents” shall mean, collectively, the 2011 Second Priority Agent and the 2012 Second Priority Agent.

“Second Priority Credit Agreements” shall mean, collectively, the 2011 Second Priority Credit Agreement and the 2012 Second Priority Credit Agreement.

“Second Priority Loan Documents” shall mean, collectively, the 2011 Second Priority Loan Documents and the 2012 Second Priority Loan Documents.

“Second Priority Secured Obligations” shall mean, collectively, the 2011 Second Priority Secured Obligations, the 2012 Second Priority Secured Obligations and the Second Priority Additional Debt Obligations.

“Second Priority Secured Parties” shall mean at any time the Collateral Trustee (in its capacity as the holder of the Lien on the Collateral securing the Second Priority Secured Obligations), each Second Priority Agent (for the benefit of the Banks under the applicable Second Priority Credit Agreement and itself as Administrative Agent thereunder), the other Agents (as such term is defined in each of the Second Priority Credit Agreements) and any other holder of Second Priority Secured Obligations outstanding at such time.

“Secured Instruments” shall mean at any time (i) the First Priority Loan Documents, (ii) the Second Priority Loan Documents and (iii) any Additional Debt Documents.

“Secured Obligations” shall mean, collectively, (i) all First Priority Secured Obligations, (ii) all Second Priority Secured Obligations and (iii) all Junior Priority Additional Debt Obligations, if any.

“Secured Parties” shall mean, collectively, (i) the Collateral Trustee, (ii) any First Priority Secured Parties, (iii) any Second Priority Secured Parties and (iv) any Junior Priority Secured Parties.

“Securities Account Control Agreement” shall mean any securities account control agreement among the Grantors and the Collateral Trustee, as securities intermediary and as secured party.

“Security Agreement” shall mean (i) the Security Agreement, dated as of the Effective Date, made by Tara Holdco, Tara and the other parties thereto, in favor of the Collateral Trustee and (ii) any other security agreement or similar document entered into in connection with a Refinancing of the Indebtedness secured thereby.

“Senior Recovery” shall have the meaning assigned in subsection 8.2(h).

“Significant Event Notice” means (i) any Notice of Acceleration, (ii) any Notice of Event of Default or (iii) any Notice of Foreclosure.

“Tara” shall have the meaning set forth in the preamble hereto.

“Tara Holdco” shall have the meaning set forth in the preamble hereto.

“Third Party Sale” shall have the meaning assigned in subsection 6.11(f).

“Trust Estate” shall have the meaning assigned in the Declaration of Trust at the beginning of this Collateral Trust Agreement.



“Trust Security Documents” shall mean each of the instruments described in Annex I to this Collateral Trust Agreement and each agreement entered into pursuant to clause (ii) of subsection 6.3(b) of this Collateral Trust Agreement.

“Trustee Fees” shall mean all fees, costs and expenses of the Collateral Trustee incurred in connection with this Collateral Trust Agreement and the documents executed in connection therewith, including, but not limited to, the reasonable fees and expenses of its counsel.

(c) The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Collateral Trust Agreement shall refer to this Collateral Trust Agreement as a whole and not to any particular provision of this Collateral Trust Agreement, and section, subsection, exhibit, schedule and annex references are to this Collateral Trust Agreement unless otherwise specified. References to agreements defined in subsection 1.1(b) shall, unless otherwise specified, be deemed to refer to such agreements as amended, supplemented, restated or otherwise modified from time to time.

## SECTION 2.

### ENFORCEMENT OF SECURED OBLIGATIONS

2.1 Significant Event Notices. (a) Upon receipt by the Collateral Trustee of a Significant Event Notice, the Collateral Trustee shall promptly notify the Company, the Grantors and the Holder Representatives of the receipt and contents thereof. So long as such Significant Event Notice is in effect in accordance with subsection 2.1(b) hereof, the Collateral Trustee shall exercise the rights and remedies available during the continuance of the applicable Event(s) of Default or Acceleration Event, as the case may be, provided in this Collateral Trust Agreement and in the Trust Security Documents subject to the written direction of the Controlling Party, as provided herein.

(b) A Significant Event Notice delivered by a Holder Representative shall become effective upon receipt thereof by the Collateral Trustee. Notwithstanding anything in this Collateral Trust Agreement to the contrary, a Significant Event Notice shall be deemed to be in effect whenever an Event of Default under Section 6.1(f) or 6.1(g) of the First Priority Credit Agreement, Section 6.1(f) or 6.1(g) of the Second Priority Credit Agreements or any similar provision under any Additional Debt Document has occurred and is continuing. A Significant Event Notice, once effective, shall remain in effect unless and until it is cancelled as provided in subsection 2.1(c).

(c) Any Holder Representative shall be entitled to cancel its own Significant Event Notice (and each Holder Representative hereby agrees to promptly cancel its own Notice of Default if the relevant Event(s) of Default or Acceleration Event, as the case may be, are no longer continuing) by delivering a written notice of cancellation in the form attached hereto as Exhibit D (a “Notice of Cancellation”) to the Collateral Trustee (i) before the Collateral Trustee takes any action to exercise any remedy with respect to the Collateral or (ii) thereafter; provided, that (x) any actions taken by the Collateral Trustee prior to receipt of such Notice of Cancellation

to exercise any remedy or remedies with respect to the Collateral which can, in a commercially reasonable manner, be reversed, cancelled or stopped, shall be so reversed, cancelled or stopped, and (y) any actions taken by the Collateral Trustee prior to receipt of such Notice of Cancellation to exercise any remedy or remedies with respect to the Collateral which cannot, in a commercially reasonable manner, be reversed, cancelled or stopped, may be completed. The Collateral Trustee, notwithstanding such Notice of Cancellation, shall cooperate with the Grantors so that the actions referred to in clauses (x) and (y) in the proviso above are done at the written direction of the Grantors and otherwise in accordance with the terms of this Collateral Trust Agreement and the Trust Security Documents. The Collateral Trustee shall promptly notify the Grantors as to the receipt and contents of any such Notice of Cancellation. The Collateral Trustee shall not be liable to any Person for any losses, damages or expenses arising out of or related to actions taken at the direction of the Grantors after the issuance of a Notice of Cancellation.

2.2 General Authority of the Collateral Trustee over the Collateral. Each Grantor hereby irrevocably constitutes and appoints the Collateral Trustee and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full power and authority in its own name and at the times specified by and otherwise pursuant to the terms of the Trust Security Documents.

2.3 Right to Initiate Judicial Proceedings. If an Enforcement Event is in effect, the Collateral Trustee, subject to the provisions of subsection 2.4(b) and Section 5, (i) shall have the right and power to institute and maintain such suits and proceedings as it may deem necessary to protect and enforce the rights vested in it by this Collateral Trust Agreement and each Trust Security Document and (ii) may, either after entry, or without entry, proceed by suit or suits at law or in equity to enforce such rights (which, for the avoidance of doubt, shall not, in any event, include entry upon any Real Property Asset prior to Foreclosure) and to foreclose upon the Collateral and to sell all or, from time to time, any of the Collateral under the judgment or decree of a court of competent jurisdiction.

2.4 Exercise of Powers; Instructions of the Controlling Party. (a) All of the powers, remedies and rights of the Collateral Trustee as set forth in this Collateral Trust Agreement may be exercised by the Collateral Trustee in respect of any Trust Security Document as though set forth in full therein and all of the powers, remedies and rights of the Collateral Trustee, each Holder Representative and the other Secured Parties as set forth in any Trust Security Document may be exercised from time to time as herein and therein provided. In the event of any conflict between the provisions of any Trust Security Document and the provisions hereof, the provisions of this Collateral Trust Agreement shall govern.

(b) The Controlling Party shall at all times have the right, by one or more notices in writing executed and delivered to the Collateral Trustee (or by telephonic notice promptly confirmed in writing), to direct the time, method and place of conducting any proceeding for any right or remedy available to the Collateral Trustee, or of exercising any trust or power conferred on the Collateral Trustee or to direct the taking or the refraining from taking of any action authorized by this Collateral Trust Agreement or any Trust Security Document; provided that (i) such direction shall not conflict with any Requirement of Law or this Collateral Trust Agreement or any Trust Security Document, (ii) the Collateral Trustee shall be adequately secured and indemnified as provided in subsection 5.4(d) and (iii) no Collateral Enforcement

Action may be taken unless an Acceleration Event is in effect. In the absence of such direction, the Collateral Trustee shall have no duty to take or refrain from taking any action unless explicitly required herein.

(c) Whether or not any Insolvency Proceeding has been commenced by or against any Grantor, no Holder Representative or any other Secured Party shall do (and no such Holder Representative or Secured Party (other than the Controlling Party) shall direct the Collateral Trustee to do) any of the following without the consent of the Controlling Party: (i) take any Collateral Enforcement Action or commence, seek to commence or join any other Person in commencing any Insolvency Proceeding; or (ii) object to, contest or take any other action that is reasonably likely to hinder (1) any Collateral Enforcement Action initiated by the Collateral Trustee, (2) any release of Collateral permitted under subsection 6.11, whether or not done in consultation with or with notice to such Secured Party or (3) any decision by the Controlling Party to forbear or refrain from bringing or pursuing any such Collateral Enforcement Action or to effect any such release.

2.5 Remedies Not Exclusive. (a) No remedy conferred upon or reserved to the Collateral Trustee herein or in the Trust Security Documents is intended to be exclusive of any other remedy or remedies, but every such remedy shall be cumulative and shall be in addition to every other remedy conferred herein or in any Trust Security Document or now or hereafter existing at law or in equity or by statute (but, in each case, only at the times such right, power or remedy shall be available to be exercised by the Collateral Trustee in accordance with the terms of this Collateral Trust Agreement or under any Trust Security Document).

(b) No delay or omission by the Collateral Trustee to exercise any right, remedy or power hereunder or under any Trust Security Document shall impair any such right, remedy or power or shall be construed to be a waiver thereof, and every right, power and remedy given by this Collateral Trust Agreement or any Trust Security Document to the Collateral Trustee may be exercised from time to time and as often as may be deemed expedient by the Collateral Trustee (but, in each case, only at the times such right, power or remedy shall be available to be exercised by the Collateral Trustee in accordance with the terms of this Collateral Trust Agreement or under any Trust Security Document).

(c) If the Collateral Trustee shall have proceeded to enforce any right, remedy or power under this Collateral Trust Agreement or any Trust Security Document and the proceeding for the enforcement thereof shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Collateral Trustee, then the Grantors, the Collateral Trustee and the Secured Parties shall, subject to any determination in such proceeding, severally and respectively be restored to their former positions and rights hereunder or thereunder with respect to the Trust Estate and in all other respects, and thereafter all rights, remedies and powers of the Collateral Trustee shall continue as though no such proceeding had been taken.

(d) All rights of action and of asserting claims upon or under this Collateral Trust Agreement and the Trust Security Documents may be enforced by the Collateral Trustee without the possession of any Secured Instrument or instrument evidencing any Secured Obligation or the production thereof at any trial or other proceeding relative thereto, and any suit or proceeding instituted by the Collateral Trustee shall be, subject to subsections 5.5(c) and

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5.10(b)(ii), brought in its name as Collateral Trustee and any recovery of judgment shall be held as part of the Trust Estate.

2.6 Waiver and Estoppel. (a) Each Grantor agrees, to the extent it may lawfully do so, that it will not at any time in any manner whatsoever claim, or take the benefit or advantage of, any appraisal, valuation, stay, extension, moratorium, turnover or redemption law, or any law permitting it to direct the order in which the Collateral shall be sold, now or at any time hereafter in force, which may delay, prevent or otherwise affect the performance or enforcement of this Collateral Trust Agreement, or any Trust Security Document, and hereby waives all benefit or advantage of all such laws and covenants that it will not hinder, delay or impede the execution of any power granted to the Collateral Trustee in this Collateral Trust Agreement or any Trust Security Document and will suffer and permit the execution of every such power as though no such law were in force.

(b) Each Grantor, to the extent it may lawfully do so, on behalf of itself and all who may claim through or under it, including without limitation any and all subsequent creditors, vendees, assignees and lienors, waives and releases all rights to demand or to have any marshalling of the Collateral upon any sale, whether made under any power of sale granted herein or in any Trust Security Document or pursuant to judicial proceedings or upon any foreclosure or any enforcement of this Collateral Trust Agreement or any Trust Security Document and consents and agrees that all the Collateral may at any such sale be offered and sold as an entirety.

(c) Each Grantor waives, to the extent permitted by applicable law, presentment, demand, protest and any notice of any kind (except notices explicitly required hereunder, under any Secured Instrument or under any other Trust Security Document) in connection with this Collateral Trust Agreement and the Trust Security Documents and any action taken by the Collateral Trustee with respect to the Collateral.

2.7 Limitation on Collateral Trustee's Duty in Respect of Collateral. Beyond its duties expressly provided herein or in any Trust Security Document and to account to the Secured Parties and the Grantors for moneys and other property received by it hereunder or under any Trust Security Document, the Collateral Trustee shall not have any other duty to the Grantors or to the Secured Parties as to any Collateral in its possession or control or in the possession or control of any of its agents or nominees, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto.

2.8 Limitation by Law. All rights, remedies and powers provided in this Collateral Trust Agreement or any Trust Security Document may be exercised only to the extent that the exercise thereof does not violate any applicable Requirement of Law, and all the provisions hereof are intended to be subject to all applicable mandatory Requirements of Law which may be controlling and to be limited to the extent necessary so that they will not render this Collateral Trust Agreement invalid, unenforceable in whole or in part or not entitled to be recorded, registered or filed under the provisions of any applicable law.

2.9 Rights of Secured Parties under Secured Instruments. Notwithstanding any other provision of this Collateral Trust Agreement or any Trust Security Document, the right of each Secured Party to receive payment of the Secured Obligations held by such Secured Party

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when due (whether at the stated maturity thereof, by acceleration or otherwise) as expressed in the related Secured Instrument or other instrument evidencing or agreement governing a Secured Obligation or to institute suit for the enforcement of such payment on or after such due date or to exercise any other remedy it may have as an unsecured creditor against the Grantors, and the obligation of the Grantors to pay such Secured Obligations when due, shall not be impaired or affected without the consent of such Secured Party given in the manner prescribed by the Secured Instrument under which such Secured Obligation is outstanding; provided, however, that in the event any Secured Party becomes a judgment lien creditor or otherwise obtains any Lien as a result of its enforcement of its rights as an unsecured creditor, such judgment lien and the Collateral subject thereto shall be subject to all of the terms and conditions of this Collateral Trust Agreement, and if such judgment lien is held by (i) a Second Priority Secured Party such Lien or Liens shall be junior and subordinate to the Liens securing the First Priority Secured Obligations hereunder on the same basis as any other Lien securing the Second Priority Secured Obligations and (ii) a Junior Priority Secured Party such Lien or Liens shall be junior and subordinate to the Liens securing the First Priority Secured Obligations and the Second Priority Secured Obligations hereunder on the same basis as any other Lien securing any Junior Priority Additional Debt Obligations.

2.10 Collateral Use Prior to Foreclosure. (a) Prior to a Foreclosure on all or any portion of the Collateral, the Grantors shall have the right: (i) to remain in possession and retain exclusive control of such Collateral (except for such property which the Grantors are required to give possession of or control over to the Collateral Trustee pursuant to the terms of any Trust Security Document) with power freely and without let or hindrance on the part of the Secured Parties to operate, manage, develop, use and enjoy such Collateral, to receive the issues, profits, revenues and other income thereof, and (ii) to sell or otherwise dispose of, free and clear of all Liens created by the Trust Security Documents and this Collateral Trust Agreement, any Collateral, in the case of either clause (i) or (ii), to the extent the same is not prohibited by the First Priority Loan Documents, the Second Priority Loan Documents or any Additional Debt Documents (in each case subject to the terms hereof) or has been expressly approved in accordance with the terms of the First Priority Loan Documents, the Second Priority Loan Documents and any Additional Debt Documents or, in the case of any disposition, if any Person is legally empowered to take any Collateral under the power of condemnation or eminent domain. The Collateral Trustee shall have no duty to monitor the exercise by the Grantors of their rights under this subsection 2.10(a).

(b) When an Enforcement Event is in effect, or following receipt by the Collateral Trustee of written notice from the Controlling Party that a Material Default (as defined in any applicable Secured Instrument) has occurred and is continuing, cash Proceeds received in the Accounts (as defined in the Security Agreement), or otherwise directly received by the Collateral Trustee, in connection with any sale or other disposition of Collateral or otherwise in respect of the Collateral (net of any portion beneficially owned by third parties) and any cash, cash equivalents and checks on deposit in the Accounts or otherwise included in the Collateral, shall be transferred to and deposited in the Collateral Account (to the extent not otherwise used to prepay loans in accordance with the terms of any Secured Instrument). Any such Proceeds actually received by any Grantor shall be held by such Grantor for the benefit of the Collateral Trustee, shall be segregated from other funds of such Grantor and shall, forthwith upon receipt by such Grantor, be turned over to the Collateral Trustee, in the same form as received by such

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Grantor (duly indorsed to the Collateral Trustee, if required) for deposit in the Collateral Account. Notwithstanding anything to the contrary in this Collateral Trust Agreement, unless an Enforcement Event is in effect or the Collateral Trustee has received written notice from the Controlling Party that a Material Default (as defined in any applicable Secured Instrument) has occurred and is continuing, each Grantor may upon written or oral request (confirmed in writing to the Collateral Trustee, with a copy to the Controlling Party) obtain the prompt release to it or its order of any funds in the Collateral Account, provided that the failure to confirm an oral request in writing shall not affect the validity of such request and the Collateral Trustee's obligations to promptly release such funds. Any written or oral request or instruction by any Grantor pursuant to the preceding sentence shall be full authority for and direction to the Collateral Trustee to make the requested release, and the Collateral Trustee shall promptly do so. The Collateral Trustee in so doing shall have no liability to any Person.

2.11 Copies to Company. Notwithstanding any other provision of this Collateral Trust Agreement or any Trust Security Document, each Holder Representative (or, in the case any other Secured Party sends any such notice, such Secured Party) shall send to the Company, simultaneously with transmittal of the same to the Collateral Trustee, a copy of each Significant Event Notice, Notice of Cancellation, release direction pursuant to Section 6.11 and any other notice or other written communication sent by such Holder Representative or other Secured Party to the Collateral Trustee, except, in each case, to the extent delivery of such copy would violate an automatic stay or similar prohibition arising from a bankruptcy filing.

### SECTION 3.

#### COLLATERAL ACCOUNT; DISTRIBUTIONS

3.1 The Collateral Account. On the Effective Date there shall be established and, at all times thereafter until the trusts created by this Collateral Trust Agreement shall have terminated, there shall be maintained in the name of the Collateral Trustee at the office of the Collateral Trustee's corporate trust division (or at such other office selected by the Collateral Trustee) an account which is entitled the "Tara Collateral Account" (the "Collateral Account"). All moneys which are required by this Collateral Trust Agreement or any Trust Security Document to be delivered to the Collateral Trustee while an Enforcement Event is in effect or which are received by the Collateral Trustee or any agent or nominee of the Collateral Trustee in respect of the Collateral, whether in connection with the exercise of the remedies provided in this Collateral Trust Agreement or any Trust Security Document or otherwise, while an Enforcement Event is in effect shall be deposited in the Collateral Account, to be held by the Collateral Trustee as part of the Trust Estate and applied in accordance with the terms of this Collateral Trust Agreement. Upon the cancellation of all Significant Event Notices pursuant to subsection 2.1(c) or the receipt by the Collateral Trustee of any moneys at any time when no Enforcement Event is in effect and no Material Default (as defined in any applicable Secured Instrument) has occurred and is continuing (as confirmed to the Collateral Trustee by the Controlling Party in writing), the Collateral Trustee shall (subject to subsection 3.4(a)) cause all funds on deposit in the Collateral Account or otherwise received by the Collateral Trustee to be paid over as promptly as possible to the Grantors in accordance with their respective interests.

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3.2 Control of Collateral Account. All right, title and interest in and to the Collateral Account shall vest in the Collateral Trustee, and funds on deposit in the Collateral Account shall constitute part of the Trust Estate, subject to the rights of the Grantors thereto. The Collateral Account shall be subject to the exclusive dominion and control of the Collateral Trustee. Each Grantor hereby grants (i) a security interest in the Collateral Account to the

Collateral Trustee for the benefit of the First Priority Secured Parties, as collateral security for such Grantor's First Priority Secured Obligations, (ii) a security interest in the Collateral Account to the Collateral Trustee for the benefit of the Second Priority Secured Parties, as collateral security for such Grantor's Second Priority Secured Obligations and (iii) a security interest in the Collateral Account to the Collateral Trustee for the benefit of the Junior Priority Secured Parties, as collateral security for such Grantor's Junior Priority Additional Debt Obligations.

3.3 Investment of Funds Deposited in Collateral Account. The Collateral Trustee shall, at the written direction of the Controlling Party, invest and reinvest moneys on deposit in the Collateral Account at any time in the investments of the type described in clauses (a) and (b) in the definition of "Cash or Cash Equivalents" in the First Priority Credit Agreement (or any similar investments, including funds whose assets primarily consist of such investments). All such investments and the interest and income received thereon and the net proceeds realized on the sale or redemption thereof shall be held in the Collateral Account as part of the Trust Estate. Neither the Collateral Trustee nor any other Secured Party shall be responsible for (i) determining whether investments are permitted pursuant to the terms of this Section 3.3 or (ii) any diminution in funds resulting from such investments or any liquidation prior to maturity. In the absence of such directions, the Collateral Trustee shall have no obligation to invest or reinvest any moneys.

3.4 Application of Moneys. (a) The Collateral Trustee shall have the right (pursuant to subsection 4.7) at any time to apply moneys held by it in the Collateral Account to the payment of due and unpaid Trustee Fees without any requirement that such applications be made ratably from such account. The Collateral Trustee shall provide written notice to the Company of any such application of moneys.

(b) All moneys held by the Collateral Trustee in the Collateral Account while an Enforcement Event is in effect shall, to the extent available for distribution (it being understood that the Collateral Trustee may liquidate investments prior to maturity in order to make a distribution pursuant to this subsection 3.4(b)), be distributed (subject to the provisions of subsections 3.5 and 3.7) by the Collateral Trustee on each Distribution Date in the following order of priority (with such distributions being made by the Collateral Trustee to the respective Holder Representative for the Secured Parties entitled thereto as provided in subsection 3.4(d), and each such Holder Representative shall be responsible for insuring that amounts distributed to it are distributed to its Secured Parties in the order of priority set forth below):

First: to the Collateral Trustee for any unpaid Trustee Fees and then to any Secured Party which has theretofore advanced or paid any Trustee Fees constituting administrative expenses allowable under Section 503(b) of the Bankruptcy Code, an amount equal to the amount thereof so advanced or paid by such Secured Party and for which such Secured Party has not been reimbursed prior to such Distribution Date, and, if

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such moneys shall be insufficient to pay such amounts in full, then ratably (without priority of any one over any other) to such Secured Parties in proportion to the amounts of such Trustee Fees advanced by the respective Secured Parties and remaining unpaid on such Distribution Date;

Second: to any Secured Party which has theretofore advanced or paid any Trustee Fees other than such administrative expenses, an amount equal to the amount thereof so advanced or paid by such Secured Party and for which such Secured Party has not been reimbursed prior to such Distribution Date, and, if such moneys shall be insufficient to pay such amounts in full, then ratably (without priority of any one over any other) to such Secured Parties in proportion to the amounts of such Trustee Fees advanced by the respective Secured Parties and remaining unpaid on such Distribution Date;

Third: to the First Priority Agent for any unpaid expenses payable to it pursuant to the First Priority Loan Documents to the extent the same constitute First Priority Secured Obligations;

Fourth: to the holders of First Priority Secured Obligations in an amount equal to the unpaid First Priority Secured Obligations (other than with respect to the expenses paid pursuant to clause Third), to the extent the same are due and payable, as of such Distribution Date, and, if such moneys shall be insufficient to pay such amounts in full, then ratably to such holders in proportion to the unpaid amounts thereof on such Distribution Date;

Fifth: to the Second Priority Agents for any unpaid expenses payable to them pursuant to the Second Priority Loan Documents and any Second Priority Additional Debt Documents to the extent the same constitute Second Priority Secured Obligations to be shared ratably among the Second Priority Agents, based on the amount of such unpaid expenses payable on such Distribution Date;

Sixth: to the holders of Second Priority Secured Obligations in an amount equal to the unpaid Second Priority Secured Obligations (other than with respect to the expenses paid pursuant to clause Fifth), to the extent the same are due and payable, as of such Distribution Date, and, if such moneys shall be insufficient to pay such amounts in full, then ratably to such holders in proportion to the unpaid amounts thereof on such Distribution Date;

Seventh: to the Junior Priority Additional Debt Representatives for any unpaid expenses payable to them pursuant to any Junior Priority Additional Debt Documents to the extent the same constitute Junior Priority Additional Debt Obligations to be shared ratably among the Junior Priority Agents, based on the amount of such unpaid expenses payable on such Distribution Date;

Eighth: to the holders of Junior Priority Additional Debt Obligations in an amount equal to the unpaid Junior Priority Additional Debt Obligations (other than with respect to the expenses paid pursuant to clause Seventh), to the extent the same are due and payable, as of such Distribution Date, and, if such moneys shall be insufficient to pay

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such amounts in full, then ratably to such holders in proportion to the unpaid amounts thereof on such Distribution Date; and

Ninth: any surplus then remaining shall be paid to the Grantors or their successors or assigns or to whomsoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

(c) The term “unpaid” as used in clauses Fourth, Sixth and Eighth of subsection 3.4(b) with respect to the relevant Grantor(s), refers to all amounts of First Priority Secured Obligations, Second Priority Secured Obligations or Junior Priority Additional Debt Obligations, as the case may be, outstanding as of a Distribution Date, whether or not such amounts are fixed or contingent, and, in the case of an Insolvency Proceeding, with respect to any Grantor, whether or not such amounts are allowed in such Insolvency Proceeding, to the extent that prior distributions (whether actually distributed or set aside pursuant to subsection 3.5) have not been made in respect thereof.

(d) The Collateral Trustee shall make all payments and distributions under this subsection 3.4: (i) on account of First Priority Secured Obligations to the First Priority Agent, pursuant to written directions of the First Priority Agent, for re-distribution in accordance with the provisions of the First Priority Loan Documents; (ii) on account of Second Priority Secured Obligations, to the relevant Second Priority Credit Agent, pursuant to written directions of such Second Priority Agent, for re-distribution in accordance with the provisions of the relevant Second Priority Loan Documents, (iii) on account of Second Priority Additional Debt Obligations, ratably to the relevant Second Priority Additional Debt Representatives, pursuant to written directions of such Second Priority Additional Debt Representatives, for re-distribution in accordance with the provisions of the relevant Second Priority Additional Debt Documents and (iv) on account of Junior Priority Additional Debt Obligations, ratably to the relevant Junior Priority Additional Debt Representatives, pursuant to written directions of such Junior Priority Additional Debt Representatives, for re-distribution in accordance with the provisions of the relevant Junior Priority Additional Debt Documents. The Collateral Trustee shall provide written notice to the Company of any such payment or distribution under this subsection 3.4(d).

3.5 Amounts Held for Contingent Secured Obligations. In the event any Secured Party shall be entitled to receive distributions from the Collateral Account of any moneys in respect of any unliquidated, unmatured or contingent portion of the outstanding Secured Obligations, then the Collateral Trustee shall, at the written direction of the Controlling Party, separate such moneys into a separate account to be opened by the Controlling Party for the benefit of the Secured Parties and shall, at the written direction of such Secured Party, invest such moneys in obligations of the kinds referred to in subsection 3.3 maturing within three months after they are acquired by the Collateral Trustee and shall hold all such amounts so distributable, and all such investments and the net proceeds thereof, in trust solely for such Secured Party and for no other purpose until (i) such Secured Party shall have notified the Collateral Trustee that all or part of such unliquidated, unmatured or contingent claim shall have become matured or fixed, in which case the Collateral Trustee shall distribute from such investments and the proceeds thereof an amount equal to such matured or fixed claim to such Secured Party for application to the payment of such matured or fixed claim, and shall promptly give notice thereof to the Grantors or (ii) all or part of such unliquidated, unmatured or

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contingent claim shall have been extinguished, whether as the result of an expiration without drawing of any letter of credit, payment of amounts secured or covered by any letter of credit other than by drawing thereunder, payment of amounts covered by any guarantee or otherwise, in which case (x) such Secured Party shall, as soon as practicable thereafter, notify the Grantors and the Collateral Trustee in writing and (y) such investments, and the proceeds thereof, shall be held in the Collateral Account in trust for all Secured Parties pending application in accordance with the provisions of subsection 3.4.

3.6 Collateral Trustee’s Calculations. In making the determinations and allocations required by subsection 3.4, the Collateral Trustee may conclusively rely upon information supplied by the First Priority Agent as to the amounts of unpaid principal and interest and other amounts outstanding with respect to the First Priority Secured Obligations, information supplied by the relevant Second Priority Agent as to the amounts of unpaid principal and interest and other amounts outstanding with respect to its respective Second Priority Secured Obligations, information supplied by the relevant Junior Priority Additional Debt Representative as to the amounts of unpaid principal and interest and other amounts outstanding with respect to its respective Junior Priority Additional Debt Obligations and the Collateral Trustee shall have no liability to any of the Secured Parties for actions taken in reliance on such information, provided that nothing in this sentence shall prevent any Grantor from contesting any amounts claimed by any Secured Party in any information so supplied but in the event of any such contest, the information delivered by any Holder Representative shall be conclusive, for purposes of the Collateral Trustee’s reliance, absent manifest error. Upon the reasonable request of the Collateral Trustee, the First Priority Agent, the Second Priority Agents, any Junior Priority Additional Debt Representatives or any other Secured Party, as the case may be, shall deliver to the Collateral Trustee a certificate setting forth the information specified in this subsection 3.6. All distributions made by the Collateral Trustee pursuant to subsection 3.4 shall be (subject to subsection 3.7 and to any decree of any court of competent jurisdiction) final (absent manifest error), and the Collateral Trustee shall have no duty to inquire as to the application by any Holder Representative in respect of any amounts distributed to such Holder Representative.

3.7 Pro Rata Sharing. If, through the operation of any Bankruptcy Law or otherwise, the Collateral Trustee’s security interest hereunder and under the Trust Security Documents is enforced with respect to some, but not all, of the Secured Obligations then outstanding, such Secured Obligations for which the security interest is not enforced shall not be considered Secured Obligations hereunder for the purposes of subsection 3.4; provided, however, that such Secured Obligations shall be considered Secured Obligations hereunder for the purposes of subsection 8.1(p) and subsection 8.2(p); provided further, however, that nothing in this subsection 3.7 shall be deemed to require the Collateral Trustee to disregard or violate any court order binding upon it.

3.8 Collateral Account Information and Access. At such times as the Company or Controlling Party may reasonably request in writing, but not more than once per year per party (unless otherwise agreed to by the Collateral Trustee), the Collateral Trustee shall provide a full accounting of all funds then standing to the credit of the Collateral Account. The Collateral Trustee also shall provide the necessary information and passwords to enable the Company to electronically access account statements and data for the Collateral Account.

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## SECTION 4.

### AGREEMENTS WITH TRUSTEE

4.1 Delivery of Secured Instruments. On the Effective Date, the Grantors shall deliver to the Collateral Trustee copies of each Secured Instrument and each Trust Security Document then in effect. The Grantors shall deliver to the Collateral Trustee, promptly upon the execution thereof, a copy of all amendments, modifications or supplements to any Secured Instrument entered into after the Effective Date. Within 60 days after the issuance of any Additional Debt, the Grantors shall deliver to the Collateral Trustee copies of the related Additional Debt Documents and Trust Security Documents with respect to such Additional Debt.

4.2 Information as to Secured Parties and Holder Representatives. The Holder Representatives and the Grantors shall deliver, at the request of the Collateral Trustee, any information necessary to make the distributions contemplated by subsection 3.4 or any other information as the Collateral Trustee reasonably requires in order to perform its duties under this Collateral Trust Agreement.

4.3 Compensation and Expenses. The Grantors, jointly and severally, agree to pay to the Collateral Trustee, from time to time upon demand, (i) reasonable compensation (which shall not be limited by any Requirement of Law in regard to compensation of fiduciaries or of a trustee of an express trust) for its services hereunder and under the Trust Security Documents and for administering the Trust Estate as shall have been agreed to in a separate agreement between the Grantors and the Collateral Trustee and (ii) all of the reasonable fees, costs and expenses of the Collateral Trustee (including, without limitation, the reasonable fees and disbursements of its counsel, advisors and agents) (A) arising in connection with the preparation, negotiation, execution, delivery, modification, and termination of this Collateral Trust Agreement and each Trust Security Document or the enforcement of any of the provisions hereof or thereof, (B) incurred or required to be advanced in connection with the administration of the Trust Estate, the custody, use or operation of, preservation, sale or other disposition of Collateral pursuant to any Trust Security Document and the preservation, protection, enforcement or defense of the Collateral Trustee's rights under this Collateral Trust Agreement and the Trust Security Documents and in and to the Collateral and the Trust Estate (including, but not limited to, any fees and expenses incurred by the Collateral Trustee in a bankruptcy proceeding), (C) incurred by the Collateral Trustee in connection with the removal of the Collateral Trustee pursuant to subsection 5.7(a) or (D) incurred in connection with the execution of the directions provided by the Controlling Party. Such fees, costs and expenses are intended to constitute expenses of administration under any Bankruptcy Law relating to creditors' rights generally. The obligations of the Grantors under this subsection 4.3 shall survive the termination of the other provisions of this Collateral Trust Agreement and the resignation or removal of the Collateral Trustee hereunder.

4.4 Stamp and Other Similar Taxes. The Grantors agree to indemnify and hold harmless the Collateral Trustee, each Holder Representative and each Secured Party from any present or future claim for liability for any stamp or any other similar tax, and any penalties or interest with respect thereto, which may be assessed, levied or collected by any jurisdiction in connection with this Collateral Trust Agreement, any Trust Security Document, the Trust Estate

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or any Collateral. The obligations of the Grantors under this subsection 4.4 shall survive the termination of the other provisions of this Collateral Trust Agreement and the resignation or removal of the Collateral Trustee hereunder.

4.5 Filing Fees, Excise Taxes, Etc. The Grantors agree to pay or to reimburse the Collateral Trustee for any and all payments made by the Collateral Trustee in respect of all search, filing, recording and registration fees, taxes, excise taxes and other similar imposts which may be payable or determined to be payable in respect of the execution and delivery of this Collateral Trust Agreement and each Trust Security Document. The obligations of the Grantors under this subsection 4.5 shall survive the termination of the other provisions of this Collateral Trust Agreement and the resignation or removal of the Collateral Trustee hereunder.

4.6 Indemnification. The Company and the Grantors agree to pay, indemnify, and hold, jointly and severally, the Collateral Trustee (and its directors, officers, agents and employees) harmless from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including, without limitation, the reasonable fees and expenses of counsel, advisors and agents) or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Collateral Trust Agreement and the Trust Security Documents and any modifications or termination thereof, except to the extent arising from the gross negligence or willful misconduct of the indemnified party or any of its affiliates or any of their respective directors, officers, agents or employees as determined by a final judgment of a court of competent jurisdiction, including for taxes in any jurisdiction in which the Collateral Trustee is subject to tax by reason of actions hereunder or under the Trust Security Documents, unless such taxes are imposed on or measured by compensation paid to the Collateral Trustee under subsection 4.3. In any suit, proceeding or action brought by the Collateral Trustee under or with respect to any contract, agreement, interest or obligation constituting part of the Collateral for any sum owing thereunder, or to enforce any provisions thereof, the Grantors will save, indemnify and keep the Collateral Trustee harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim, recoupment or reduction of liability whatsoever of any Grantor thereunder, arising out of a breach by such Grantor of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing to or in favor of such Grantor or its successors from any Grantor, and all such obligations of the Grantors shall be and remain enforceable against and only against the Grantors and shall not be enforceable against the Collateral Trustee. The agreements in this subsection 4.6 shall survive the termination of the other provisions of this Collateral Trust Agreement and the resignation or removal of the Collateral Trustee hereunder.

4.7 Trustee's Lien. Notwithstanding anything to the contrary in this Collateral Trust Agreement, as security for the payment of Trustee Fees (i) the Collateral Trustee is hereby granted a lien upon all Collateral which shall have priority ahead of all other Secured Obligations secured by such Collateral and (ii) the Collateral Trustee shall have the right to use and apply any of the funds held by the Collateral Trustee in the Collateral Account to cover such Trustee Fees.

4.8 Further Assurances. At any time and from time to time, upon the written request of the Collateral Trustee, and at the expense of the Grantors, each Grantor will promptly

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execute and deliver any and all such further instruments and documents and take such further action as may be reasonably requested pursuant to any Secured Instrument or Trust Security Document further to perfect, or to protect the perfection of, the liens and security interests granted under the Trust Security Documents, including, without limitation, the filing of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction; provided, however, that notwithstanding anything to the contrary contained herein or in any Trust Security Document, no Grantor shall be required to perfect the security interests granted by it in any Collateral by any means other than by (i) executing and delivering a copy of any Deposit Account Control Agreement or any Securities Account Control Agreement, (ii) executing filings pursuant to the Uniform Commercial Code of the relevant State(s), (iii) executing, delivering and recording Mortgages in respect of certain Credit Tenant Lease Assets (but solely to the extent required under Section 2.18 of the First Priority Credit Agreement and Section 2.24 of each of the Second Priority Credit Agreements) and (iv) such additional actions as may be required pursuant to any Secured Instrument or Trust Security Document.

4.9 Inspection of Properties and Books; Collateral Accountings. (a) The Grantors shall give the Collateral Trustee access during normal business hours, at its reasonable request, to all books, records, documents and information in the possession of any Grantor or any of their respective subsidiaries relating to the Collateral. Upon a Foreclosure on any Collateral, the Grantors shall give the Collateral Trustee access to any such foreclosed Collateral in the possession of any Grantor.

(b) At any time, the Collateral Trustee shall give the Company and the Grantors access during normal business hours, at the Company's or any such Grantor's prior written reasonable request, to all Collateral and to all books, records, documents and information in the possession of the Collateral Trustee.

(c) On the last Business Day of each week or such other Business Day as the parties hereto may agree, the Collateral Trustee shall provide the Company and the Holder Representatives with reports listing all Collateral and books, records, documents and information then in the possession of the Collateral Trustee.

## SECTION 5.

### THE COLLATERAL TRUSTEE

5.1 Acceptance of Trust. The Collateral Trustee, for itself and its successors, hereby accepts the trusts created by this Collateral Trust Agreement upon the terms and conditions hereof.

5.2 Exculpatory Provisions. (a) The Collateral Trustee shall not be responsible in any manner whatsoever for the correctness of any recitals, statements, representations or warranties herein, all of which are made solely by the Grantors. The Collateral Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof, or as to the title of the Grantors thereto or as to the security afforded by this Collateral Trust Agreement or any Trust Security Document, or as to the validity, execution (except its execution),

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enforceability, legality or sufficiency of this Collateral Trust Agreement, the Trust Security Documents or the Secured Obligations, and the Collateral Trustee shall incur no liability or responsibility in respect of any such matters.

(b) The Collateral Trustee shall not be required to ascertain or inquire as to the performance by the Grantors of any of the covenants or agreements contained herein or in any Trust Security Document or Secured Instrument. Whenever it is necessary, or in the opinion of the Collateral Trustee advisable, for the Collateral Trustee to ascertain the amount of Secured Obligations then held by Secured Parties, the Collateral Trustee may rely on (i) a certificate of the First Priority Agent, in the case of First Priority Secured Obligations, (ii) a certificate of the relevant Second Priority Agent, in the case of its respective Second Priority Secured Obligations and (iii) a certificate of the relevant Junior Priority Additional Debt Representative, in the case of its respective Junior Priority Additional Debt Obligations and, if the First Priority Agent, any Second Priority Agent, any Junior Priority Additional Debt Representative or any relevant Secured Party shall not give such information to the Collateral Trustee, it shall not be entitled to receive distributions hereunder (in which case distributions to those Persons who have supplied such information to the Collateral Trustee shall be calculated by the Collateral Trustee using, for those Persons who have not supplied such information, the most recent information, if any, received by the Collateral Trustee), and the amount so calculated to be distributed to any Person who fails to give such information shall be held in trust for such Person until the next Distribution Date following the time such Person does supply such information to the Collateral Trustee, whereupon on such Distribution Date the amount distributable to such Person shall be recalculated using such information and distributed to it. The Collateral Trustee shall have no liability to any Secured Parties with respect to any calculations made by the Collateral Trustee hereunder in the event any Holder Representative shall fail to deliver its certificate as required herein. Nothing in this subsection 5.2(b) shall prevent any Grantor from contesting any amounts claimed by any Secured Party in any certificate so supplied, but the certificates delivered by any Holder Representative shall be conclusive, for purposes of the Collateral Trustee's calculations, absent manifest error. So long as no Enforcement Event is in effect, the Collateral Trustee may rely conclusively on a certificate of a Responsible Officer of the Company with respect to the matters set forth in the second sentence of this subsection 5.2(b), provided a copy of any such certificate is simultaneously provided to the Controlling Party.

(c) The Collateral Trustee shall be under no obligation or duty to take any action under this Collateral Trust Agreement or any Trust Security Document if taking such action (i) would subject the Collateral Trustee to a tax in any jurisdiction where it is not then subject to a tax or (ii) would require the Collateral Trustee to qualify to do business in any jurisdiction where it is not then so qualified, unless the Collateral Trustee receives security or indemnity reasonably satisfactory to it against such tax (or equivalent liability), or any liability resulting from such qualification, in each case as results from the taking of such action under this Collateral Trust Agreement or any Trust Security Document.

(d) The Collateral Trustee shall have the same rights with respect to any Secured Obligation held by it as any other Secured Party and may exercise such rights as though it were not the Collateral Trustee hereunder, and may accept deposits from, lend money to, and generally engage in any kind of banking or trust business with the Company and/or any of the Grantors as if it were not the Collateral Trustee.

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(e) Notwithstanding any other provision of this Collateral Trust Agreement, the Collateral Trustee shall not be liable for any action taken or omitted to be taken in accordance with this Collateral Trust Agreement or the Trust Security Documents except to the extent of its own gross negligence or willful misconduct.

(f) Beyond the exercise of reasonable care in the custody thereof, the Collateral Trustee shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Collateral Trustee shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Collateral Trustee shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Trustee in good faith.

(g) The Collateral Trustee shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Collateral Trustee, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of any Grantor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral.

(h) In no event shall the Collateral Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Collateral Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(i) In no event shall the Collateral Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Collateral Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

5.3 Delegation of Duties. The Collateral Trustee may execute any of the trusts or powers hereof and perform any duty hereunder either directly or by or through agents or attorneys-in-fact, accountants, appraisers or other experts or advisers selected by it. The Collateral Trustee shall be entitled to advice of counsel concerning all matters pertaining to such

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trusts, powers and duties. The Collateral Trustee shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with due care.

5.4 Reliance by Collateral Trustee. (a) Whenever in the administration of this Collateral Trust Agreement or the Trust Security Documents the Collateral Trustee shall deem it necessary or desirable that a factual matter be proved or established in connection with the Collateral Trustee taking, suffering or omitting any action hereunder or thereunder, such matter (unless other evidence in respect thereof is herein specifically prescribed) may be deemed to be conclusively proved or established by a certificate of a Responsible Officer of the Company or Controlling Party, as applicable, delivered to the Collateral Trustee, and such certificate shall be full warrant to the Collateral Trustee for any action taken, suffered or omitted in reliance thereon, subject, however, to the provisions of subsection 5.5.

(b) The Collateral Trustee may consult with counsel, and any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder or under any Trust Security Document in accordance therewith. The Collateral Trustee may at any time solicit written confirmatory instructions from the Controlling Party, an officer's certificate of a Grantor or an order of a court of competent jurisdiction, as to any action that it may be requested or required to take, or that it may propose to take, in the performance of any of its obligations under this Collateral Trust Agreement or any documents executed in connection herewith.

(c) The Collateral Trustee may rely, and shall be fully protected in acting, upon any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order, bond or other paper or document which it has no reason to believe to be other than genuine and to have been signed or presented by the proper party or parties or, in the case of cables, teletypes and telexes, to have been sent by the proper party or parties. In the absence of its own gross negligence or willful misconduct, the Collateral Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Collateral Trustee and conforming to the requirements of this Collateral Trust Agreement.

(d) The Collateral Trustee will not be required to advance or expend any funds or otherwise incur any financial liability in the performance of its duties or the exercise of its powers or rights hereunder unless it has been provided with security or indemnity satisfactory to it against any and all liability or expense which may be incurred by it by reason of taking or continuing to take such action. The Collateral Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Collateral Trust Agreement at the request or direction of the Controlling Party pursuant to this Collateral Trust Agreement, unless such Controlling Party shall have offered to the Collateral Trustee security or indemnity satisfactory to the Collateral Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction.

(e) Upon any application or demand by any of the Grantors (except any such application or demand which is expressly permitted to be made orally) to the Collateral Trustee to take or permit any action under any of the provisions of this Collateral Trust Agreement or any Trust Security Document, the Company shall furnish to the Collateral Trustee a certificate of a

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Responsible Officer of the Company stating that all conditions precedent, if any, provided for in this Collateral Trust Agreement, in any relevant Trust Security Document or in the First Priority Credit Agreement, the Second Priority Credit Agreements or any Additional Debt Documents relating to the proposed action have been complied with, and in the case of any such application or demand as to which the furnishing of any document is specifically required by any provision of this Collateral Trust Agreement or a Trust Security Document relating to such particular application or demand, such additional document shall also be furnished. A copy of any such certificate referred to in the prior sentence shall be simultaneously delivered to the Controlling Party. Except for withdrawals and releases of Collateral requested under, and permitted by the terms of, Subsections 6.11(e), (f), (g) and (i) below, which releases and withdrawals shall be governed by, and effected in accordance with the terms set forth in such subsections, unless the Controlling Party shall have given telephonic notice to the Collateral Trustee, to the effect that the requested action is not permitted, prior to 5:00 p.m. (New York City time) on the second Business Day following the Collateral Trustee's receipt of such Company or Grantor certificate (such notice to be confirmed in writing delivered by a nationally recognized overnight courier and received by the Collateral Trustee no later than 12:00 p.m. noon (New York City time) on the third Business Day following Collateral Trustee's receipt of such certificate), the Collateral Trustee shall be authorized to take or permit the requested action, provided that the Controlling Party shall be deemed to have approved and authorized such requested action if the Collateral Trustee shall not have received such notices of the



Controlling Party as described in this subsection 5.4(e). A copy of any notice referred to in the parenthetical above by the Controlling Party to the Collateral Trustee shall be sent simultaneously to the Company and any applicable Grantor.

(f) Any Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate of a Responsible Officer provided to such counsel in connection with such opinion or representations made by a Responsible Officer in a writing filed with the Collateral Trustee.

(g) In the event there is any bona fide, good faith disagreement between the parties to this Collateral Trust Agreement or any of the documents executed in connection herewith resulting in adverse claims being made in connection with the Collateral held by the Collateral Trustee, the Collateral Trustee shall be entitled to refrain from taking any action (and will incur no liability for doing so) until directed in writing by the Controlling Party (but, in each case, the Controlling Party may only provide directions regarding such matters as it would otherwise be permitted to direct under this Collateral Trust Agreement and the Trust Security Documents) or by order of a court of competent jurisdiction.

5.5 Limitations on Duties of Trustee. (a) Unless an Acceleration Event is in effect, the Collateral Trustee shall be obligated to perform such duties and only such duties as are specifically set forth in this Collateral Trust Agreement and the Trust Security Documents, and no implied covenants or obligations shall be read into this Collateral Trust Agreement or any Trust Security Document against the Collateral Trustee. If and so long as an Acceleration Event is in effect, the Collateral Trustee shall, upon written direction of the Controlling Party in accordance with subsection 2.4(b), exercise the rights and powers vested in the Collateral Trustee by this Collateral Trust Agreement and the Trust Security Documents, and shall not be

liable with respect to any action taken, or omitted to be taken, in accordance with the direction of the Controlling Party.

(b) Except as herein otherwise expressly provided, the Collateral Trustee shall not be under any obligation to take any action which is discretionary with the Collateral Trustee under the provisions hereof or of any Trust Security Document, except upon the written direction of the Controlling Party at such time in accordance with subsection 2.4(b) hereof. The Collateral Trustee shall make available for inspection and copying by each Holder Representative, each certificate or other paper furnished to the Collateral Trustee by any of the Grantors under or in respect of this Collateral Trust Agreement or any of the Collateral.

(c) No provision of this Collateral Trust Agreement or of any Trust Security Document shall be deemed to impose any duty or obligation on the Collateral Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which the Collateral Trustee shall be unqualified or incompetent, to perform any such act or acts or to exercise any such right, power, duty or obligation or if such performance or exercise would constitute doing business by the Collateral Trustee in such jurisdiction or, unless adequately indemnified therefor (as reasonably determined by the Collateral Trustee), impose a tax on the Collateral Trustee by reason thereof or to risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder.

5.6 Moneys to be Held in Trust. All moneys received by the Collateral Trustee under or pursuant to any provision of this Collateral Trust Agreement or any Trust Security Document (except Trustee Fees) shall be held in trust for the purposes for which they were paid or are held.

5.7 Resignation and Removal of the Collateral Trustee. (a) The Collateral Trustee may at any time, by giving written notice to the Grantors and each Holder Representative, resign and be discharged of the responsibilities hereby created, such resignation to become effective upon (i) the appointment of a successor Collateral Trustee, (ii) the acceptance of such appointment by such successor Collateral Trustee, (iii) the approval of such successor Collateral Trustee evidenced by one or more instruments signed by the Controlling Party and, so long as no Enforcement Event is then in effect, by the Grantors (which approval, in each case, shall not be unreasonably withheld) and (iv) the payment of all fees and expenses due and owing to the resigning Collateral Trustee (including, but not limited to, the fees and expenses of its counsel). If no successor Collateral Trustee shall be appointed and shall have accepted such appointment within 60 days after the Collateral Trustee gives the aforesaid notice of resignation, the Collateral Trustee, the Grantors (so long as no Enforcement Event is then in effect) or the Controlling Party may apply to any court of competent jurisdiction to appoint a successor Collateral Trustee to act until such time, if any, as a successor Collateral Trustee shall have been appointed as provided in this subsection 5.7. Any successor so appointed by such court shall immediately and without further act be superseded by any successor Collateral Trustee appointed by the Controlling Party, as provided in subsection 5.7(b). While an Enforcement Event is in effect, the Controlling Party may, at any time upon giving 30 days' prior written notice thereof to the Collateral Trustee, the Grantors and each other Holder Representative, remove the Collateral Trustee and appoint a successor Collateral Trustee, such removal to be effective upon the acceptance of such appointment by the successor and the

payment of all fees and expenses due and owing to the removed Collateral Trustee (including, but not limited to, the fees and expenses of its counsel). If an Enforcement Event is not in effect, the Controlling Party may, at any time upon giving 30 days' prior written notice thereof to the Collateral Trustee and each other Holder Representative, and with the consent of the Grantors (such consent not to be unreasonably withheld) remove the Collateral Trustee and appoint a successor Collateral Trustee, such removal to be effective upon the acceptance of such appointment by the successor and the receipt of approval by the Grantors and the payment of all fees and expenses due and owing to the removed Collateral Trustee (including, but not limited to, the fees and expenses of its counsel). The Collateral Trustee shall be entitled to Trustee Fees to the extent incurred or arising, or relating to events occurring, before such resignation or removal.

(b) If at any time the Collateral Trustee shall resign or be removed or otherwise become incapable of acting, or if at any time a vacancy shall occur in the office of the Collateral Trustee for any other cause, a successor Collateral Trustee may be appointed by the Controlling Party with the consent (not to be unreasonably withheld) of the Grantors, if no Enforcement Event is in effect, and otherwise by the Controlling Party; provided, however, that should the Controlling Party not act timely to appoint a successor Collateral Trustee, the Grantors may (whether or not an Enforcement Event is then in effect) petition a court of competent jurisdiction to appoint a successor Collateral Trustee. The powers, duties, authority and title of the predecessor Collateral Trustee shall be terminated and cancelled without procuring the resignation of such predecessor and without any other formality (except for the consent of the Controlling Party referred to above and as may be required by applicable law) than appointment and designation of a successor in writing duly delivered to the predecessor and the Grantors and the payment of the fees and expenses of the predecessor Collateral Trustee as described in subsection 5.7(a) above. Such appointment and designation shall be full evidence of the right and authority to make the same and of all the facts therein recited, and this Collateral Trust Agreement and the Trust Security Documents shall vest in such successor, without any further act, deed or conveyance, all the estates,

properties, rights, powers, trusts, duties, authority and title of its predecessor; but such predecessor shall, nevertheless, on the written request of the Controlling Party, the Grantors, or the successor, execute and deliver an instrument (in form and substance reasonably satisfactory to the Collateral Trustee) transferring to such successor all the estates, properties, rights, powers, trusts, duties, authority and title of such predecessor hereunder and under the Trust Security Documents and shall deliver all Collateral held by it or its agents to such successor. Should any deed, conveyance or other instrument in writing from any Grantor be reasonably required by any successor Collateral Trustee for more fully and certainly vesting in such successor the estates, properties, rights, powers, trusts, duties, authority and title vested or intended to be vested in the predecessor Collateral Trustee, any and all such deeds, conveyances and other instruments in writing shall, on request of such successor, be executed, acknowledged and delivered by such Grantor. If such Grantor shall not have executed and delivered any such deed, conveyance or other instrument within 10 days after it received a written request from the successor Collateral Trustee to do so, or if an Enforcement Event is in effect, the predecessor Collateral Trustee may execute the same on behalf of such Grantor. Such Grantor hereby appoints any predecessor Collateral Trustee as its agent and attorney to act for it as provided in the next preceding sentence.

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5.8 Status of Successor Collateral Trustee. Every successor Collateral Trustee appointed pursuant to subsection 5.7 shall be a bank or trust company (other than any Holder Representative or other Secured Party (other than the Collateral Trustee)) in good standing and having power to act as Collateral Trustee hereunder, incorporated under the laws of the United States of America or any State thereof or the District of Columbia and generally recognized as capable of undertaking duties and obligations of the type imposed upon the Collateral Trustee hereunder and that is able to accept the trust hereunder upon reasonable or customary terms.

5.9 Merger of the Collateral Trustee. Any Person into which the Collateral Trustee may be merged, or with which it may be consolidated, or any Person resulting from any merger or consolidation to which the Collateral Trustee shall be a party, shall be Collateral Trustee under this Collateral Trust Agreement and the Trust Security Documents without the execution or filing of any paper or any further act on the part of the parties hereto.

5.10 Co-Collateral Trustee; Separate Collateral Trustee. (a) If at any time or times it shall be necessary or prudent in order to conform to any law of any jurisdiction in which any of the Collateral shall be located, or to avoid any violation of law or imposition on the Collateral Trustee of taxes by such jurisdiction not otherwise imposed on the Collateral Trustee, or the Collateral Trustee shall be advised by counsel, satisfactory to it, that it is necessary or prudent in the interest of the Secured Parties, or any Holder Representative shall in writing so request the Collateral Trustee and the Grantors, or the Collateral Trustee shall deem it desirable for its own protection in the performance of its duties hereunder or under any Trust Security Document, the Collateral Trustee and each of the Grantors shall execute and deliver all instruments and agreements necessary or proper to constitute another bank or trust company or one or more persons (other than any Holder Representative or other Secured Party (other than the Collateral Trustee)) approved by the Collateral Trustee and the Grantors, either to act as co-trustee or co-trustees of all or any of the Collateral under this Collateral Trust Agreement or under any of the Trust Security Documents, jointly with the Collateral Trustee originally named herein or therein or any successor Collateral Trustee, or to act as separate trustee or trustees of any of the Collateral. If any of the Grantors shall not have joined in the execution of such instruments and agreements within 30 days after it receives a written request from the Collateral Trustee to do so, or if an Enforcement Event is in effect, the Collateral Trustee may act under the foregoing provisions of this subsection 5.10(a) without the concurrence of such Grantors and execute and deliver such instruments and agreements on behalf of such Grantors. Each of the Grantors hereby appoints the Collateral Trustee as its agent and attorney to act for it under the foregoing provisions of this subsection 5.10(a) in either of such contingencies.

(b) Every separate trustee and every co-trustee, other than any successor Collateral Trustee appointed pursuant to subsection 5.7, shall, to the extent permitted by law, be appointed and act and be such, subject to the following provisions and conditions:

(i) all rights, powers, duties and obligations conferred upon the Collateral Trustee in respect of the custody, control and management of moneys, papers or securities shall be exercised solely by the Collateral Trustee or any agent appointed by the Collateral Trustee;

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(ii) all rights, powers, duties and obligations conferred or imposed upon the Collateral Trustee hereunder and under the relevant Trust Security Document or Documents shall be conferred or imposed and exercised or performed by the Collateral Trustee and such separate trustee or separate trustees or co-trustee or co-trustees, jointly, as shall be provided in the instrument appointing such separate trustee or separate trustees or co-trustee or co-trustees, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Collateral Trustee shall be incompetent or unqualified to perform such act or acts, or unless the performance of such act or acts would result in the imposition of any tax on the Collateral Trustee which would not be imposed absent such joint act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by such separate trustee or separate trustees or co-trustee or co-trustees;

(iii) no power given hereby or by the relevant Trust Security Documents to, or which it is provided herein or therein may be exercised by, any such co-trustee or co-trustees or separate trustee or separate trustees shall be exercised hereunder or thereunder by such co-trustee or co-trustees or separate trustee or separate trustees except jointly with, or with the consent in writing of, the Collateral Trustee, anything contained herein to the contrary notwithstanding;

(iv) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder; and

(v) the Grantors and the Collateral Trustee, at any time by an instrument in writing executed by them jointly, may accept the resignation of or remove any such separate trustee or co-trustee and, in that case by an instrument in writing executed by them jointly, may appoint a successor to such separate trustee or co-trustee, as the case may be, anything contained herein to the contrary notwithstanding. If the Grantors shall not have joined in the execution of any such instrument within 30 days after it receives a written request from the Collateral Trustee to do so, or if an Enforcement Event is in effect, the Collateral Trustee shall have the power to accept the resignation of or remove any such separate trustee or co-trustee and to appoint a successor without the concurrence of the Grantors, the Grantors hereby appointing the Collateral Trustee its agent and attorney to act for it in such connection in such contingency. If the Collateral Trustee shall have appointed a separate trustee or separate trustees or co-trustee or co-trustees as above provided, the Collateral Trustee may at any time, by an instrument in writing, accept the resignation of or remove any such separate trustee or co-trustee and the successor to any such separate trustee or co-trustee shall be appointed by the Grantors and the Collateral Trustee, or by the Collateral Trustee alone pursuant to this subsection 5.10(b).

5.11 Treatment of Payee or Indorsee by Collateral Trustee; Representatives of Secured Parties. The Collateral Trustee may treat the registered holder or, if none, the payee or indorsee of any promissory note or debenture evidencing a Secured Obligation as the absolute owner thereof for all purposes and shall not be affected by any notice to the contrary, whether such promissory note or debenture shall be past due or not.

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SECTION 6.

MISCELLANEOUS

6.1 Notices. Unless otherwise specified herein, all notices, requests, demands or other communications given to any of the Grantors, the Collateral Trustee, the Controlling Party and any Holder Representative shall be given in writing (including, but not limited to, bank wire, facsimile transmission followed by telephonic confirmation or similar writing) and shall be effective (i) if given by telex or facsimile transmission, when such facsimile is transmitted to the facsimile number specified in this subsection 6.1 and the appropriate answerback or facsimile confirmation is received, (ii) if given by certified registered mail, return receipt requested, with first class postage prepaid, addressed as aforesaid, upon receipt or refusal to accept delivery, (iii) if given by a nationally recognized overnight carrier, 24 hours after such communication is deposited with such carrier with postage prepaid for next day delivery, or (iv) if given by any other means, when delivered at the address specified in this subsection 6.1; provided that any notice, request or demand to the Collateral Trustee shall not be effective until received by the Collateral Trustee in writing or by facsimile transmission in the corporate trust division at the office designated by it pursuant to this subsection 6.1. All notices, requests and other communications to any party hereunder shall be given to such party at its address specified on the signature pages hereof or any other address which such party shall have specified as its address for the purpose of communications hereunder, by notice given in accordance with this subsection 6.1 to the party sending such communication.

6.2 No Waivers. No failure on the part of the Collateral Trustee, any co-trustee, any separate trustee, the Controlling Party, any Holder Representative or any Secured Party to exercise, no course of dealing with respect to, and no delay in exercising, any right, power or privilege under this Collateral Trust Agreement or any Trust Security Document shall operate as a waiver thereof nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

6.3 Amendments, Supplements and Waivers. (a) With the written consent of the Required Secured Parties, the Collateral Trustee and the Grantors may, from time to time, enter into written agreements supplemental hereto or to any Trust Security Document for the purpose of adding to, or waiving any provisions of, this Collateral Trust Agreement or any Trust Security Document or changing in any manner the rights of the Collateral Trustee, the Secured Parties or the Grantors hereunder or thereunder; provided that no such supplemental agreement shall (i) amend, modify or waive any provision of this subsection 6.3 without the written consent of each Holder Representative, (ii) except as provided in the next succeeding sentence, reduce the percentages or change the numbers specified in the definition of Majority First Priority Secured Parties, Majority Second Priority Secured Parties, Majority Junior Priority Secured Parties and Majority Secured Parties or amend, modify or waive any provision of subsection 3.4 or the definition of Secured Obligations, First Priority Secured Obligations, 2011 Second Priority Secured Obligations, 2012 Second Priority Secured Obligations, Second Priority Additional Debt Obligations, Junior Priority Additional Debt Obligations or otherwise change the relative rights of the Secured Parties under the Collateral Trust Agreement in respect of payments or Collateral without the written consent of holders constituting the Majority Class Holders of each Class

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whose rights would be adversely affected thereby, (iii) amend, modify or waive any provision of subsection 8.1 without the written consent of the relevant Second Priority Agent if any Second Priority Secured Obligations are then outstanding, but only if the relative rights of the Second Priority Secured Parties in respect of such Second Priority Secured Obligations would be adversely affected thereby, (iv) amend, modify or waive any provision of subsection 8.2 without the written consent of the relevant Junior Priority Additional Debt Representative if any Junior Priority Additional Debt Obligations are then outstanding, but only if the relative rights of the Junior Priority Secured Parties, as the case may be, in respect of such Junior Priority Additional Debt Obligations would be adversely affected thereby or (v) amend, modify or waive any provision of Section 4 or Section 5 or alter the duties, rights or obligations of the Collateral Trustee hereunder or under the Trust Security Documents without the written consent of the Collateral Trustee. Any such supplemental agreement shall be binding upon the Grantors, each Holder Representative, the Secured Parties and the Collateral Trustee and their respective successors and assigns.

(b) Solely with the consent of the Controlling Party (and without the consent of any other Secured Party), the Collateral Trustee and the Grantors, at any time and from time to time, may enter into one or more agreements supplemental hereto or to any Trust Security Document, (i) to add to the covenants of such Grantor for the benefit of the Secured Parties or to surrender any right or power herein conferred upon such Grantor; (ii) to mortgage or pledge to the Collateral Trustee, or grant a security interest in favor of the Collateral Trustee in, any property or assets as additional security for the Secured Obligations; (iii) as contemplated in subsection 6.3(d); or (iv) to cure any ambiguity, to correct or supplement any provision herein or in any Trust Security Document which may be defective or inconsistent with any other provision herein or therein, or to make any other provision with respect to matters or questions arising hereunder which shall not be inconsistent with any provision hereof; provided that any such action contemplated by this clause (iv) shall not adversely affect the interests of any of the Secured Parties.

(c) Solely with the consent of the Controlling Party (and without the consent of any other Secured Party), the Collateral Trustee, the Grantors and the Holder Representative for each Junior Priority Additional Debt, at any time and from time to time, may enter into one or more agreements supplemental hereto or to any Trust Security Document, to provide for the inclusion herein of intercreditor provisions as between, on the one hand, one or more issues of Junior Priority Additional Debt and, on the other hand, one or more other issues of Junior Priority Additional Debt (it being agreed that the consent of the Holder Representative of any Junior Priority Additional Debt benefiting from any such intercreditor provisions with respect to such issues substantially in the form of subsections 8.2 and 8.4, with appropriate changes in the references therein, shall not be required); provided that any such action contemplated by this clause shall not adversely affect the interests of any of the Secured Parties in respect of the First Priority Secured Obligations or any Second Priority Secured Obligations.

(d) Each of the First Priority Agent and the Second Priority Credit Agents agrees (with the intention of such agreement being binding upon the Secured Parties for which it is the Holder Representative) that, at any time when it is the Controlling Party, it will cooperate with the Company in effecting any amendment to this Collateral Trust Agreement or any Trust Security Document reasonably requested by the Company that does not, in the opinion of such

Controlling Party, adversely affect the interests of the then Secured Parties (it being understood that any Additional Debt, or Liens securing such Additional Debt, in each case, permitted under the Secured Instruments, does not adversely affect the interests of the then Secured Parties), provided that such amendment is reasonably intended in the opinion of the Grantors to facilitate the issuance, or securing pursuant hereto, of any Additional Debt.

6.4 Headings. The table of contents and the headings of Sections and subsections have been included herein and in the Trust Security Documents for convenience only and should not be considered in interpreting this Collateral Trust Agreement or the Trust Security Documents.

6.5 Severability. Any provision of this Collateral Trust Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

6.6 Successors and Assigns. This Collateral Trust Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns and shall inure to the benefit of each of the Secured Parties and their respective successors and assigns, and nothing herein is intended or shall be construed to give any other Person any right, remedy or claim under, to or in respect of this Collateral Trust Agreement or any Collateral.

6.7 Currency Conversions. In calculating the amount of Secured Obligations or Collateral proceeds for any purpose hereunder, including, without limitation, voting or distribution purposes, the amount of any Secured Obligation or any such proceeds which is denominated in a currency other than Dollars shall be converted by the Collateral Trustee (which conversion shall be confirmed in writing by the Controlling Party) into Dollars at the spot rate appearing on the relevant display page (as determined by the Collateral Trustee) on the Reuters Monitor Money Rates Service for the sale of the applicable currency for Dollars in the London foreign exchange market at approximately 11a.m. (London time) for delivery two (2) Business Days later.

6.8 Acknowledgements. Each Grantor hereby acknowledges that:

- (a) it has been advised by counsel in the negotiation, execution and delivery of this Collateral Trust Agreement and the other Trust Security Documents to which it is a party;
- (b) neither the Collateral Trustee nor any Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Collateral Trust Agreement or any of the First Priority Loan Documents, the Second Priority Loan Documents and any Additional Debt Documents, and the relationship between the Grantors, on the one hand, and the Collateral Trustee and Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the First Priority Loan Documents, the Second Priority Loan Documents or any Additional Debt Documents or otherwise exists by virtue of the transactions contemplated hereby among the Secured Parties or among the Grantors and the Secured Parties.

6.9 Governing Law. This Collateral Trust Agreement shall be governed by, and construed and interpreted in accordance with, the law of the State of New York.

6.10 Counterparts. This Collateral Trust Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery of an executed signature page of this Collateral Trust Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof.

6.11 Termination and Release. (a) Upon the termination of, and satisfaction in full of all of the obligations under, the First Priority Loan Documents, any Second Priority Loan Documents or any Additional Debt Documents, as the case may be, the applicable Holder Representative hereby agrees to promptly provide written directions to the Collateral Trustee stating that the conditions for release under such Secured Instruments have been satisfied. Upon the Collateral Trustee's (i) receipt of such written directions from all Holder Representatives and (ii) confirmation of payment in full of all Trustee Fees, the security interests created by the Trust Security Documents shall terminate forthwith and all right, title and interest of the Collateral Trustee in and to the Collateral shall revert to the Grantors, their successors and assigns.

(b) Upon the termination of the Collateral Trustee's security interest and the release of the Collateral in accordance with subsection 6.11(a), the Collateral Trustee will promptly, at the Grantors' written request and expense (but, in any event, not later than three Business Days following such request), (i) execute and deliver to the Grantors such documents (in form and substance reasonably satisfactory to the Collateral Trustee and the Grantors) as the Grantors shall reasonably request to evidence the termination of such security interest or the release of the Collateral and (ii) deliver or cause to be delivered to the Grantors all property of the Grantors then held by the Collateral Trustee or any agent thereof.

(c) Except as set forth in subsections (e), (f), (g) and (i) below, upon the withdrawal of any Collateral as permitted by the First Priority Loan Documents, the Second Priority Loan Documents and any Additional Debt Documents, the security interests and Liens created by the Trust Security Documents in such Collateral shall terminate and such Collateral shall be automatically released from the Lien created by the Trust Security Documents (subject to any requirement therein with respect to the retention of the Proceeds of a disposition of Collateral subject to this Collateral Trust Agreement or any Trust Security Document). Upon receipt by the Collateral Trustee and the Controlling Party of a certificate from the relevant Grantor or the Company stating that such withdrawal is permitted by (or the relevant consent has been received under) the First Priority Loan Documents, the Second Priority Loan Documents and any Additional Debt Documents, unless the Controlling Party shall have given telephonic notice to the Collateral Trustee, to the effect that the requested withdrawal is not permitted, prior to 5:00 p.m. (New York City time) on the second Business Day following the Collateral Trustee's receipt of such Company or Grantor certificate (such notice to be confirmed in writing delivered by a

nationally recognized overnight courier and received by the Collateral Trustee no later than 12:00 p.m. noon (New York City time) on the third Business Day following Collateral Trustee's receipt of such certificate), the Collateral Trustee shall be authorized to, and shall promptly at such Grantor's or the Company's request and expense, (i) execute and deliver such documents (in form and substance reasonably satisfactory to the Collateral Trustee and the Grantor) as such Grantor or the Company shall reasonably request to evidence the termination of such security interest and Lien and the release of such Collateral (subject to any requirement with respect to the retention of the Proceeds of a disposition of Collateral subject to this Collateral Trust Agreement or any Trust Security Document) and (ii) deliver or cause to be delivered to such Grantor or the Company all property (including any promissory notes and related transfer documents), if any, constituting part of such withdrawn Collateral then held by the Collateral Trustee or any agent thereof. The Controlling Party shall be deemed to have approved and authorized any such requested withdrawal and release if the Collateral Trustee shall not have received the notices of the Controlling Party as described in this subsection 6.11(c). A copy of any notice of the Controlling Party referred to in this subsection 6.11(c) shall be sent simultaneously to the Company and any applicable Grantor.

(d) Upon receipt by the Collateral Trustee of written notice from each Holder Representative directing the Collateral Trustee to cause the Liens on a portion of the Collateral identified in such notice to be released and discharged, the security interests created by the Trust Security Documents in such Collateral shall terminate forthwith and all right, title and interest of the Collateral Trustee in and to such Collateral shall revert to the Grantors, their successors and assigns.

(e) Upon receipt by the Collateral Trustee of written certification from the applicable Grantor or the Company that physical possession of any of such Grantor's property then held by the Collateral Trustee or any agent thereof (including any promissory notes and related transfer documents, if any, constituting part of any Collateral) is necessary or customary to enforce (or would otherwise facilitate enforcement of) such Grantor's remedies (or actions in lieu of the exercise of enforcement) against counterparties, or for the purpose of correction of defects, if any, under or in relation to any Collateral, the Collateral Trustee shall (i) cause to be delivered such property to such Grantor, the Company or its agents pending any enforcement action, exercise of rights or other customary actions in lieu of enforcement or for the purpose of correction of defects, if any, or loan (or other asset) administration and servicing, in each case in respect of any such promissory notes and related Collateral, and (ii) execute and deliver such documents (in form and substance reasonably satisfactory to the Collateral Trustee and the Grantors), and take such other actions in connection with such escrowed release as such Grantor or the Company may reasonably request in writing; it being understood that the delivery of any such property shall not constitute a release of the Collateral and any Proceeds received by such Grantor upon any such enforcement shall be subject to this Collateral Trust Agreement and the Trust Security Documents. A copy of any certificate by a Grantor or the Company to the Collateral Trustee under this subsection 6.11(e) shall be sent simultaneously to the Controlling Party. The Company and the Grantors hereby agree to hold in escrow any Collateral delivered to the Company or the Grantors, as applicable, by the Collateral Trustee pursuant to this subsection 6.11(e).

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(f) Upon receipt by the Collateral Trustee of written certification from the applicable Grantor or the Company that such Grantor has entered into a binding contract for a sale of Collateral to a third party or other monetization (that is not a payment or prepayment), in each case, in a transaction (a "Third Party Sale") permitted by the First Priority Loan Documents, the Second Priority Loan Documents and any Additional Debt Documents, the Collateral Trustee shall promptly at such Grantor's or the Company's request and expense (i) execute and deliver, for release only upon completion of such Third Party Sale, such documents (in form and substance reasonably satisfactory to the Collateral Trustee and the Grantors) as such Grantor or the Company shall reasonably request to evidence the termination of the security interest and Lien in, and release of, such Collateral upon completion of such Third Party Sale (subject to any requirement with respect to retention of the Proceeds of such Third Party Sale subject to this Collateral Trust Agreement or any Trust Security Document) and (ii) deliver, or cause to be delivered, for release only upon completion of such Third Party Sale, to such Grantor or the Company all property (including any promissory notes and related transfer documents), if any, constituting part of such Collateral (and any related collateral) then held by the Collateral Trustee or any agent thereof. If no Material Default (as defined in the First Priority Credit Agreement or either of the Second Priority Credit Agreements, as applicable) or Enforcement Event has occurred and is continuing when any Grantor shall have entered into a binding contract for a Third Party Sale, but such Grantor shall not have completed such Third Party Sale prior to a Foreclosure on such Collateral or any other intervening Enforcement Event, the Collateral Trustee shall provide the releases, and otherwise act in accordance with the provisions of, this Section 6.11 in respect of such Third Party Sale notwithstanding such intervening Foreclosure or other Enforcement Event. A copy of any certificate by a Grantor or the Company to the Collateral Trustee under this subsection 6.11(f) shall be sent simultaneously to the Controlling Party. The Company and the Grantors hereby agree to hold in escrow any Collateral delivered to the Company or the Grantors, as applicable, by the Collateral Trustee pursuant to this subsection 6.11(f).

(g) Upon receipt by the Collateral Trustee of written certification from the applicable Grantor or the Company that such Grantor has received, or has received notice that it will receive, a payment or prepayment in satisfaction or settlement in respect of any portion of the Collateral, the Collateral Trustee shall promptly at such Grantor's or the Company's request and expense (i) execute and deliver, for release only upon receipt by the Grantor of such payment or prepayment in satisfaction or settlement, such documents (in form and substance reasonably satisfactory to the Collateral Trustee and the Grantors) as such Grantor or the Company shall reasonably request to evidence termination of the security interest and Lien in, and release of, such Collateral (subject to any requirement with respect to retention of the Proceeds of such payment or prepayment under this Collateral Trust Agreement or any Trust Security Documents) and (ii) deliver, or cause to be delivered, for release only upon receipt of such payment or prepayment in satisfaction or settlement, to such Grantor or the Company all property (including any promissory notes and related transfer documents), if any, constituting part of such Collateral (and any related collateral) then held by the Collateral Trustee or any agent thereof. A copy of any certificate by a Grantor or the Company to the Collateral Trustee under this subsection 6.11(g) shall be sent simultaneously to the Controlling Party. The Company and the Grantors hereby agree to hold in escrow any Collateral delivered to the Company or the Grantors, as applicable, by the Collateral Trustee pursuant to this subsection 6.11(g).

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(h) Upon receipt by the Collateral Trustee of a written notice from the Controlling Party that (i) the security interests and Liens created under the Security Agreement in the Pledged Stock (as defined in the Security Agreement) issued by a Grantor (other than Tara) have been released, or (ii) all of the Collateral owned by a Grantor (other than Tara or Tara Holdco) has been released, in each case, in accordance with the provisions of this Section 6.11, such Grantor shall be released from its obligations hereunder and under the Trust Security Documents. Upon any such release, the Collateral Trustee will promptly, at such Grantor's or the Company's written request and expense, (x) execute and deliver such documents as such Grantor or the Company shall reasonably request to evidence the termination of such Grantors obligations under this Collateral Trust Agreement and the Trust Security

Documents and (ii) deliver or cause to be delivered to such Grantor or the Company all property (including any promissory notes and related transfer documents), if any, of such Grantor then remaining held by the Collateral Trustee or any agent thereof.

(i) This Collateral Trust Agreement shall terminate when the security interests granted under each of the Trust Security Documents have terminated and the Collateral has been released as provided in subsection 6.11(a); provided that the provisions of subsections 4.3, 4.4, 4.5 and 4.6 shall not be affected by any such termination.

6.12 New Grantors. During the term of this Collateral Trust Agreement, one or more additional Collateral SPVs and Collateral LLCs may become a party to this Collateral Trust Agreement by (i) executing a joinder agreement, substantially in the form of Exhibit B, and (ii) executing and delivering, or causing to be executed and delivered, all such documents, instruments, agreements, and certificates as are similar to those described in Sections 3.1(h) of the First Priority Credit Agreement.

6.13 Inspection by Regulatory Agencies. The Collateral Trustee shall make available, and shall cause each custodian and agent acting on its behalf in connection with this Collateral Trust Agreement to make available, all Collateral in such Person's possession upon prior written notice and during regular business hours for inspection by any regulatory agency having jurisdiction over any Grantor to the extent required by such regulatory agency in its discretion.

6.14 Confidentiality. The Collateral Trustee agrees to keep confidential all non-public information (a) provided to it by or on behalf of the Grantors or the Secured Parties pursuant to or in connection with this Collateral Trust Agreement or any Trust Security Document or (b) obtained by the Collateral Trustee based on a review of the books and records of the Grantors; provided that nothing herein shall prevent the Collateral Trustee from disclosing any such information (i) to the First Priority Agent, Second Priority Agents or any Junior Priority Additional Debt Representatives or any other Secured Party, (ii) to its affiliates, employees, directors, agents, attorneys, accountants and other professional advisors subsequent to the Collateral Trustee advising such Person of the confidentiality provisions contained herein, (iii) upon the request or demand of any Governmental Authority having jurisdiction over the Collateral Trustee upon notice to the Grantors thereof, unless such notice is prohibited or the Governmental Authority shall require otherwise, (iv) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, after notice to the Grantors if reasonably feasible and if not prohibited by such court or

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Governmental Authority or applicable law, (v) in connection with any litigation to which the Collateral Trustee is a party, after notice to the Grantors if reasonably feasible, (vii) which has been publicly disclosed other than in breach of this Collateral Trust Agreement, or (viii) to the extent reasonably necessary, in connection with the exercise of any remedy hereunder.

6.15 Submission to Jurisdiction; Waivers. The Company and each Grantor hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Collateral Trust Agreement and the other Trust Security Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the Courts of the County of New York, State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) to the extent permitted by applicable law, consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this subsection any special, exemplary, punitive or consequential damages.

6.16 **WAIVERS OF JURY TRIAL** (a). **EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS COLLATERAL TRUST AGREEMENT OR ANY OTHER TRUST SECURITY DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.**

## SECTION 7.

### DESIGNATION OF ADDITIONAL DEBT

7.1 Designations of Additional Debt. The Company may at any time and from time to time designate additional obligations (whether outstanding on the date of such designation or on a prospective "when issued basis") as "Second Priority Additional Debt" or "Junior Priority Additional Debt", identifying the relevant "Second Priority Additional Debt Representative" or "Junior Priority Additional Debt Representative", as the case may be, which is secured by the Collateral pursuant to this Collateral Trust Agreement and the Trust Security Documents in accordance with this Section 7 (it being understood that if such notice is prospective such designation is contingent upon the issuance or incurrence of the related obligations); provided that (i) no more than \$1,000,000,000 of the aggregate principal amount of such Additional Debt shall be designated as Second Priority Additional Debt, (ii) any additional Collateral required to be pledged in satisfaction of the relevant Coverage Test pursuant to

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Section 5.17 of the First Priority Credit Agreement and Section 5.17 of each of the Second Priority Credit Agreements, shall be transferred or deposited with the Collateral Trustee not later than the designation of such additional obligations as Additional Debt hereunder and (iii) the incurrence of such Additional Debt and the pledging of such additional Collateral shall be permitted at such time under each applicable Secured Instrument. The Company shall furnish each Notice of Designation of Additional Debt to each Holder Representative substantially in the form of Exhibit C (each a "Notice of Designation of Additional Debt") promptly after delivering the same to the Collateral Trustee; provided that failure to deliver such notice shall not affect the validity of any such designation.

7.2 Termination of Designation. Once designated as Additional Debt pursuant to this Section 7, the relevant obligations shall remain secured as Additional Debt pursuant to this Collateral Trust Agreement and the Trust Security Documents until the first to occur of (i) the termination of this Collateral Trust Agreement in accordance with subsection 6.11, (ii) the payment in full of such Secured Obligations and (iii) the delivery to the Collateral Trustee of the written consent of the relevant Secured Party or Parties to the release of the security interest in the Collateral securing such Secured Obligations.

## SECTION 8.

### INTERCREDITOR PROVISIONS

8.1 Second Priority Debt. The Second Priority Credit Agents, and to the extent that the Company or any Grantor incurs any Second Priority Additional Debt, any Second Priority Additional Debt Representative for, and each Second Priority Secured Party with respect to, the Second Priority Secured Obligations shall be bound by the following terms and conditions:

(a) Any and all Liens now existing or hereafter created or arising in favor of any such Second Priority Secured Party securing the Second Priority Secured Obligations, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, are expressly junior in priority, operation and effect to any and all Liens now existing or hereafter created or arising in favor of the First Priority Secured Parties securing the First Priority Secured Obligations, notwithstanding (i) anything to the contrary contained in any agreement or filing to which any such Second Priority Secured Party may now or hereafter be a party, and regardless of the time, order or method of grant, attachment, recording or perfection of any financing statements or other security interests, assignments, pledges, deeds, mortgages and other liens, charges or encumbrances or any defect or deficiency or alleged defect or deficiency in any of the foregoing, (ii) any provision of the Uniform Commercial Code or any applicable law or any agreement with respect to the First Priority Secured Obligations or the Second Priority Secured Obligations or any other circumstance whatsoever and (iii) the fact that any such Liens in favor of any First Priority Secured Party securing any of the First Priority Secured Obligations are (x) subordinated to any Lien securing any obligation of any Grantor other than the Second Priority Secured Obligations or (y) otherwise subordinated, voided, avoided, invalidated or lapsed;

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(b) No such Second Priority Secured Party shall object to or contest, or support any other Person in contesting or objecting to, in any proceeding (including without limitation, any Insolvency Proceeding), the validity, extent, perfection, priority or enforceability of any security interest in the Collateral granted to any First Priority Secured Party. Notwithstanding any failure by any First Priority Secured Party to perfect its security interests in the Collateral or any avoidance, invalidation or subordination by any third party or court of competent jurisdiction of the security interests in the Collateral granted to the First Priority Secured Parties, the priority and rights as between the First Priority Secured Parties and the Second Priority Secured Parties with respect to the Collateral shall be as set forth herein;

(c) No such Second Priority Secured Party shall, prior to the payment in full of the First Priority Secured Obligations, assert, demand, request, plead or otherwise claim the benefit of, any marshalling, appraisal, valuation and any other right that may otherwise be available under any applicable Requirement of Law with respect to any Collateral to a creditor in its capacity as beneficiary of a junior lien on such Collateral;

(d) No such Second Priority Secured Party shall, in or in connection with any Insolvency Proceeding, file any pleadings or motions, take any position at any hearing or proceeding of any nature, or otherwise take any action whatsoever, in each case in respect of any of the Collateral, including, without limitation, with respect to the determination of any Liens or claims held by any First Priority Secured Party or the value of any claims of such parties under Section 506(a) of the Bankruptcy Code or otherwise; provided that any such Second Priority Secured Party may file a proof of claim in an Insolvency Proceeding, subject to the limitations contained in this Collateral Trust Agreement and only if consistent with the terms and the limitations on such Second Priority Secured Party imposed hereby;

(e) If any Grantor becomes subject to any Insolvency Proceeding, and if the First Priority Agent desires to consent (or not object) to the use of cash collateral under the Bankruptcy Code or to provide any DIP Financing to any Grantor or to consent (or not object) to the provision of any DIP Financing to any Grantor, whether or not proceeds of any such DIP Financing are being used to Refinance all or any portion of the First Priority Secured Obligations, then each such Second Priority Secured Party (i) will be deemed to have consented to, and will raise no objection to, nor support any other Person objecting to, the use of such cash collateral or such DIP Financing, (ii) will not request or accept adequate protection or any other relief in connection with the use of such cash collateral or such DIP Financing except as set forth in subsection 8.1(g) below, (iii) will subordinate (and will be deemed hereunder to have subordinated) its Second Priority Secured Obligations (x) to such DIP Financing on the same terms as the First Priority Secured Obligations are subordinated thereto (and such subordination will not alter in any manner the terms of this Collateral Trust Agreement) or, to the extent the proceeds of such DIP Financing refinance all or any portion of the First Priority Secured Obligations, on the same terms as the Second Priority Secured Obligations are subordinated to the First Priority Secured Obligations pursuant to this Collateral Trust Agreement, (y) to any adequate protection provided to the First Priority Secured Parties and (z) to any "carve-out" agreed to by the First Priority Agent, and (iv) agrees that notice received two

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calendar days prior to the entry of an order approving such usage of cash collateral or approving such financing shall be adequate notice;

(f) No such Second Priority Secured Party will seek relief from the automatic stay or from any other stay in any Insolvency Proceeding or take any action in derogation thereof, in each case in respect of any Collateral, without the prior written consent of the Majority First Priority Secured Parties (to the extent there are any First Priority Secured Parties);

(g) No such Second Priority Secured Party shall object to, contest, or support any other Person objecting to or contesting, (i) any request by any First Priority Secured Party for adequate protection or any adequate protection provided to any First Priority Secured Party, (ii) any objection by any First Priority Secured Party to any motion, relief, action or proceeding based on a claim of a lack of adequate protection or (iii) the payment of interest, fees, expenses or other amounts to any First Priority Secured Party under Section 506(b) or 506(c) of the Bankruptcy Code or otherwise. Notwithstanding anything contained in this subsection (but subject to all other provisions of this Collateral Trust Agreement), in any

Insolvency Proceeding, (x) if the First Priority Secured Parties (to the extent there are any First Priority Secured Parties) are granted adequate protection consisting of additional collateral (with replacement liens on such additional collateral) and superpriority claims in connection with any DIP Financing or use of cash collateral, and such First Priority Secured Parties do not object to the adequate protection being provided to them, then in connection with any such DIP Financing or use of cash collateral such Second Priority Secured Parties may seek or accept adequate protection consisting solely of a replacement Lien on the same additional collateral, subordinated to the Liens securing the First Priority Secured Obligations and such DIP Financing on the same basis as the other Liens securing the Second Priority Secured Obligations are so subordinated to the First Priority Secured Obligations under this Collateral Trust Agreement and superpriority claims junior in all respects to the superpriority claims granted to the First Priority Secured Parties and (y) in the event any such Second Priority Secured Party seeks or accepts adequate protection in accordance with clause (x) above and such adequate protection is granted in the form of additional collateral, then such Second Priority Secured Party agrees that the First Priority Secured Parties shall also be granted a senior Lien on such additional collateral as security for the First Priority Secured Obligations and any such DIP Financing and that any Lien on such additional collateral securing the Second Priority Secured Obligations shall be subordinated to the Liens on such collateral securing the First Priority Secured Obligations and any such DIP Financing (and all Obligations relating thereto) and any other Liens granted to the First Priority Secured Parties as adequate protection, with such subordination to be on the same terms that the other Liens securing the Second Priority Secured Obligations are subordinated to the Liens securing such First Priority Secured Obligations under this Collateral Trust Agreement. The Second Priority Secured Parties agree that except as expressly set forth in this subsection none of them shall seek or accept adequate protection without the prior written consent of the Majority First Priority Secured Parties (to the extent there are any First Priority Secured Parties);

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(h) If any First Priority Secured Party is required in any Insolvency Proceeding or otherwise to disgorge, turn over or otherwise pay to the estate of any Grantor, because such amount was avoided or ordered to be paid or disgorged for any reason, including without limitation because it was found to be a fraudulent or preferential transfer, any amount (a "Recovery"), whether received as proceeds of security, enforcement of any right of set-off or otherwise, then the First Priority Secured Obligations shall be reinstated to the extent of such Recovery and deemed to be outstanding as if such payment had not occurred and the payment in full of the First Priority Secured Obligations shall be deemed not to have occurred. If this Collateral Trust Agreement shall have been terminated prior to such Recovery, this Collateral Trust Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto. The Second Priority Secured Parties agree that none of them shall be entitled to benefit from any avoidance action affecting or otherwise relating to any distribution or allocation made in accordance with this Collateral Trust Agreement, whether by preference or otherwise, it being understood and agreed that the benefits of such avoidance action otherwise allocable to them shall instead be allocated and turned over for application in accordance with the priorities set forth in this Collateral Trust Agreement;

(i) No such Second Priority Secured Party shall, in an Insolvency Proceeding or otherwise, oppose any sale or disposition of any assets of any Grantor that is supported by the First Priority Agent, and each such Second Priority Secured Party will be deemed to have consented under Section 363 of the Bankruptcy Code (and otherwise) to any sale supported by the First Priority Agent and to have released its Liens on such assets; provided that the net proceeds of such sale shall have been applied to the Secured Obligations in accordance with subsection 3.4;

(j) Each such Second Priority Secured Party acknowledges and agrees that because of, among other things, their differing rights in the Collateral, the Second Priority Secured Obligations are fundamentally different from the First Priority Secured Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency Proceeding. To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that the claims of the First Priority Secured Parties and the Second Priority Secured Parties in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then the Second Priority Secured Parties hereby acknowledge and agree that all distributions shall be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral (with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Second Priority Secured Parties), the First Priority Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing in respect of Post-Petition Interest before any distribution is made in respect of the claims held by the Second Priority Secured Parties, with the Second Priority Secured Parties hereby acknowledging and agreeing to turn over to the First Priority Secured Parties amounts otherwise received or receivable by them to the extent necessary to effectuate the intent

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of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Second Priority Secured Parties);

(k) To the extent that a Second Priority Secured Party has not voted its claim with respect to the Second Priority Secured Obligations in any Insolvency Proceeding on any proposed plan of reorganization prior to the date which is 10 days before the expiration of the time to vote such claim, the Collateral Trustee may vote such claim on behalf of such Second Priority Secured Party at the direction of the Controlling Party;

(l) No such Second Priority Secured Party shall oppose or seek to challenge any claim by any First Priority Secured Party for allowance in any Insolvency Proceeding of Post-Petition Interest, fees or expenses in respect of any First Priority Secured Obligation. No First Priority Secured Party shall oppose or seek to challenge any claim by any Second Priority Secured Party for the accrual (but not payment) in any Insolvency Proceeding of Post-Petition Interest;

(m) No such Second Priority Secured Party shall seek relief from the automatic stay as provided in Section 362 of the Bankruptcy Code or any similar provision of any applicable Bankruptcy Law or any other stay in respect of the Collateral;

(n) Nothing contained herein shall prohibit or in any way limit any First Priority Secured Party from objecting in any Insolvency Proceeding or otherwise to any action taken by any Second Priority Secured Party, including the seeking by any Second Priority Secured Party of adequate protection (except as provided in subsection 8.1(g)) or the asserting by any Second Priority Secured Party of any of its rights and remedies under any Second Priority Loan Document or Second Priority Additional Debt Document in respect of Second Priority Secured Obligations, the Trust Security Documents or otherwise;



(o) This Collateral Trust Agreement, which the parties hereto expressly acknowledge is a "subordination agreement" under section 510(a) of the Bankruptcy Code, shall be effective before, during and after the commencement of an Insolvency Proceeding;

(p) So long as the First Priority Secured Obligations or commitments in respect thereof have not been paid or terminated in full, whether or not any Insolvency Proceeding has been commenced by or against the Company or any Grantor, any Collateral or proceeds thereof received by any Second Priority Agent or any Second Priority Secured Party in connection with the exercise of any right or remedy (including set-off) relating to the Collateral, or pursuant to subsection 3.4 hereof, shall be segregated and held in trust and forthwith paid over to the First Priority Agent for the benefit of the First Priority Secured Parties in the same form as received;

(q) If, prior to the payment in full of the First Priority Secured Obligations, any such Second Priority Secured Party receives any Post-Petition Securities on account of any Second Priority Secured Obligations in any Insolvency Proceeding and such Post-Petition Securities are secured by any Lien upon any property of any reorganized debtor

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which is also subject to Liens securing Post-Petition Securities received on account of any First Priority Secured Obligations in such Insolvency Proceedings, such Liens shall be junior and subordinate to the Liens securing Post-Petition Securities received on account of the First Priority Secured Obligations to the same extent as all other Liens securing Second Priority Secured Obligations hereunder and shall be subject to the terms of this Collateral Trust Agreement;

(r) Each such Second Priority Secured Party agrees that any First Priority Loan Document may be amended at any time without the consent of any Second Priority Secured Party, provided that this Collateral Trust Agreement and the Trust Security Documents may only be amended in accordance with the terms of this Collateral Trust Agreement;

(s) Each such Second Priority Secured Party agrees that it will not enter into, or accept the benefit of, any security agreement or mortgage to secure the Second Priority Secured Obligations and will not file any financing statements with respect to its Second Priority Secured Obligations, it being understood that this Collateral Trust Agreement and the Trust Security Documents (together with the filings contemplated thereby) are the only such security documents permitted to secure the Second Priority Secured Obligations; and

(t) Until the First Priority Secured Obligations have been paid in full, any Collateral, including without limitation any such Collateral constituting Proceeds, that may be received by any Second Priority Secured Party in violation of this Collateral Trust Agreement shall be segregated and held in trust and promptly paid over to the Collateral Trustee, for the benefit of the First Priority Secured Parties, in the same form as received, with any necessary endorsements, and each Second Priority Secured Party hereby authorizes the Collateral Trustee to make any such endorsements as agent for any Second Priority Agent (which authorization, being coupled with an interest, is irrevocable).

8.2 Junior Priority Debt. To the extent that the Company or any Grantor incurs any Junior Priority Additional Debt, the Junior Priority Additional Debt Representative for, and each Junior Priority Secured Party with respect to, the Junior Priority Additional Debt Obligations shall be bound by the following terms and conditions:

(a) Any and all Liens now existing or hereafter created or arising in favor of any such Junior Priority Secured Party securing the Junior Priority Additional Debt Obligations, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, are expressly junior in priority, operation and effect to any and all Liens now existing or hereafter created or arising in favor of the First Priority Secured Parties securing the First Priority Secured Obligations and the Second Priority Secured Parties securing the Second Priority Secured Obligations, notwithstanding (i) anything to the contrary contained in any agreement or filing to which any such Junior Priority Secured Party may now or hereafter be a party, and regardless of the time, order or method of grant, attachment, recording or perfection of any financing statements or other security interests, assignments, pledges, deeds, mortgages and other liens, charges or encumbrances or any defect or deficiency or alleged defect or deficiency in any of the

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foregoing, (ii) any provision of the Uniform Commercial Code or any applicable law or any agreement with respect to the First Priority Secured Obligations, the Second Priority Secured Obligations or the Junior Priority Additional Debt Obligations or any other circumstance whatsoever and (iii) the fact that any such Liens in favor of any First Priority Secured Party securing any of the First Priority Secured Obligations or in favor of any Second Priority Secured Party securing any of the Second Priority Secured Obligations are (x) subordinated to any Lien securing any obligation of any Grantor other than the Junior Priority Additional Debt Obligations or (y) otherwise subordinated, voided, avoided, invalidated or lapsed;

(b) No such Junior Priority Secured Party shall object to or contest, or support any other Person in contesting or objecting to, in any proceeding (including without limitation, any Insolvency Proceeding), the validity, extent, perfection, priority or enforceability of any security interest in the Collateral granted to any First Priority Secured Party or any Second Priority Secured Party. Notwithstanding any failure by any First Priority Secured Party or any Second Priority Secured Party to perfect its security interests in the Collateral or any avoidance, invalidation or subordination by any third party or court of competent jurisdiction of the security interests in the Collateral granted to the First Priority Secured Parties or the Second Priority Secured Parties, the priority and rights as between the First Priority Secured Parties, the Second Priority Secured Parties and the Junior Priority Secured Parties with respect to the Collateral shall be as set forth herein;

(c) No such Junior Priority Secured Party shall, prior to the payment in full of the First Priority Secured Obligations and the Second Priority Secured Obligations, assert, demand, request, plead or otherwise claim the benefit of, any marshalling, appraisal, valuation and any other right that may otherwise be available under any applicable Requirement of Law with respect to any Collateral to a creditor in its capacity as beneficiary of a junior lien on such Collateral;

(d) No such Junior Priority Secured Party shall, in or in connection with any Insolvency Proceeding, file any pleadings or motions, take any position at any hearing or proceeding of any nature, or otherwise take any action whatsoever, in each case in respect of any of the Collateral, including, without limitation, with respect to the determination of any Liens or claims held by any First Priority Secured Party or any Second Priority

Secured Party or the value of any claims of such parties under Section 506(a) of the Bankruptcy Code or otherwise; provided that any such Junior Priority Secured Party may file a proof of claim in an Insolvency Proceeding, subject to the limitations contained in this Collateral Trust Agreement and only if consistent with the terms and the limitations on such Junior Priority Secured Party imposed hereby;

(e) If any Grantor becomes subject to any Insolvency Proceeding, each of the Secured Parties hereunder (subject, in the case of the Second Priority Secured Parties, to subsection 8.1(e) hereunder) shall retain their rights to seek to provide any DIP Financing to any such Grantor, and to object (subject to the provisions of this subsection (e) and subsection 8.1(e) hereunder) to any such proposal for DIP Financing. If any Grantor becomes subject to any Insolvency Proceeding, and if the Majority First Priority Secured

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Parties (to the extent there are any First Priority Secured Parties) and the Majority Second Priority Secured Parties (to the extent there are any Second Priority Secured Parties) desire to consent (or not object) to the use of cash collateral under the Bankruptcy Code or to provide any DIP Financing to any Grantor or to consent (or not object) to the provision of any DIP Financing to any Grantor, whether or not proceeds of any such DIP Financing are being used to Refinance all or any portion of the First Priority Secured Obligations or the Second Priority Secured Obligations, then each such Junior Priority Secured Party (i) will be deemed to have consented to, and will raise no objection to, nor support any other Person objecting to, the use of such cash collateral or such DIP Financing, (ii) will not request or accept adequate protection or any other relief in connection with the use of such cash collateral or such DIP Financing except as set forth in subsection 8.2(g) below and (iii) will subordinate (and will be deemed hereunder to have subordinated) its Junior Priority Additional Debt Obligations (x) to such DIP Financing on the same terms as the First Priority Secured Obligations and Second Priority Secured Obligations are subordinated thereto (and such subordination will not alter in any manner the terms of this Collateral Trust Agreement) or, to the extent the proceeds of such DIP Financing refinance all or any portion of the First Priority Secured Obligations, on the same terms as the Second Priority Secured Obligations are subordinated to the First Priority Secured Obligations pursuant to this Collateral Trust Agreement, (y) to any adequate protection provided to the First Priority Secured Parties or the Second Priority Secured Parties and (z) to any "carve-out" agreed to by the First Priority Agent or the Second Priority Agents, and (iv) agrees that notice received two calendar days prior to the entry of an order approving such usage of cash collateral or approving such financing shall be adequate notice;

(f) No such Junior Priority Secured Party will seek relief from the automatic stay or from any other stay in any Insolvency Proceeding or take any action in derogation thereof, in each case in respect of any Collateral, without the prior written consent of the Majority First Priority Secured Parties (to the extent there are any First Priority Secured Parties) and the Majority Second Priority Secured Parties (to the extent there are any Second Priority Secured Parties);

(g) No such Junior Priority Secured Party shall object to, contest, or support any other Person objecting to or contesting, (i) any request by any First Priority Secured Party or any Second Priority Secured Party for adequate protection or any adequate protection provided to any First Priority Secured Party or Second Priority Secured Party, (ii) any objection by any First Priority Secured Party or Second Priority Secured Party to any motion, relief, action or proceeding based on a claim of a lack of adequate protection or (iii) the payment of interest, fees, expenses or other amounts to any First Priority Secured Party or any Second Priority Secured Party under Section 506(b) or 506(c) of the Bankruptcy Code or otherwise. Notwithstanding anything contained in this subsection (but subject to all other provisions of this Collateral Trust Agreement), in any Insolvency Proceeding, (x) if the First Priority Secured Parties (to the extent there are any First Priority Secured Parties) and any Second Priority Secured Parties (to the extent there are any Second Priority Secured Parties) are granted adequate protection consisting of additional collateral (with replacement liens on such additional collateral) and superpriority claims in connection with any DIP Financing or use of cash collateral, and

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such First Priority Secured Parties and Second Priority Secured Parties, as the case may be, do not object to the adequate protection being provided to them, then in connection with any such DIP Financing or use of cash collateral such Junior Priority Secured Parties may seek or accept adequate protection consisting solely of a replacement Lien on the same additional collateral, subordinated to the Liens securing the First Priority Secured Obligations, Second Priority Secured Obligations and such DIP Financing on the same basis as the other Liens securing the Junior Priority Additional Debt Obligations are so subordinated to the First Priority Secured Obligations and Second Priority Secured Obligations under this Collateral Trust Agreement and superpriority claims junior in all respects to the superpriority claims granted to the First Priority Secured Parties and the Second Priority Secured Parties and (y) in the event any such Junior Priority Secured Party seeks or accepts adequate protection in accordance with clause (x) above and such adequate protection is granted in the form of additional collateral as contemplated by clause (x) above, then such Junior Priority Secured Party agrees that the First Priority Secured Parties and the Second Priority Secured Parties shall also be granted a senior Lien on such additional collateral as security for the First Priority Secured Obligations and the Second Priority Secured Obligations, respectively, and any such DIP Financing and that any Lien on such additional collateral securing the Junior Priority Additional Debt Obligations shall be subordinated to the Liens on such collateral securing the First Priority Secured Obligations, the Second Priority Secured Obligations and any such DIP Financing (and all Obligations relating thereto) and any other Liens granted to the First Priority Secured Parties or the Second Priority Secured Parties as adequate protection, with such subordination to be on the same terms that the other Liens securing the Junior Priority Additional Debt Obligations are subordinated to the Liens securing such First Priority Secured Obligations and Second Priority Secured Obligations under this Collateral Trust Agreement. The Junior Priority Secured Parties agree that except as expressly set forth in this subsection none of them shall seek or accept adequate protection without the prior written consent of the Majority First Priority Secured Parties (to the extent there are any First Priority Secured Parties) and the Majority Second Priority Secured Parties (to the extent there are any Second Priority Secured Parties);

(h) If any First Priority Secured Party or Second Priority Secured Party is required in any Insolvency Proceeding or otherwise to disgorge, turn over or otherwise pay to the estate of any Grantor, because such amount was avoided or ordered to be paid or disgorged for any reason, including without limitation because it was found to be a fraudulent or preferential transfer, any amount (a "Senior Recovery"), whether received as proceeds of security, enforcement of any right of set-off or otherwise, then the First Priority Secured Obligations or Second Priority Secured Obligations, as the case may be, shall be reinstated to the extent of such Senior Recovery and deemed to be outstanding as if such payment had not occurred and the payment in full of the First Priority Secured Obligations or Second Priority Secured Obligations, as the case may be, shall be deemed not to have occurred. If this Collateral Trust Agreement shall have been terminated prior to such Senior Recovery, this Collateral Trust Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto. The Junior Priority Secured Parties agree that none of them shall be entitled to benefit from any avoidance action affecting or otherwise relating to any distribution or allocation made in accordance with this

Collateral Trust Agreement, whether by preference or otherwise, it being understood and agreed that the benefits of such avoidance action otherwise allocable to them shall instead be allocated and turned over for application in accordance with the priorities set forth in this Collateral Trust Agreement;

(i) No such Junior Priority Secured Party shall, in an Insolvency Proceeding or otherwise, oppose any sale or disposition of any assets of any Grantor that is supported by each Holder Representative in respect of First Priority Secured Obligations and Second Priority Secured Obligations, and each such Junior Priority Secured Party will be deemed to have consented under Section 363 of the Bankruptcy Code (and otherwise) to any sale supported by each Holder Representative in respect of First Priority Secured Obligations and Second Priority Secured Obligations and to have released its Liens on such assets; provided that the net proceeds of such sale shall have been applied to the Secured Obligations in accordance with subsection 3.4;

(j) Each such Junior Priority Secured Party acknowledges and agrees that because of, among other things, their differing rights in the Collateral, the Junior Priority Additional Debt Obligations are fundamentally different from the First Priority Secured Obligations and Second Priority Secured Obligations and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency Proceeding. To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that the claims of the First Priority Secured Parties, the Second Priority Secured Parties and the Junior Priority Secured Parties in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then the Junior Priority Secured Parties hereby acknowledge and agree that all distributions shall be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral (with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Junior Priority Secured Parties), the First Priority Secured Parties and the Second Priority Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing in respect of Post-Petition Interest before any distribution is made in respect of the claims held by the Junior Priority Secured Parties, with the Junior Priority Secured Parties hereby acknowledging and agreeing to turn over to the First Priority Secured Parties or Second Priority Secured Parties, as the case may be, amounts otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Priority Secured Parties;

(k) To the extent that a Junior Priority Secured Party has not voted its claim with respect to the Junior Priority Additional Debt Obligations in any Insolvency Proceeding on any proposed plan of reorganization prior to the date which is 10 days before the expiration of the time to vote such claim, the Collateral Trustee may vote such claim on behalf of such Junior Priority Secured Party at the direction of the Controlling Party;

(l) No such Junior Priority Secured Party shall oppose or seek to challenge any claim by any First Priority Secured Party or any Second Priority Secured Party for allowance in any Insolvency Proceeding of Post-Petition Interest, fees or expenses in respect of any First Priority Secured Obligation or Second Priority Secured Obligations. No First Priority Secured Party or Second Priority Secured Party shall oppose or seek to challenge any claim by any Junior Priority Secured Party for the accrual (but not payment) in any Insolvency Proceeding of Post-Petition Interest;

(m) No such Junior Priority Secured Party shall seek relief from the automatic stay as provided in Section 362 of the Bankruptcy Code or any similar provision of any applicable Bankruptcy Law or any other stay in respect of the Collateral;

(n) Nothing contained herein shall prohibit or in any way limit any First Priority Secured Party or Second Priority Secured Party from objecting in any Insolvency Proceeding or otherwise to any action taken by any Junior Priority Secured Party, including the seeking by any Junior Priority Secured Party of adequate protection (except as provided in subsection 8.2(g)) or the asserting by any Junior Priority Secured Party of any of its rights and remedies under any Junior Priority Additional Debt Document in respect of Junior Priority Additional Debt Obligations, the Trust Security Documents or otherwise;

(o) This Collateral Trust Agreement, which the parties hereto expressly acknowledge is a "subordination agreement" under section 510(a) of the Bankruptcy Code, shall be effective before, during and after the commencement of an Insolvency Proceeding;

(p) So long as the First Priority Secured Obligations, Second Priority Secured Obligations or commitments in respect of either thereof have not been paid or terminated in full, whether or not any Insolvency Proceeding has been commenced by or against the Company or any Grantor, any Collateral or proceeds thereof received by any Junior Priority Additional Debt Representative or any Junior Priority Secured Party in connection with the exercise of any right or remedy (including set-off) relating to the Collateral, or pursuant to subsection 3.4 hereof, shall be segregated and held in trust and forthwith paid over to (i) the First Priority Agent for the benefit of the First Priority Secured Parties in the same form as received so long as the First Priority Secured Obligations or commitments in respect thereof have not been paid or terminated in full or (ii) to the extent clause (i) is not applicable, to the Second Priority Agents for the benefit of the Second Priority Secured Parties in the same form as received so long as the Second Priority Secured Obligations or commitments in respect thereof have not been paid or terminated in full;

(q) If, prior to the payment in full of the First Priority Secured Obligations and Second Priority Secured Obligations, any such Junior Priority Secured Party receives any Post-Petition Securities on account of any Junior Priority Additional Debt Obligations in any Insolvency Proceeding and such Post-Petition Securities are secured by any Lien upon any property of any reorganized debtor which is also subject to Liens securing Post-Petition Securities received on account of any First Priority Secured Obligations or any

Second Priority Secured Obligations in such Insolvency Proceedings, such Liens shall be junior and subordinate to the Liens securing Post-Petition Securities received on account of the First Priority Secured Obligations or the Second Priority Secured Obligations (and if to both in the order of their respective priorities) to the same extent as all other Liens securing Junior Priority Additional Debt Obligations hereunder and shall be subject to the terms of this Collateral Trust Agreement;

(r) Each such Junior Priority Secured Party agrees that any First Priority Loan Document, Second Priority Loan Document and Second Priority Additional Debt Document may be amended at any time without the consent of any Junior Priority Secured Party, provided that this Collateral Trust Agreement and the Trust Security Documents may only be amended in accordance with the terms of this Collateral Trust Agreement;

(s) Each such Junior Priority Secured Party agrees that it will not enter into, or accept the benefit of, any security agreement or mortgage to secure the Junior Priority Additional Debt Obligations and will not file any financing statements with respect to its Junior Priority Additional Debt Obligations, it being understood that this Collateral Trust Agreement and the Trust Security Documents (together with the filings contemplated thereby) are the only such security documents permitted to secure the Junior Priority Additional Debt Obligations; and

(t) Until the First Priority Secured Obligations and Second Priority Secured Obligations have been paid in full, any Collateral, including without limitation any such Collateral constituting Proceeds, that may be received by any Junior Priority Secured Party in violation of this Collateral Trust Agreement shall be segregated and held in trust and promptly paid over to the Collateral Trustee, for the benefit of the First Priority Secured Parties and Second Priority Secured Parties, in the same form as received, with any necessary endorsements, and each Junior Priority Secured Party hereby authorizes the Collateral Trustee to make any such endorsements as agent for the Junior Priority Additional Debt Representative (which authorization, being coupled with an interest, is irrevocable).

8.3 First Priority Obligations Unconditional. All rights and interests of the First Priority Secured Parties hereunder, and all agreements and obligations of the Second Priority Secured Parties and the Junior Priority Secured Parties (and, to the extent applicable, the Grantors) hereunder, shall remain in full force and effect irrespective of:

- (i) any lack of validity or enforceability of any First Priority Loan Document;
- (ii) any change in the time, place or manner of payment of, or in any other term of, all or any portion of the First Priority Secured Obligations, or any amendment, waiver or other modification, whether by course of conduct or otherwise, or any refinancing, replacement, refunding or restatement of any First Priority Loan Document;
- (iii) prior to the payment in full of the First Priority Secured Obligations, any exchange, release, voiding, avoidance or non-perfection of any Lien in any Collateral or

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any other collateral, or any release, amendment, waiver or other modification, whether by course of conduct or otherwise, or any Refinancing of all or any portion of the First Priority Secured Obligations or any guarantee or guaranty thereof; or

(iv) any other circumstances that otherwise might constitute a defense available to, or a discharge of, any Grantor in respect of the First Priority Secured Obligations or any Second Priority Secured Party or any Junior Priority Secured Party in respect of this Collateral Trust Agreement.

8.4 Second Priority Obligations Unconditional. All rights and interests of the Second Priority Secured Parties hereunder, and all agreements and obligations of the First Priority Secured Parties and the Junior Priority Secured Parties (and, to the extent applicable, the Grantors) hereunder, shall remain in full force and effect irrespective of:

- (i) any lack of validity or enforceability of any Second Priority Loan Document or Second Priority Additional Debt Document;
- (ii) any change in the time, place or manner of payment of, or in any other term of, all or any portion of the Second Priority Secured Obligations, or any amendment, waiver or other modification, whether by course of conduct or otherwise, or any refinancing, replacement, refunding or restatement of any Second Priority Loan Document or Second Priority Additional Debt Document;
- (iii) prior to the payment in full of the Second Priority Secured Obligations, any exchange, release, voiding, avoidance or non-perfection of any Lien in any Collateral or any other collateral, or any release, amendment, waiver or other modification, whether by course of conduct or otherwise, or any Refinancing of all or any portion of the Second Priority Secured Obligations or any guarantee or guaranty thereof; or
- (iv) any other circumstances that otherwise might constitute a defense available to, or a discharge of, any Grantor in respect of the Second Priority Secured Obligations or any First Priority Secured Party or Junior Priority Secured Party in respect of this Collateral Trust Agreement.

8.5 Information Concerning Financial Condition of the Grantors. Each Secured Party hereby assumes responsibility for keeping itself informed of the financial condition of the Company and each of the Grantors and all other circumstances bearing upon the risk of nonpayment of the First Priority Secured Obligations or the Second Priority Secured Obligations or the Junior Priority Additional Debt Obligations. No Secured Party shall have any duty to advise any other Secured Party of information known to it regarding such condition or any such circumstances. In the event any Secured Party, in its sole discretion, undertakes at any time or from time to time to provide any information to any other Secured Party, it shall be under no obligation (i) to provide any such information to such other Secured Party or any other party on any subsequent occasion, (ii) to undertake any investigation not a part of its regular business routine, or (iii) to disclose any other information.

*[remainder of page intentionally left blank; signature pages follow]*

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IN WITNESS WHEREOF, the parties hereto have caused this Collateral Trust Agreement to be duly executed by their respective authorized officers as of the day and year first written above.

iSTAR FINANCIAL INC.

By:

/s/ GEOFFREY M. DUGAN  
Name: Geoffrey M. Dugan  
Title: Secretary

iSTAR TARA HOLDINGS LLC

By:

/s/ GEOFFREY M. DUGAN  
Name: Geoffrey M. Dugan  
Title: Secretary

iSTAR TARA LLC

By:

/s/ GEOFFREY M. DUGAN  
Name: Geoffrey M. Dugan  
Title: Secretary

Collateral Trust and Intercreditor Agreement

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iSTAR BOWLING CENTERS I LLC, a Delaware limited liability company  
iSTAR BOWLING CENTERS II LLC, a Delaware limited liability company  
iSTAR HQ I GENPAR, INC., a Delaware corporation  
iSTAR CTL I GENPAR, INC., a Delaware corporation  
ASTAR FRR TX1 GENPAR LLC, a Delaware limited liability company  
TRINET ESSENTIAL FACILITIES XXVII, INC., a Maryland corporation  
TRINET ESSENTIAL FACILITIES X, INC., a Maryland corporation  
SFT II, INC., a Delaware corporation  
AUTOSTAR F FUNDING LLC, a Delaware limited liability company  
11TH AVENUE B PARTICIPANTION LLC, a Delaware limited liability company  
MSK RESORT FINANCE LLC, a Delaware limited liability company  
SFI I, LLC, a Delaware limited liability company  
CTL I MARYLAND INC., a Delaware corporation  
iSTAR BLUES LLC, a Delaware limited liability company  
ASTAR G1A NH1, LLC, a Delaware limited liability company  
FLORIDA 2005 THEATERS LLC, a Delaware limited liability company  
iSTAR BOWLING CENTERS I LP, a Delaware limited partnership  
iSTAR BOWLING CENTERS II LP, a Delaware limited partnership  
iSTAR HQ I, L.P., a Delaware limited partnership  
iSTAR CTL I, L.P., a Delaware limited partnership  
ASTAR FRR TX 1 LP, a Delaware limited partnership  
iSTAR COLUMBUS CIRCLE LLC, a Delaware limited liability company

By:

/s/ GEOFFREY M. DUGAN  
Name: Geoffrey M. Dugan  
Title: Secretary

Address for Notices:

c/o iStar Financial Inc.  
1114 Avenue of the Americas  
New York, NY 10036

Attention: Chief Financial Officer  
Fax: (212) 930-9449  
Telephone: (212) 930-9466  
Email: jburns@istarfinancial.com

with copy to:

Attention: General Counsel  
Fax: (212) 930-9492  
Telephone: (212) 930-9406

Collateral Trust and Intercreditor Agreement

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JPMORGAN CHASE BANK, N.A.,  
as First Priority Agent

By:

/s/ CHARLES HOAGLAND

Name: Charles Hoagland

Title: Vice President

Address for Notices:

383 Madison Avenue, 40<sup>th</sup> Floor  
New York, NY 10017

Attention: Charles Hoagland

Fax: 646 328 3041

Telephone: 212 622 8170

Email: charles.hoagland@jpmorgan.com

Collateral Trust and Intercreditor Agreement

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JPMORGAN CHASE BANK, N.A.,  
as 2011 Second Priority Agent

By:

/s/ CHARLES HOAGLAND

Name: Charles Hoagland

Title: Vice President

Address for Notices:

383 Madison Avenue, 40<sup>th</sup> Floor  
New York, NY 10017

Attention: Charles Hoagland

Fax: 646 328 3041

Telephone: 212 622 8170

Email: charles.hoagland@jpmorgan.com

Collateral Trust and Intercreditor Agreement

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JPMORGAN CHASE BANK, N.A.,  
as 2012 Second Priority Agent

By:

/s/ CHARLES HOAGLAND

Name: Charles Hoagland

Title: Vice President

Address for Notices:

383 Madison Avenue, 40<sup>th</sup> Floor  
New York, NY 10017

Attention: Charles Hoagland

Fax: 646 328 3041

Telephone: 212 622 8170

Email: charles.hoagland@jpmorgan.com

Collateral Trust and Intercreditor Agreement

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THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.,  
as Collateral Trustee

By:

/s/ MARY L. COLLIER

Name: Mary L. Collier  
Title: Vice President

Address for Notices:

The Bank of New York Mellon Trust Company, N.A.  
2 N. LaSalle Street, Suite 1020  
Chicago, IL 60602

Attention: Structured Finance  
Fax: (312) 827-8562  
Telephone: (312) 827-8538  
Email: mary.collier@bnymellon.com

with a copy to:

The Bank of New York Mellon Trust Company, N.A.  
2220 Chemsearch Blvd., Suite 150  
Irving, TX 75062

Attention: Document Custodian  
Jeffery Cormier  
Fax: (972) 785-3501  
Telephone: (972) 785-5355  
Email: jeffery.cormier@bnymellon.com

Collateral Trust and Intercreditor Agreement

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ANNEX I

Trust Security Documents

1. Security Agreement.
  2. Deposit Account Control Agreements.
  3. Securities Account Control Agreement.
  4. Mortgages.
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EXHIBIT A

FORM OF NOTICE OF EVENT OF DEFAULT

[Date]

To: The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee

Re: Collateral Trust Agreement, dated as of March 13, 2009, among iStar Financial Inc., iStar Tara Holdings LLC ("Tara Holdco"), iStar Tara LLC ("Tara"), certain other subsidiaries of Tara Holdco, The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee, and the other parties thereto (the "Collateral Trust Agreement").

An Event of Default has occurred and is continuing under the provisions of the [First Priority Credit Agreement] [2011 Second Priority Credit Agreement][2012 Second Priority Agreement][Second Priority Additional Debt Document][Junior Priority Additional Debt Document].

Terms defined in the Collateral Trust Agreement and used herein shall have the meanings given to them in the Collateral Trust Agreement.

[JPMorgan Chase Bank, N.A.,  
as First Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

[JPMorgan Chase Bank, N.A.,  
as 2011 Second Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

[JPMorgan Chase Bank, N.A.,  
as 2012 Second Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

cc: c/o iStar Financial Inc.  
1114 Avenue of the Americas  
New York, NY 10036  
Attention: Chief Financial Officer  
Fax: (212) 930-9449  
Telephone: (212) 930-9466  
Email: jburns@istarfinancial.com

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Attention: General Counsel  
Fax: (212) 930-9492  
Telephone: (212) 930-9406  
Email: nmatis@istarfinancial.com

Collateral Trust and Intercreditor Agreement

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EXHIBIT B

FORM OF JOINDER AGREEMENT

JOINDER AGREEMENT, dated as of \_\_\_\_\_, 200\_\_\_\_, made by \_\_\_\_\_, a \_\_\_\_\_ (the "New Grantor") in favor of The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee under the Collateral Trust Agreement referred to below (in such capacity, the "Collateral Trustee"). All capitalized terms not defined herein shall have the meanings ascribed to them in the Collateral Trust Agreement.

W I T N E S S E T H:

WHEREAS, iStar Financial Inc., a Maryland corporation, iStar Tara Holdings LLC, a Delaware limited liability company ("Tara Holdco"), iStar Tara LLC, a Delaware limited liability company ("Tara") and certain other subsidiaries of Tara Holdco (Tara Holdco, Tara and such other subsidiaries, collectively referred to as the "Grantors") and the Collateral Trustee and certain other parties have entered into the Collateral Trust Agreement, dated as of March 13, 2009 (as amended, supplemented or otherwise modified from time to time, the "Collateral Trust Agreement"); and

WHEREAS, the New Grantor desires to become a party to the Collateral Trust Agreement in accordance with subsection 6.12 of the Collateral Trust Agreement;

NOW, THEREFORE, IT IS AGREED:

1. Collateral Trust Agreement. By executing and delivering this Joinder Agreement, the New Grantor hereby becomes a party to the Collateral Trust Agreement as a "Grantor" thereunder, and without limiting the foregoing, hereby expressly assumes all obligations and liabilities of a "Grantor" thereunder.
2. Governing Law. This Joinder Agreement shall be governed by, and construed and interpreted in accordance with, the law of the State of New York.
3. Effectiveness. This Joinder Agreement shall become effective upon receipt by the Collateral Trustee and Controlling Party of (i) executed signature pages hereto and (ii) the documents, instruments, agreements, and certificates referred to in subsection 6.12 of the Collateral Trust Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Joinder Agreement to be duly executed and delivered as of the date first above written.

[NEW GRANTOR]



By:

\_\_\_\_\_  
Name:  
Title:  
Address for Notices:  
Fax:

EXHIBIT C

FORM OF NOTICE OF DESIGNATION OF ADDITIONAL DEBT

[Date]

To: The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee

Re: Collateral Trust Agreement, dated as of March 13, 2009, among iStar Financial Inc., iStar Tara Holdings LLC (“Tara Holdco”), iStar Tara LLC, certain other subsidiaries of Tara Holdco, The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee, and the other parties thereto (the “Collateral Trust Agreement”).

Pursuant to subsection 7.1 of the Collateral Trust Agreement, the Company hereby designates [identify obligations] as “Additional Debt” under the Collateral Trust Agreement. The “Additional Debt Representative” with respect to such Additional Debt shall be \_\_\_\_\_.

Such Additional Debt shall be classified as [Second Priority/Junior Priority] Secured Obligations.

The designation of such obligations as provided above is permitted or is not prohibited, as the case may be, by the First Priority Credit Agreement, Second Priority Credit Agreements and any existing Additional Debt Documents.

Terms defined in the Collateral Trust Agreement and used herein shall have the meanings given to them in the Collateral Trust Agreement.

iSTAR FINANCIAL INC.

By:

\_\_\_\_\_  
Name:  
Title:

EXHIBIT D

FORM OF NOTICE OF CANCELLATION

[Date]

To: The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee

Re: Collateral Trust Agreement, dated as of March 13, 2009, among iStar Financial Inc., iStar Tara Holdings LLC (“Tara Holdco”), iStar Tara LLC, certain other subsidiaries of Tara Holdco, The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee, and the other parties thereto (the “Collateral Trust Agreement”).

The [Notice of Event of Default] [Notice of Acceleration][Notice of Foreclosure], dated as of \_\_\_\_\_, pursuant to the [First Priority Credit Agreement] [2011 Second Priority Credit Agreement][2012 Second Priority Credit Agreement][Second Priority Additional Debt Document][Junior Priority Additional Debt Document], has been cancelled in accordance with subsection 2.1(c) of the Collateral Trust Agreement.

Terms defined in the Collateral Trust Agreement and used herein shall have the meanings given to them in the Collateral Trust Agreement.

[JPMorgan Chase Bank, N.A.,  
as First Priority Agent]

By:

\_\_\_\_\_  
Name:  
Title:

[JPMorgan Chase Bank, N.A.,  
as 2011 Second Priority Agent]

By:

\_\_\_\_\_  
Name:  
Title:

[JPMorgan Chase Bank, N.A.,

as 2012 Second Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

cc: c/o iStar Financial Inc.  
1114 Avenue of the Americas  
New York, NY 10036  
Attention: Chief Financial Officer

Fax: (212) 930-9449  
Telephone: (212) 930-9466  
Email: jburns@istarfinancial.com

Attention: General Counsel  
Fax: (212) 930-9492  
Telephone: (212) 930-9406  
Email: nmatis@istarfinancial.com

EXHIBIT E

FORM OF NOTICE OF ACCELERATION

[Date]

To: The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee

Re: Collateral Trust Agreement, dated as of March 13, 2009, among iStar Financial Inc., iStar Tara Holdings LLC ("Tara Holdco"), iStar Tara LLC ("Tara"), certain other subsidiaries of Tara Holdco, The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee, and the other parties thereto (the "Collateral Trust Agreement").

An Acceleration Event has occurred and is continuing under the provisions of the [First Priority Credit Agreement] [2011 Second Priority Credit Agreement][2012 Second Priority Agreement][Second Priority Additional Debt Document][Junior Priority Additional Debt Document].

Terms defined in the Collateral Trust Agreement and used herein shall have the meanings given to them in the Collateral Trust Agreement.

[JPMorgan Chase Bank, N.A.,  
as First Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

[JPMorgan Chase Bank, N.A.,  
as 2011 Second Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

[JPMorgan Chase Bank, N.A.,  
as 2012 Second Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

cc: c/o iStar Financial Inc.  
1114 Avenue of the Americas  
New York, NY 10036  
Attention: Chief Financial Officer  
Fax: (212) 930-9449

Telephone: (212) 930-9466  
Email: jburns@istarfinancial.com

Attention: General Counsel

Fax: (212) 930-9492  
Telephone: (212) 930-9406  
Email: nmatis@istarfinancial.com

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EXHIBIT F

FORM OF NOTICE OF FORECLOSURE

[Date]

To: iStar Financial Inc.  
1114 Avenue of the Americas  
New York, NY 10036

Attention: Chief Financial Officer  
Attention: General Counsel

copy to:

The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee

Re: Collateral Trust Agreement, dated as of March 13, 2009, among iStar Financial Inc., iStar Tara Holdings LLC ("Tara Holdco"), iStar Tara LLC ("Tara"), certain other subsidiaries of Tara Holdco, The Bank of New York Mellon Trust Company, N.A., as Collateral Trustee, and the other parties thereto (the "Collateral Trust Agreement").

The Controlling Party has delivered a written direction attached hereto as Annex 1 to the Collateral Trustee instructing the Collateral Trustee to initiate Foreclosure upon the Collateral as described therein.

Terms defined in the Collateral Trust Agreement and used herein shall have the meanings given to them in the Collateral Trust Agreement.

[JPMorgan Chase Bank, N.A.,  
as First Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

[JPMorgan Chase Bank, N.A.,  
as 2011 Second Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

[JPMorgan Chase Bank, N.A.,  
as 2012 Second Priority Agent]

By: \_\_\_\_\_  
Name:  
Title:

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**CERTIFICATIONS**

I, Jay Sugarman, certify that:

1. I have reviewed this quarterly report on Form 10-Q of iStar Financial Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 10, 2009

By: /s/ JAY SUGARMAN

Name: Jay Sugarman

Title: *Chief Executive Officer*

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## CERTIFICATION

I, James D. Burns, certify that:

1. I have reviewed this quarterly report on Form 10-Q of iStar Financial Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 10, 2009

By: /s/ JAMES D. BURNS

\_\_\_\_\_  
Name: James D. Burns

Title: *Chief Financial Officer*

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## QuickLinks

[Exhibit 31.0](#)

[CERTIFICATIONS](#)  
[CERTIFICATION](#)

**Certification of Chief Executive Officer  
Pursuant to Section 906 of The Sarbanes-Oxley Act of 2002**

The undersigned, the Chief Executive Officer of iStar Financial Inc. (the "Company"), hereby certifies on the date hereof, pursuant to 18 U.S.C. 1350(a), as adopted pursuant to Section 906 of The Sarbanes-Oxley Act of 2002, that the Quarterly Report on Form 10-Q for the quarter ended June 30, 2009 (the "Form 10-Q"), filed concurrently herewith by the Company, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and that the information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ JAY SUGARMAN

\_\_\_\_\_  
Name: Jay Sugarman

Title: *Chief Executive Officer*

---

**Certification of Chief Financial Officer**  
**Pursuant to Section 906 of The Sarbanes-Oxley Act of 2002**

The undersigned, the Chief Financial Officer of iStar Financial Inc. (the "Company"), hereby certifies on the date hereof, pursuant to 18 U.S.C. 1350(a), as adopted pursuant to Section 906 of The Sarbanes-Oxley Act of 2002, that the Quarterly Report on Form 10-Q for the quarter ended June 30, 2009 (the "Form 10-Q"), filed concurrently herewith by the Company, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and that the information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ JAMES D. BURNS

\_\_\_\_\_  
Name: James D. Burns

Title: *Chief Financial Officer*

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## QuickLinks

[EXHIBIT 32.0](#)

[Certification of Chief Executive Officer Pursuant to Section 906 of The Sarbanes-Oxley Act of 2002](#)

[Certification of Chief Financial Officer Pursuant to Section 906 of The Sarbanes-Oxley Act of 2002](#)