

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2005 048553

2005 JUN 13

MICHAEL J. ...
CLERK

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INSTRUMENT PREPARED
BY AND WHEN RECORDED
RETURN TO:
Nathan P. Humphrey, Esq.
Kutak Rock LLP
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Suite 3100
Denver, Colorado 80202
(303) 297-2400

**MEMORANDUM OF
MASTER LAND AND BUILDING LEASE AGREEMENT**

THIS MEMORANDUM OF MASTER LAND AND BUILDING LEASE AGREEMENT (this "Memorandum") is executed effective as of May 18th, 2005 (the "Effective Date"), by and between **SPIRIT SPE PORTFOLIO 2004-6, LLC**, a Delaware limited liability company ("Lessor"), whose address is 14631 North Scottsdale Road, Suite 200, Scottsdale, Arizona 85254-2711, and **FALCON HOLDINGS, LLC**, a Delaware limited liability company ("Lessee"), whose address is 1200 Harger Road, Suite 200, Oakbrook, Illinois 60523.

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Recitals

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Lessor and Lessee entered into that certain Master Land and Building Lease Agreement of even date herewith (the "Lease"), the terms, provisions and conditions of which are incorporated herein by this reference to the same extent as if recited in their entirety herein, whereby Lessor has leased to Lessee, and Lessee has rented and leased from Lessor, on and subject to the terms, provisions and conditions of the Lease, certain parcels of real property, including, without limitation, that certain real property, together with all buildings, structures, fixtures and improvements now or hereafter located thereon, and being more particularly described in Exhibit A attached hereto (the "Property"). Unless otherwise expressly provided herein, all defined terms used in this Memorandum shall have the same meanings as are ascribed to such terms in the Lease.

NOW, THEREFORE, Lessor and Lessee hereby make specific reference to the following terms, provisions and conditions of the Lease:

1. In consideration of the rentals and other sums to be paid by Lessee and of the other terms, covenants and conditions on Lessee's part to be kept and performed pursuant to the Lease, Lessor leases to Lessee, and Lessee accepts, the Property. The term of the Lease commences as of the Effective Date and expires on May 31, 2022, unless extended as provided below or terminated sooner as provided in the Lease.

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2. Provided Lessee is not in default under the terms of the Lease, Lessee has a right to extend the term of the Lease for up to two (2) additional successive periods of ten (10) years each, by written notice to Lessor as provided in the Lease.

3. NOTICE IS HEREBY GIVEN THAT LESSEE IS NOT AUTHORIZED TO PLACE OR ALLOW TO BE PLACED ANY LIEN, MORTGAGE, DEED OF TRUST OR ENCUMBRANCE OF ANY KIND UPON ALL OR ANY PART OF THE PROPERTY OR LESSEE'S LEASEHOLD INTEREST THEREIN AND ANY SUCH PURPORTED TRANSACTION WHICH IS NOT APPROVED BY LESSOR SHALL BE VOID. FURTHERMORE, ANY SUCH PURPORTED TRANSACTION SHALL BE DEEMED A TORTIOUS INTERFERENCE WITH LESSOR'S RELATIONSHIP WITH LESSEE AND LESSOR'S OWNERSHIP OF THE PROPERTY.

4. Except as permitted under the Lease, Lessee may not assign its interest in the Lease without the prior written consent of Lessor. ANY SUCH PURPORTED TRANSACTION WHICH IS NOT PERMITTED UNDER THE LEASE OR APPROVED BY LESSOR SHALL BE VOIDABLE AT THE SOLE OPTION OF LESSOR.

5. Any addition to or alteration of the Property shall automatically be deemed part of the Property and belong to Lessor.

6. Unless the landlord, mortgagee or trustee under any ground lease, mortgage or trust deed, as applicable, now or hereafter placed on the Property by Lessor elects otherwise by notice given to Lessee, the Lease at all times shall automatically be subordinate to any and all ground leases and the liens of any and all mortgages and trust deeds now or hereafter placed on the Property by Lessor; subject, however, to Lessee's rights regarding non-disturbance as set out in the Lease.

7. The Lease is a "true lease"; the only relationship created thereby is that of landlord and tenant. Lessee is not an agent, legal representative, partner, subsidiary, or employee of Lessor. Lessor is not responsible for any of the debts, obligations or losses of Lessee.

8. Original copies of the Lease are in the possession of Lessor and Lessee. The Lease contains other terms not herein set forth but which are incorporated by reference herein for all purposes, and this Memorandum is executed for the purpose of placing parties dealing with the Property on notice of the existence of the Lease and, where appropriate, its contents, and shall ratify and confirm all other terms of the Lease as fully as if the same had been set forth herein. Additional information concerning the terms of the Lease can be obtained from Lessor or Lessee at the addresses set forth above.

9. This Memorandum is intended for recording purposes only, and does not modify, supersede, diminish, add to or change all or any of the terms of the Lease in any respect. To the extent that the terms hereof are inconsistent with the terms of the Lease, the terms of the Lease shall control.

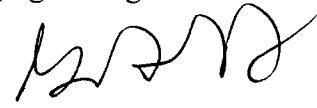
10. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be duly executed as of the Effective Date.

LESSOR:

SPIRIT SPE PORTFOLIO 2004-6, LLC, a Delaware limited liability company

By: Spirit SPE Management Company
2004-6, a Delaware corporation,
Managing Manager

By: 

Name: Gregg A. Seibert
Title: Senior Vice President


STATE OF ARIZONA

COUNTY OF MARICOPA

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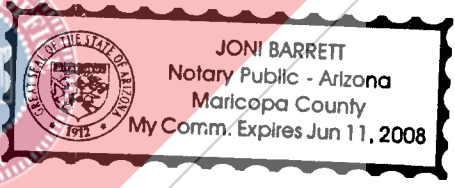
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The foregoing instrument was acknowledged before me on May 16, 2005 by Gregg A. Seibert, Senior Vice President of Spirit SPE Management Company 2004-6, a Delaware corporation, the Managing Manager of **SPIRIT SPE PORTFOLIO 2004-6, LLC**, a Delaware limited liability company, on behalf of the corporation.


Notary Public

My Commission Expires:

6/11/08



Collateral #23/(Unit #532) – Leasehold Estate:

THE LEASEHOLD ESTATE CREATED BY THAT MASTER LAND AND BUILDING LEASE AGREEMENT, EXECUTED BY SPIRIT SPE PORTFOLIO 2004-6, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS LESSOR, AND FALCON HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS LESSEE, DATED MAY 25, 2005, AS DISCLOSED BY THAT CERTAIN MEMORANDUM OF MASTER LAND AND BUILDING LEASE AGREEMENT, WHICH IS BEING RECORDED CONCURRENTLY HERewith IN THE OFFICIAL RECORDS OF LAKE COUNTY, INDIANA, WITH RESPECT TO THE FOLLOWING DESCRIBED LAND:

LOTS 16, 17, 18, 19 AND 20 IN BLOCK 7 IN GARY LAND COMPANY'S TENTH SUBDIVISION IN THE CITY OF GARY, LAKE COUNTY, INDIANA, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 20, PAGE 33, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

Also known as 1409 South Broadway, Gary, Lake County, Indiana 46407

