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Registered letter

To the creditors of
Swissair Swiss Air Transport
Company Ltd. in debt restructuring
liquidation

Küsnacht, 17 May 2005 WuK/fee

Swissair Swiss Air Transport Company Ltd in debt restructuring liquidation; Circular no. 5

Ladies and Gentlemen,

In this circular I will be updating you on the matters of avoidance claims,
state liability claims and real estate abroad as follows:

I. PAULIANA CLAIMS

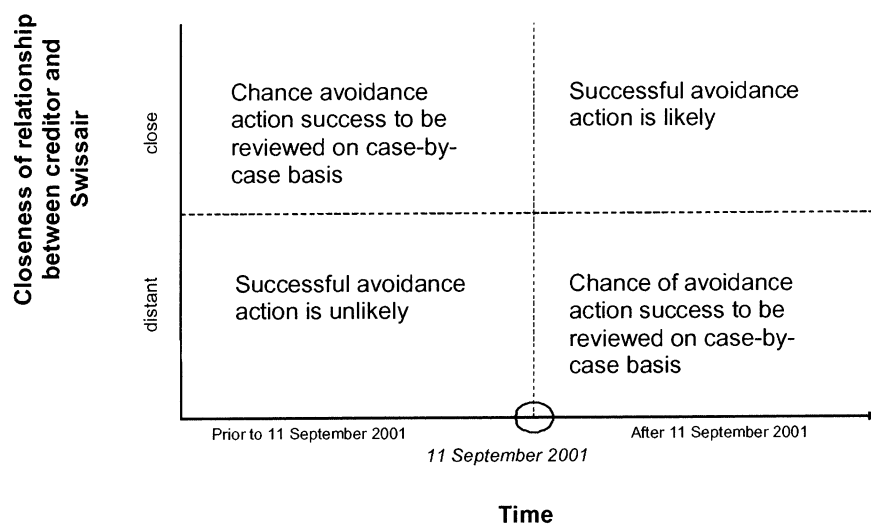
1. Introduction

Based on the report from Ernst & Young AG on the Swissair case, payments made by Swissair Swiss Air Transport Company Ltd. ("Swissair") from 1 January 2001 to 5 October 2001 (date on which the provisional debt restructuring moratorium was granted) have been examined to establish whether or not they are voidable under Art. 285 ff. of the Swiss Debt Enforcement and Bankruptcy Law (DEBL) and whether or not the payments that have been made can be reclaimed from the recipients in question. The review was conducted as follows:

a) Payments to SAirGroup were not examined in greater detail. This company is also in debt restructuring liquidation. In order to safeguard the rights of Swissair, possible avoidance claims will be registered as creditors' claims in the debt restructuring

proceedings of this company. The liquidation bodies will then decide in the context of drawing up the schedule of claims whether to accept or reject Swissair's claims. Should the claims registered by Swissair be rejected, it will still be possible to challenge the schedule of claims.

- b) The payments made by Swissair have been divided into the following groups: Payments to suppliers and service providers for operationally necessary services, payments to suppliers of aviation fuel, payments of aircraft leasing instalments to leasing companies, and special cases.
- c) The review focused primarily on whether or not the payments made by Swissair can be challenged on the basis of what is known as voidability for intent (Art. 288 DEBL). By way of exception, in this particular matter, the existence of a voidable gift (Art. 286 DEBL) or the possibility of voidability due to insolvency (Art. 287 DEBL) was also examined where there were the corresponding indications.
- d) The following questions were examined for each payment:
 - Were individual or all other creditors put at a disadvantage by the payment?
 - Did Swissair or its governing or executive bodies deliberately cause a disadvantage to creditors, or did it at least anticipate that such disadvantage might result?
 - In exercising due diligence, could the favoured creditors recognise an intention on the part of Swissair to cause disadvantage to creditors?
- e) The timing of the payment and the closeness of the creditor's relationship with Swissair – i.e. their knowledge about the financial situation – are of crucial importance in assessing the subjective elements: the intention to cause disadvantage to creditors and the extent to which this intention might be recognised by the favoured creditors. The events of 11 September 2001 were highly significant in this context, as they had considerable negative financial implications on the entire aviation industry. The following grid was used:



The investigations produced the following results for the individual payment groups.

2. **Payments to suppliers and service providers for necessary operational services**

Payments for services without which Swissair's flight operations would have had to cease or be considerably restricted even before the grounding of 2 October 2001 cannot easily be challenged. These payments ensured the continuation of Swissair's flight operations. It is therefore questionable whether these payments resulted in a loss to Swissair. It might also be difficult to prove that Swissair intended to favour specific creditors or put others at a disadvantage. Similarly, that the recipient of a payment for operationally necessary services – which continued to provide such services after payment had been received – could and should have been able to recognise an intention on the part of Swissair to favour some creditors over others is not an assumption that can be made lightly. A supplier or service provider which continued to provide services to Swissair without receiving payment in advance either failed to recognise the latter's precarious financial situation or took the risk of not being compensated for the goods or services provided. Consequently, no avoidance claims should be pursued further in connection with such payments made by Swissair itself.

From 30 September 2001 on the situation was fundamentally different. It was decided in the context of the project "Phoenix" that Swissair would apply for a debt restructuring moratorium and temporarily cease flight operations. Parts of Swissair's flight network were to be taken over by Crossair and Crossair was supposed to continue these operations. From this point onwards, it was clear that Swissair would very soon cease to require any further deliveries and services for its flight operations. The threat by a supplier or service provider to halt further deliveries should a payment fail to be made, could no longer have the same effect as previously. Swissair must have known that payments made after 30 September 2001 would favour the recipients of those payments over its other creditors. On 30 September 2001 it was public knowledge that Swissair was facing imminent financial collapse. It is thus likely that, after 30 September 2001, the conditions for an avoidance action in connection with these payments to suppliers and service providers for past deliveries and services are fulfilled.

At the press conference on the evening of 1 October 2001. Dr. Mario Corti officially announced that a debt restructuring moratorium would be applied for. Swissair was then ultimately grounded on 2 October 2001. After Dr. Corti's announcement – and in particular after the grounding – it must have been clear to both Swissair and those creditors which had received payment for past deliveries and services that such payments favoured certain creditors at a disadvantage of others.

It was established that none of the Swissair payments under investigation in the "suppliers and service providers for operationally necessary services" group were made after 30 September 2001. Furthermore, all suppliers and service providers continued to provide deliveries or services on credit even after they had received their last payments. Consequently, no Pauliana claims will be pursued in respect of this group.

3. Payments to suppliers of aviation fuel

The statements made in section 2 above also apply to the assessment of payments made to aviation fuel suppliers. Without fuel, Swissair would not have been able to maintain flight operations. To the extent that fuel suppliers received payments for past deliveries prior to

30 September 2001 as part of the regular course of business, and subsequently continued to make deliveries to Swissair in the absence of any advance payment, the chances of an avoidance action are little promising.

The situation is different in the case of payments made after 30 September 2001, however. Here, the chances of a successful avoidance action are good, provided such payments were not advances for future fuel deliveries, for which Swissair received respective services for its payment. It should be noted in this connection that, had one of its suppliers threatened to halt fuel deliveries unless all outstanding invoices were paid, Swissair could and should have had to look into and select alternative sources. Experience from other restructuring proceedings has shown that suppliers are frequently prepared – against advance payment – to continue making deliveries, if they risk not being able to make any further deliveries in the future and yet still not receiving any payments on outstanding invoices. Post-30 September 2001 payments to fuel suppliers for past deliveries will therefore be challenged by the estate of Swissair. This category includes payments to Air BP Switzerland AG as per 2 and 4 October 2001, Shell (Switzerland) AG as per 2 and 4 October 2001, Esso Air International Ltd. as per 5 October 2001, Chevron Products Company as per 5 October 2001, Air Total International as per 2 and 4 October 2001, Kuwait Petroleum Aviation Thailand Ltd. as per 4 October 2001, Coastal Ref & Mktg Aviation as per 5 October 2001, Hongkong Sinopec / Caosc Co. Ltd. as per 4 October 2001, United Aviation Fuels as per 5 October 2001, Compañía Española de Petroleos, S.A. as per 4 October 2001, Dor Energy Ltd. as per 4 October 2001 and Idemitsu Kosan Co. Ltd. as per 4 October 2001.

The USD 483,840 paid by Swissair to Air Total (Suisse) SA as of 20 September 2001 is a special case. This payment of an invoice dated 31 August 2000 was made prior to 30 September 2001. In September 2001, and specifically having received the aforementioned payment, Air Total (Suisse) SA ceased to make any further deliveries to Swissair. On 20 September 2001, Swissair's financial situation was so dire that it can be assumed that the airline intended to favour this creditor over others and to put other creditors at a disadvantage

respectively. In the light of the corresponding press coverage, as well as other factors, at this point in time Air Total (Suisse) SA had sufficient knowledge of Swissair's liquidity situation to recognise a possible disadvantage of the other creditors. To challenge this payment will probably be successful, the respective avoidance claims will therefore be further pursued by Swissair.

4. Payment of aircraft leasing instalments to leasing companies

Between 1 January 2001 and 5 October 2001, Swissair paid regular leasing instalments for aircraft which it used in its flight operations. The payments were made to the contracting parties to the leasing agreements in question.

The payment of the leasing instalments concerned was in exchange for the right to use the aircraft covered by the agreements. This consideration was rendered by the lessors until the leasing agreements were terminated following the cessation of Swissair flight operations. Any failure to pay the leasing instalments owed by Swissair to the lessors would have resulted in the early termination of the leasing agreements. Swissair would have no longer been able to use the leased aircraft for its flight operations. Flight operations would then have had to be halted. It must also be noted that the leasing instalments for all leasing agreements had to be paid in advance. In making the aircraft available to Swissair, the lessors were fulfilling their contractual obligations in return. The body of creditors therefore did not sustain any loss from the payment of the leasing instalments.

One payment of CHF 8,000,000 to Flightlease (Ireland) Ltd. on 20 September 2001 constitutes a special case. Flightlease (Ireland) Ltd. was head lessee for a number of aircraft which it then leased on to Volare Airlines SpA as sub-lessee. On 20 September 2001, Swissair had a payment of CHF 8,000,000 made to Flightlease (Ireland) Ltd. The credit memo dated 10 September 2001, with which Swissair notified Flightlease (Ireland) Ltd. of the transfer, states that this payment was being made to repay debts that Volare Airlines SpA had outstanding with Flightlease (Ireland) Ltd. It is conceivable that Swissair made the payment to Flightlease (Ireland) Ltd. upon instructions of Volare Airlines SpA and thereby paid a debt of its own

to Volare Airlines SpA. A payment for which Swissair did not receive performance of equivalent value in return can be challenged. A challenge of this payment is therefore being considered, although the circumstances require further clarification. Since Flightlease (Ireland) Ltd. is currently in insolvency proceedings, the Liquidator will lodge the corresponding avoidance claims in the insolvency proceedings in order to safeguard the rights of Swissair.

5. Special cases

5.1 Swisscargo Ltd in debt restructuring liquidation

Swisscargo Ltd was responsible for the commercial exploitation of the Swissair fleet's cargo capacity. The relationship between Swissair and Swisscargo Ltd was laid down in a Cooperation Agreement. Swissair invoiced Swisscargo Ltd the agreed monthly payments on account according to the Agreement. The amounts actually owed by Swisscargo Ltd under the terms of the Agreement were calculated semi-annually as at the end of June and end of December. Depending on the difference between this figure and the aggregate of monthly payments on account, Swisscargo Ltd would make additional payments or Swissair would make repayments. On 5 July 2001, Swisscargo Ltd received a payment from Swissair of CHF 2,658,133. On the basis of the available information, it must be assumed that this constituted a repayment on the part of Swissair of excess payments on account, as per the invoice calculation as of 30 June 2001.

Swisscargo Ltd also made out airwaybills for agents in relation to cargo allocations on Swissair flights. The agents accepted cargo for transportation from their customers on the basis of these cargo allocations. The earnings due to Swisscargo from the issue of airwaybills were credited to Swissair via the IATA Clearing House ("ICH"). The ICH is the payment system for the clearing of mutual receivables between IATA's affiliate airlines. Swissair then passed these sums on to Swisscargo Ltd, making payments of CHF 40,765,204 and CHF 25,752,961 on 25 and 26 September 2001 respectively. On the basis of the available information, it must be assumed that these constituted the forwarding to Swisscargo Ltd of payments received from the ICH. After receiving the payments dated 5 July 2001 and 25 and 26 September 2001, Swisscargo Ltd continued

to handle cargo capacity on Swissair aircraft without demanding security from Swissair for any future claims. Swisscargo Ltd has registered the corresponding claims in Swissair's debt restructuring proceedings. An avoidance action in connection with the payments to Swisscargo Ltd would thus not appear promising.

5.2 *CAE Inc., Canada*

Swissair had ordered a flight simulator for the Swissair Training Center from CAE Inc., a Canadian manufacturer. While the aircraft was being built, Swissair made a "predelivery payment" of EUR 1,295,000 to CAE Inc. on 12 September 2001. Swissair made no further payments to CAE Inc. after the debt restructuring moratorium had been granted. In the spring of 2002, the Swissair Training Center arranged the sale of the flight simulator to South African Airways. The Swissair Training Center reimbursed Swissair for the predelivery payments out of the sale price that it had received from South African Airways. Swissair received a total of USD 4.8 million from the sale price. The conditions for an avoidance action in connection with the 12 September 2001 payment by Swissair to CAE Inc. are not fulfilled because the predelivery payments were repaid to Swissair from the proceeds of the simulator's sale. Consequently, no creditors were put at a disadvantage.

5.3 *Swiss International Air Lines Ltd., formerly Crossair Ltd ("Crossair")*

An Interline Agreement, as Swissair had concluded with all IATA members under the MITA organisation (Multilateral Interline Traffic Agreements) existed between Swissair and Crossair, now known as Swiss International Air Lines Ltd. The income from the sale of transport documents on the other company's flights were calculated periodically. Interline payments to Crossair also included monthly payments for flights on the Zurich – Lugano route, which Crossair operated in its own name but for the account of Swissair. In January 2000, Swissair undertook to bear a portion of the deficit that was being generated by Crossair on this route. On 12 September 2001, Swissair had CHF 19,172,095 – bearing the remark "*Interline Payment*" – transferred to Crossair. Crossair continued to provide services for Swissair after this payment had been received and lodged

the corresponding claims for the month of September 2001 as part of the debt restructuring proceedings. The cooperation with Crossair was of great importance to Swissair in maintaining its European route network. Swissair had to pay Crossair the sums earned from the sale of transport documents on Crossair flights in order to ensure that European feeder flights to Zurich continued to operate. In the light of the statements made under section 2 above, an avoidance action in connection with the payment of 12 September 2001 has little chance of success.

In general mutual claims between Swissair and Crossair were not collected via the ICH. Instead, the receivables in question were settled directly between the two airlines. Contrary to this practice, however, at the end of September 2001 Crossair submitted claims to the ICH against Swissair for CHF 35,564,921, arising from the Interline Agreement and a wetlease agreement. Swissair initially lodged a protest against the Crossair bills. However, on 5 October 2001 Swissair withdrew this protest. In the end, Crossair received a payment of CHF 35,564,921 from the ICH in settlement of its claim against Swissair. Investigations into the exact facts of this matter and the respective legal situation have not yet been completed. It is clear, however, that by taking the step of going via the ICH – which was unusual in its relationship with Swissair – Crossair received a payment of CHF 35,564,921 for outstanding invoices at the expense of the other creditors. Crossair thus made use of an unusual payment mechanism. At the end of September 2001 Crossair was aware of Swissair's disastrous financial situation. To challenge Crossair's collection of its claims against Swissair using the ICH would thus appear to hold the prospect of success. Swissair will pursue the corresponding avoidance claim.

Between Swissair and Crossair a wetlease agreement existed. Under the terms of this agreement, Crossair operated flights offered by Swissair on many European routes using its own aircraft and personnel. On 4 October 2001, Crossair gave notice that on 5 October 2001 it would cease to operate flights on the routes agreed in the wetlease agreement unless it received a payment of CHF 581,384. Swissair then transferred the required amount to Crossair on 5 October 2001. A handwritten remark on the payment order dated

5 October 2001 reads "*pre-payment 5.10.01 (nur Flüge vom 5.10.01 gemäss Herrn Peuckert)*" (*pre-payment 5.10.01 (flights of 5.10.01 only, as ordered by Mr Peuckert)*). Reason to assume that this was a genuine advance payment can also be found in the equally precarious liquidity situation at that time at Crossair, which without payments from Swissair would not have been in a position to operate the flights on 5 October 2001. Consequently, an avoidance action in connection with this payment of 5 October 2001 does not seem successful.

5.4 *Unique Flughafen Zürich AG ("Unique")*

In its letter of 3 October 2001, Unique demanded that Swissair pay outstanding July 2001 fees amounting to CHF 21,832,492 for take-off and landing permits, flight security and use of the infrastructure at Zurich airport. Swissair had the requested amount transferred to Unique on 4 October 2001. The payment order and corresponding debit advice from UBS Ltd bear the remark "*Prepayment*". The payment of CHF 21,832,492 nonetheless corresponds exactly to the amount requested in the letter of 3 October. Contrary to the remark about a prepayment for future performance, the available documentation and information however speaks against a prepayment for future services. Rather, the payment dated 4 October 2001 settled the outstanding airport fees relating to July 2001. The CHF 21,832,492 was not credited against Unique services provided after 4 October 2001. The payment to Unique was made on 4 October 2001, i.e. after the Swissair fleet had been grounded on 2 October 2001 and at a time when Swissair had already applied to have the provisional debt restructuring moratorium approved. At this time, Swissair was not allowed to make further payments that were not absolutely necessary to maintain flight operations. Since Swissair was its most important customer, Unique would not have been in a position to deny the airline the continued provision of services during the debt restructuring moratorium. It would thus have been possible to recommence Swissair flight operations even without the supplementary payment of airport fees for the month of July 2001. An avoidance action in connection with the payment would thus be likely to succeed, and Swissair will pursue the corresponding avoidance claim.

6. Conclusion

In the light of the above assessment, the Liquidator and the Creditors' Committee will generally refrain from pursuing avoidance claims, with the exception of claims against:

- a) SAirGroup in debt restructuring liquidation;
- b) The following third-party creditors who have received payments from Swissair:
 - Air BP Switzerland AG (fuel supplier): Payments of USD 4 million, value-dated 2 October 2001, and USD 7.2 million, value-dated 4 October 2001
 - Shell (Switzerland) AG (fuel supplier): Payments of USD 1.5 million, value-dated 2 October 2001, and USD 8,104,000, value-dated 4 October 2001
 - Esso Air International Ltd. (fuel supplier): Payment of USD 2.5 million, value-dated 5 October 2001
 - Air Total (Suisse) SA (fuel supplier): Payment of USD 483,840, value-dated 20 September 2001
 - Chevron Products Company (fuel supplier): Payment of USD 849,117, value-dated 5 October 2001
 - Air Total International (fuel supplier): Payments of USD 500,000, value-dated 2 October 2001, and USD 4.5 million, value-dated 4 October 2001
 - Kuwait Petroleum Aviation Thailand Ltd. (fuel supplier): Payment of USD 1,155,000, value-dated 4 October 2001
 - Coastal Ref & Mktg Aviation (fuel supplier): Payment of USD 746,009, value-dated 5 October 2001
 - Hongkong Sinopec / Caosc Co. Ltd. (fuel supplier): Payment of USD 380,879, value-dated 4 October 2001
 - United Aviation Fuels (fuel supplier): Payment of USD 1 million, value-dated 5 October 2001
 - Compañía Española de Petroleos, S.A. (fuel supplier): Payment of USD 395,725, value-dated 4 October 2001

- Dor Energy Ltd. (fuel supplier): Payment of USD 339,797, value-dated 4 October 2001
- Idemitsu Kosan Co. Ltd. (fuel supplier): Payment of USD 2,452,927, value-dated 4 October 2001
- Flightlease (Ireland) Ltd.: Payment of CHF 8 million, value-dated 20 September 2001
- Swiss International Air Lines Ltd.: ICH payment of CHF 35,564,921
- Unique Flughafen Zürich AG (airport fees): Payment of CHF 21,832,492, value-dated 4 October 2001

The avoidance claims with which the Liquidator and the Creditor's Committee wish to proceed are being further investigated by Swissair itself.

II. STATE LIABILITY ACTION AGAINST THE SWISS CONFEDERATION ON GROUNDS OF FAILURE TO FULFIL SUPERVISORY OBLIGATIONS

To prevent the statute of limitations coming into effect, on 19 September 2003 Swissair, together with Flightlease AG in debt restructuring liquidation, SAirLines in debt restructuring liquidation and SAirGroup in debt restructuring liquidation made a submission to the Swiss Federal Department of Finance petitioning for damages of CHF 1 billion against the Swiss Confederation. The grounds for the petition was the allegation that the Federal Office for Civil Aviation ("FOCA") had neglected its supervisory obligations in respect of Swissair.

The Swissair companies requested that the Federal Department of Finance suspend the action for an initial period so that the legal situation could be examined before proceedings were pursued. On 27 October 2003, the Federal Department of Finance ruled that proceedings be suspended as requested.

In January 2004, Prof. Dr. Tobias Jaag and Dr. Markus Rüssli, of the law firm Umbricht, Attorneys at Law, were engaged to provide a legal opinion on the Swissair companies' entitlement to take action against the Swiss Confederation. The legal opinion was submitted to the Liquidator in April 2004. The opinion first points out that, of the four Swissair companies, only Swissair was dedicated to the commercial

transportation of persons and goods and that only this company held an operating licence from the FOCA and a licence to operate certain air routes from the Federal Department of Environment, Transport, Energy and Communications ("DETEC"). Supervision on the part of the Confederation was therefore limited to Swissair. According to the opinion, SAirGroup, SAirLines and Flightlease AG, which were not subject to supervision by the Confederation, cannot charge the Confederation with any breach of its supervisory obligations whatsoever. Yet the opinion also states that the conditions for liability on the part of the Swiss Confederation were not even fulfilled in the case of Swissair, which was actually subject to supervision. The protection of the financial interests of the creditors of a company or of the company itself is not one of the direct objectives of federal supervision of civil aviation. Furthermore, liability would also have been ruled out owing to the high degree of fault on the part of Swissair and its governing and executive bodies.

On the basis of the opinion produced by Prof. Dr. Tobias Jaag and Dr. Markus Rüssli, the Liquidator and the Creditors' Committee will not pursue the state liability claim on behalf of Swissair.

III. WAIVER OF DISPUTED CLAIMS

1. General

Each creditor is entitled to request the assignment of the right to take legal action in respect of those legal claims for which the Liquidator and the Creditors' Committee decide not to further pursue them (Art. 325 in conjunction with Art. 260 DEBL). A creditor who requests assignment is entitled to assert the legal claim at his own risk and expense. In the event that he should win the legal action, he is entitled to use any award to cover both the costs incurred and his claims against Swissair. Any excess amount would have to be surrendered to the liquidation assets. If the creditor should lose the action, he is liable for any court and legal fees.

2. Assignment request by individual creditors

Creditors are hereby offered the option of being assigned the right to pursue an action in respect of any avoidance claims by Swissair which

the liquidation bodies have declined to assert (see I.6 above) and in pursuance of the state liability action against the Swiss Confederation for breach of duty of supervision (see II above). As far as avoidance claims are concerned, creditors' attention is drawn to the fact that in order to safeguard their rights they should take initial legal steps by 16 June 2005. Each creditor can obtain from the Liquidator a CD-Rom containing a list of possible claims arising from voidable acts, for which an assignment of the right to pursue an action is offered, as well as the relevant documents. These documents can also be inspected at the office of the Liquidator. Orders can be placed by telephone on +41 43 222 38 30 (German), +41 43 222 38 40 (French) and +41 43 222 38 50 (English).

Requests for assignment within the meaning of Art. 260 (DEBL) may be lodged with the undersigned Liquidator **in writing by 30 May 2005 at the latest** (date of postmark of a Swiss post office). The right to request assignment will be deemed to be **forfeited** if this deadline is not met.

IV. REAL ESTATE ABROAD

1. Property at 41 Pinelawn Road, Melville, New York

The present SAirGroup, then still known as Swissair Swiss Air Transport Company Ltd., purchased in 1991 the property at 41 Pinelawn Road, Melville, New York ("Melville property"). The then existing building was demolished and a new building erected. Title to the property was subsequently transferred to the Suffolk County Development Agency in order to save taxes. The property was also encumbered by a right of lien relating to a USD 5 million bond issued by the Suffolk County Development Agency to Gebrüder Lincke AG (now Avireal AG). The bond had a maturity of 1 June 2006 and a coupon of 7.35%. The USD 5 million was never paid, however. It is to be inferred from an internal paper that all interest and capital "payments" were fictitious. Following the Swissair Group's restructuring into a holding company in May 1997, the Melville property was used by (the new) Swissair and carried as an asset in its books. Swissair bore all of the costs of maintenance, etc. SAirGroup received no rental payments from Swissair and ceased to submit tax

returns in New York as of the 1997 financial year. For its part, Swissair did not pay any withholding tax on any purchase price or rental payments which would have been payable to SAirGroup.

These circumstances meant that, when the provisional debt restructuring moratorium was granted and the composition agreement for Swissair and SAirGroup was confirmed, respectively the actual owner of the Melville property – and thus the company entitled to the proceeds of its sale – was unclear. Independently of one another, both the Deputy Swissair Liquidator, Dr. Niklaus Müller attorney-at-law, and the Liquidator of SAirGroup had the ownership situation of the Melville property assessed by experts. The experts concurred that, under applicable US law, Swissair is the owner of the Melville property and is thus entitled to receive the proceeds from its sale. This principle has been recognised by the Liquidator and the Creditors' Committee of SAirGroup.

In early 2005 a contract for the sale of the Melville property was concluded with OSI Pharmaceuticals Inc. The sale price was USD 11,250,000 and the sale was approved by the Creditors' Committee. The sale was executed at the end of April.

2. Condominium units on the second and fourth floors of Via Po 10 in Rome

The present SAirGroup, then still known as Swissair Swiss Air Transport Company Ltd., bought two condominium units on the second and fourth floors of the commercial building at Via Po 10 in Rome in 1980. The present Swissair did not even exist when these units were purchased. Following the Swissair Group's restructuring into a holding company, the condominium units were used by (the new) Swissair. Swissair paid no rent to SAirGroup, but bore the costs and taxes accruing to the two units. The two condominium were carried as assets in the Swissair balance sheet. No transfer of the properties from SAirGroup to Swissair was ever registered and completed in the Italian land register, however.

During the debt restructuring moratorium the two condominium units were sold in 2002 and 2003 respectively with the approval of the debt restructuring judges in Zurich and Bülach. The proceeds of the sale were paid into an "SAirGroup/Swissair" escrow account at the Zürcher

Kantonalbank. With the approval of the two debt restructuring judges, it was also agreed between SAirGroup and Swissair that the allocation of the sale proceeds would be determined in the context of the debt restructuring liquidation. The Deputy Swissair Liquidator has had the ownership situation of the two condominium units at Via Po 10 in Rome reviewed from the Swissair perspective. The legal expert appointed by him, Prof. Fabio Bortolotti, concluded that title to both units was held by SAirGroup. From the Swissair point of view, it will thus not be possible to include the proceeds of the sale in its disposable assets. The legal situation is unequivocal and the right to pursue an action can, therefore, not be assigned to creditors.

Swissair and SAirGroup have agreed that the costs and income accruing to real estate abroad after 5 October 2001 will be divided between the parties separately for each property at the same time on which and in the same proportions as the sale proceeds are distributed. With regard to this settlement, Swissair and SAirGroup have concluded an agreement covering the following points:

- SAirGroup will reimburse Swissair in full for the costs totalling CHF 410,556.18 that Swissair has incurred since 5 October 2001 in connection with the two condominium units at Via Po 10 in Rome.
- There will be no further settlement of costs and income accruing prior to 5 October 2001 in connection with the two condominium units at Via Po 10 in Rome.
- Insofar as Swissair has made monetary payments of any type to SAirGroup for the book transfer from SAirGroup to Swissair of the two condominium units at Via Po 10 in Rome, these payments will be recognised as creditors' claims in the SAirGroup liquidation proceedings and either set off against any creditors' claims by Swissair against SAirGroup or included in the schedule of claims as 3rd class claims. Mutual creditors' claims will be settled as part of the work to draw up a schedule of claims.

The Creditors' Committee has approved the transaction in the form presented above.

Yours sincerely

Swissair Swiss Air Transport Company Ltd in debt restructuring liquidation

The Liquidator

Karl Wüthrich

**Hotline Swissair Swiss Air Transport Company Ltd. in debt
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