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Doc#: 0703841129 **Fee:** \$42.00
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Cook County Recorder of Deeds
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PREPARED BY, AND UPON
RECORDATION RETURN, TO:

Katten Muchin Rosenman LLP
1025 Thomas Jefferson Street, NW
Suite 700 – East Lobby
Washington, D.C. 20007
Attention: John D. Muir, Jr., Esq.

Property of Cook County Clerk's Office

CHI 3, LLC,
a Delaware limited liability company
(Assignor)

to

SFT I, INC.
a Delaware corporation
(Assignee)

ASSIGNMENT OF LEASES AND RENTS

Dated: as of February 2, 2007

Location: 1905-1945 Elk Grove Village, Illinois 60007

Property Index Number: 08-35-104-034-0000

Box 400-CTCC

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ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "**Assignment**") made as of the 2nd day of February, 2007, by **CHI 3, LLC**, a Delaware limited liability company, having an office at c/o Equinix, Inc., 301 Velocity Way, 5th Floor, Foster City, CA 94404 ("**Assignor**"), in favor of **SFT I, INC.**, a Delaware corporation, having an office at 1114 Avenue of the Americas, 27th Floor, New York, NY 10036 (together with its successors and assigns, hereinafter referred to as "**Assignee**").

RECITALS

A. On or about the date hereof, Assignor and Assignee entered into that certain Development Loan and Security Agreement (as the same may hereafter be amended, modified or supplemented from time to time, "**Loan Agreement**") whereby Assignee agreed to make a secured loan (the "**Loan**") to Assignor in the original principal amount of up to One Hundred Ten Million and 00/100 Dollars (\$110,000,000.00). The Land is legally described in **Exhibit A** attached hereto and made a part hereof. All capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Loan Agreement.

B. In connection with the Loan Assignor has executed and delivered the Note, payment of which is secured by (i) the Mortgage and (ii) the other Loan Documents.

C. Assignor is desirous of further securing to Assignee the performance of the terms, covenants and agreements hereof and of the Note, the Mortgage and the Loan Documents.

AGREEMENTS

NOW, THEREFORE, in consideration of the making of the Loan evidenced by the Note and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby irrevocably, absolutely and unconditionally transfer, sell, assign, pledge and convey to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to:

(a) any and all leases, licenses, rental agreements and occupancy agreements of whatever form (but specifically excluding any interest which Assignor may have in any Customer Agreements (as defined in that certain Master Lease (the "**Master Lease**") by and between Assignor, as landlord, and Equinix Operating Co., Inc., as tenant, dated as of even date herewith)), now or hereafter affecting all or any part of the Land and/or Improvements, and any and all guarantees, extensions, amendments, renewals, replacements and modifications thereof including, without limitation, the Master Lease and any guaranty issued in connection therewith (collectively, the "**Leases**"); and

(b) all issues, profits, security or other deposits, revenues, royalties, accounts, rights, benefits and income of every nature of and from the Land and Improvements, including, without limitation, minimum rents, additional rents, termination payments, bankruptcy claims, forfeited security deposits, damages following default and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability due to destruction or damage to

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the Land and/or Improvements, any award or other payment which Assignor may hereafter become entitled to receive with respect to any of the Leases as a result of or pursuant to any bankruptcy, insolvency or reorganization or similar proceedings involving any tenant under such Lease, and any and all payments made by or on behalf of any tenant of any part of the Land and/or Improvements in lieu of Rent, together with the immediate and continuing right to collect and receive the same, whether now due or hereafter becoming due, and together with all rights and claims of any kind that Assignor may have against any tenant, lessee, licensee or guarantor under the Leases or against any other occupant of the Land and/or Improvements (collectively, the "Rents").

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns.

IT IS AGREED that, notwithstanding that this instrument is a present, absolute and executed assignment of the Rents and of the Leases and a present, absolute and executed grant of the powers herein granted to Assignee, Assignor is hereby permitted, at the sufferance of Assignee, and is hereby granted a license (the "License") by Assignee to retain possession of the Leases and to collect and retain the Rents unless and until there shall be an Event of Default. Upon an Event of Default, the License granted to Assignor shall automatically terminate without notice to Assignor, and Assignee may thereafter, without taking possession of the Land and/or Improvements, take possession of the Leases and collect the Rents. Further, from and after such termination and until the License is reinstated under the terms of this Assignment, Assignor shall be the agent of Assignee in collection of the Rents, and any Rents so collected by Assignor shall be held in trust by Assignor for the sole and exclusive benefit of Assignee and Assignor shall, within two (2) Business Days after receipt of any such Rents, pay the same to Assignee to be applied by Assignee as provided in the Loan Agreement. Furthermore, during the existence of such Event of Default, Assignee shall have the right and authority, without any notice whatsoever to Assignor and without regard to the adequacy of the security therefor, to: (a) make application to a court of competent jurisdiction for appointment of a receiver for all or any part of the Land and/or Improvements, as particularly set forth in the Mortgage; (b) manage and operate the Land and/or Improvements, with full power to employ agents to manage the same; (c) demand, collect, receive and sue for the Rents, including those past due and unpaid; and (d) do all acts relating to such management of the Land and/or Improvements, including, but not limited to, negotiation of new Leases, making adjustments of existing Leases, contacting and paying for repairs and replacements to the Improvements and to the fixtures, equipment and personal property located in the Land or used in any way in the operation, use and occupancy of the Land and/or Improvements as in the sole subjective judgment and discretion of Assignee may be necessary to maintain the same in a tenantable condition, purchasing and paying for such additional furniture and equipment as in the sole subjective judgment of Assignee may be necessary to maintain a proper rental income from the Land and/or Improvements, providing utilities and paying for all other expenses incurred in the operation of the Land and/or Improvements, maintaining adequate insurance coverage over hazards customarily insured against and paying the premiums therefor. Assignee shall apply the Rents received by Assignor from the Land and/or Improvements, after deducting the costs of collection thereof, including, without limitation, reasonable attorneys' fees against amounts expended for repairs, upkeep, maintenance, service, utilities, taxes, assessments, insurance premiums and such other expenses as Assignee incurs in connection with the operation of the Land and/or Improvements and against interest, principal, required escrow deposits and other sums which have or which may

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become due, from time to time, under the terms of the Loan Documents, in such order or priority as to any of the items so mentioned as Assignee, in its sole subjective discretion, may determine. The exercise by Assignee of the rights granted Assignee in this paragraph, and the collection of the Rents and the application thereof as herein provided, shall not be considered a waiver by Assignee of any Event of Default or prevent foreclosure of any liens on the Land and/or Improvements nor shall such exercise make Assignee liable under any of the Leases, Assignee hereby expressly reserving all of its rights and privileges under the Mortgage and the other Loan Documents as fully as though this Assignment had not been entered into. If the License has been terminated under this Assignment and Assignor thereafter cures the Event of Default that caused such termination, then the License shall automatically be reinstated and thereafter be in full force and effect unless again terminated under the terms of this Assignment.

Without limiting the rights granted hereinabove, in the event Assignor shall fail to make any payment or perform any act required under the terms hereof and such failure shall not be cured within any applicable grace or cure period, then Assignee may, but shall not be obligated to, without prior notice to or demand on Assignor, and without releasing Assignor from any obligation hereof, make or perform the same in such manner and to such extent as Assignee may deem necessary to protect the security hereof, including specifically, without limitation, appearing in and defending any action or proceeding purporting to affect the security hereof or the rights or powers of Assignee, performing or discharging any obligation, covenant or agreement of Assignor under any of the Leases, and, in exercising any of such powers, paying all necessary costs and expenses, employing counsel and incurring and paying reasonable attorneys' fees. Any sum advanced or paid by Assignee for any such purpose, including, without limitation, reasonable attorneys' fees, together with interest thereon at the Default Rate from the date paid or advanced by Assignee until repaid by Assignor, shall immediately be due and payable to Assignee by Assignor on demand and shall be secured by the Mortgage and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

IT IS FURTHER AGREED that this Assignment is made upon the following terms, covenants and conditions:

1. This Assignment shall not operate to place responsibility for the control, care, management or repair of the Land and/or Improvements upon Assignee, nor for the performance of any of the terms and conditions of any of the Leases, nor shall it operate to make Assignee responsible or liable for any waste committed on the Land and/or Improvements by any tenant or any other party or for any dangerous or defective condition of the Land and/or Improvements or for any negligence in the management, upkeep, repair or control of the Land and/or Improvements. Unless caused by Assignee's gross negligence or willful misconduct, Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Land and/or Improvements or from any other act or omission of Assignee in managing the Land and/or Improvements. Unless caused by Assignee's gross negligence or willful misconduct, Assignor shall and does hereby indemnify and hold Assignee harmless from and against any and all liability, loss, claim, demand or damage which may or might be incurred by reason of this Assignment, including, without limitation, claims or demands for security deposits from tenants deposited with Assignor, and from and against any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the

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Leases. Should Assignee incur any liability by reason of this Assignment or in defense of any claim or demand for loss or damage as provided above (except for liability for Assignee's gross negligence or willful misconduct), the amount thereof, including, without limitation, reasonable costs, expenses and attorneys' fees, together with interest thereof at the Default Rate from the date paid or incurred by Assignee until repaid by Assignor, shall be immediately due and payable to Assignee by Assignor upon Assignor's receipt of written demand and shall be secured by the Mortgage and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

2. This Assignment shall not be construed as making Assignee a mortgagee in possession.

3. Assignee is obligated to account to Assignor only for such Rents as are actually collected or received by Assignee.

4. Assignor represents, warrants and covenants to and for the benefit of Assignee: (a) that, subject to the terms of this Assignment, Assignor now is (or with respect to any Leases not yet in existence, will be immediately upon the execution thereof) the absolute owner of the landlord's interest in the Leases, with full right and title to assign the same and the Rents due or to become due thereunder; (b) that, other than this Assignment and any assignment to Assignee pursuant to the Mortgage, there are no outstanding assignments of the Leases or Rents; (c) that except as disclosed to Lender no Rents have been anticipated, discounted, released, waived, compromised or otherwise discharged except for prepayment of rent of not more than one (1) month prior to the accrual thereof; and (d) the Leases are in full force and effect and are the valid and binding obligations of Assignor, and, to the actual knowledge of Assignor, are the valid and binding obligations of each tenant thereto.

5. Assignor covenants and agrees with Assignee that Assignor shall, at its sole cost and expense, appear in and defend any action or proceeding arising under, growing out of, or in any manner connected with the Leases or the obligations, duties or liabilities of the landlord or any tenant thereunder.

6. At any time, Assignee may, at its option, notify any tenant or other parties of the existence of this Assignment. Assignor does hereby specifically authorize, instruct and direct each and every present and future tenant, lessee and licensee of the whole or any part of the Land and/or Improvements to pay all unpaid and future Rents to Assignee upon receipt of demand from Assignee to so pay the same and Assignor hereby agrees that each such present and future tenant, lessee and licensee may rely upon such written demand from Assignee to so pay said Rents without any inquiry into whether there exists an Event of Default or whether Assignee is otherwise entitled to said Rents. Assignee agrees not to make any such demand unless an Event of Default exists. Assignor hereby waives any right, claim or demand which Assignor may now or hereafter have against any present or future tenant, lessee or licensee by reason of such payment of Rents to Assignee, and any such payment shall discharge such tenant's, lessee's or licensee's obligation to make such payment to Assignor.

7. Assignee may take or release any security for the indebtedness evidenced by the Note, may release any party primarily or secondarily liable for the indebtedness evidenced by the

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Note, may grant extensions, renewals or indulgences with respect to the indebtedness evidenced by the Note and may apply any other security therefor held by it to the satisfaction of any indebtedness evidenced by the Note without prejudice to any of its rights hereunder.

8. The acceptance of this Assignment and the collection of the Rents in the event the License is terminated, as referred to above, shall be without prejudice to Assignee. The rights of Assignee hereunder are cumulative and concurrent, may be pursued separately, successively or together and may be exercised as often as occasion therefor shall arise, it being agreed by Assignor that the exercise of any one or more of the rights provided for herein shall not be construed as a waiver of any of the other rights or remedies of Assignee, at law or in equity or otherwise, so long as any obligation under the Loan Documents remains unsatisfied.

9. All rights of Assignee and Assignor hereunder shall inure to the benefit of their respective successors and assigns, and all obligations of Assignor and Assignee shall bind their respective successors and assigns and any subsequent owner of the Land and/or Improvements. All rights of Assignee and Assignor in, to and under this Assignment shall pass to and may be exercised by any of their respective assignees. Assignor hereby agrees that if Assignee gives notice to Assignor of an assignment of said rights, upon such notice the liability of Assignor to the assignee of the Assignee shall be immediate and absolute.

10. Failure by Assignee to exercise any right which it may have hereunder shall not be deemed a waiver thereof unless so agreed in writing by Assignee, and the waiver by Assignee of any default hereunder shall not constitute a continuing waiver or a waiver of any other default or of the same default on any future occasion. No collection by Assignee of any Rents pursuant to this Assignment shall constitute or result in a waiver of any default then existing hereunder or under any of the other Loan Documents.

11. If any provision under this Assignment or the application thereof to any entity, person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Assignment and the application of the provisions hereof to other entities, persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

12. This Assignment may not be amended, modified or otherwise changed except by a written instrument duly executed by Assignor and Assignee.

13. This Assignment shall be in full force and effect continuously from the date hereof to and until the payment, discharge, and performance of any and all indebtedness and obligations evidenced by the Note or secured or guaranteed by any of the Loan Documents (other than obligations that survive the termination of the Loan Documents), and the release of the Mortgage shall, for all purposes, automatically terminate this Assignment and render this Assignment null and void and of no effect whatsoever. Assignee agrees upon request to deliver any legally required separate release.

14. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be given and become effective as provided in Section 11.5 of the Loan Agreement.

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15. This Assignment shall be governed by and construed in accordance with the laws of the State in which the Land and Improvements is located.

16. In addition to, but not in lieu of, any other rights hereunder, Assignee shall have the right to institute suit and obtain a protective or mandatory injunction against Assignor to prevent a breach or default, or to reinforce the observance, of the agreements, covenants, terms and conditions contained herein, as well as, subject to Section 11.13 of the Loan Agreement, the right to damages suffered by Assignee due to any breach or default under this Assignment by Assignor.

17. Assignor hereby covenants and agrees with Assignee that Assignee shall be entitled to all of the rights, remedies and benefits available by statute, at law, in equity or as a matter of practice for the enforcement and perfection of the intents and purposes hereof. Assignee shall, as a matter of absolute right, be entitled, upon application to a court of applicable jurisdiction, and without notice to Assignor, to the appointment of a receiver to obtain and secure the rights of Assignee hereunder and the benefits intended to be provided to Assignee hereunder.

18. Section 11.10 (Consent to Jurisdiction and Service of Process), Section 11.11 (Waiver of Jury Trial) and Section 11.13 (Borrower Recourse Liability) of the Loan Agreement are incorporated herein by express reference as if fully set forth herein.

19. In case of a conflict between any provision of this Assignment and any provision of the Mortgage, the provision in this Assignment shall prevail and be controlling.

20. The Recitals set forth above are incorporated herein and made a part hereof.

(Signature on following page)

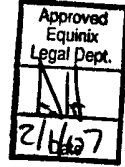
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IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day and year first above written.

ASSIGNOR:

CHI 3, LLC
a Delaware limited liability company

By: _____
Name: Keith Taylor
Manager



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ACKNOWLEDGMENT

STATE OF California)
)
 COUNTY OF San Mateo) SS:

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Keith Taylor, personally known to me or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument as the Manager of CHI 3, LLC, and that s/he executed the same as the act of said entity for the purposes and consideration therein expressed, and in the capacity therein stated.

WITNESS my hand and official seal, this 1st day of February, 2007.

Jeannette Miller
 Notary Public

My Commission Expires:

April 25, 2007



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EXHIBIT A

Legal Description

Lot 17 (except the East 1300 feet as measured at right angles to the East line thereof) in Centex Industrial Park Unit 3, being a subdivision of Section 35, Township 41 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois.

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