

FIRST AMENDMENT TO AGREEMENT OF LEASE

BETWEEN

**BATTERY PARK CITY AUTHORITY,
d/b/a HUGH L. CARY BATTERY PARK CITY AUTHORITY**

AND

MILLENNIUM BPC II DEVELOPMENT LLC

THIS FIRST AMENDMENT TO AGREEMENT OF LEASE (this "First Amendment") is made and entered into as of November 15, 2006, by and between the **Battery Park City Authority, d/b/a Hugh L. Cary Battery Park City Authority** ("Landlord"), a body politic constituting a public benefit corporation of the State of New York, having an office at One World Financial Center, New York, New York 10281, and **Millennium BPC II Development LLC**, a New York limited liability company having an office c/o Millennium Partners, 1995 Broadway, 3rd Floor, New York, New York 10023 ("Tenant").

WITNESSETH

WHEREAS, Landlord and Tenant entered into, and remain all of the parties to, that certain Agreement of Lease dated as of February 22, 2005 (the "Lease") covering certain premises as more particularly described therein;

WHEREAS, Landlord and Tenant desire to amend and modify the Lease as more particularly set forth in this Amendment.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby amend the Lease as follows:

1. Exhibit F Section 3(b)(ix). The following language shall be added to the end of the last sentence of Section 3(b)(ix) of Exhibit F of the Lease:

“, provided, however, if at the time the Condominium Conditions (other than those set forth in this clause (ix)) are satisfied, the amount available to be advanced under a construction loan held by an Institutional Lender (as certified to by Tenant in a certificate in substantially the form annexed hereto as Exhibit B) (the "Unadvanced Building Loan Amount") exceeds the amount equal to 125% of the estimated costs required to achieve Completion of the Building (as certified by the Architect in a certificate in substantially the form annexed hereto as Exhibit A) (the "Required Completion Cost Amount"), then no Construction Completion Escrow Agreement shall be required in order to satisfy the Condominium Conditions; provided, further, however, that if at any time prior to Completion of the Building the Unadvanced Building Loan Amount is less than the Required Completion Cost Amount (such difference being referred to here as the "Completion Escrow Amount"), then Tenant shall execute and deliver the

Construction Completion Escrow Agreement and shall initially fund the reserve account established pursuant to such Construction Completion Escrow Agreement with an amount equal to the Completion Escrow Amount.

2. Annex 4 to Exhibit F. Annex 4 to Exhibit F of the Lease is hereby deleted in its entirety and replaced with Annex 4 attached hereto.

3. Authority. Each of the persons executing this Second Amendment on behalf of either Landlord or Tenant certifies and represents that he/she has the authority to sign and power to bind Landlord or Tenant, as the case may be, for the obligations set forth herein and to sign on either Tenant's or Landlord's behalf.

4. Capitalized Terms; Binding Effect. All capitalized terms used but which are not otherwise defined herein shall have the meaning ascribed to such terms in the Lease. All terms and conditions of the Lease, except as amended hereby, shall remain in full force and effect and, as amended hereby, are ratified and affirmed in their entirety.

5. Counterparts. This First Amendment may be executed in identical counterparts, which, when taken together, shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Landlord and Tenant have entered into this First Amendment as of the date first set forth above.

LANDLORD:

BATTERY PARK CITY AUTHORITY
d/b/a HUGH L. CAREY BATTERY PARK
CITY AUTHORITY

By: Carl P. Jaffee
Name: CARL P. JAFFEE
~~SENIOR~~ SENIOR DEVELOPMENT COUNSEL

TENANT:

MILLENNIUM BPC II DEVELOPMENT LLC

By: Olivia W. Douglas
Name:
Title:
**OLIVIA W. DOUGLAS
VICE PRESIDENT**

Annex 4 to Exhibit F

CONSTRUCTION COMPLETION ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement"), dated as of the ___ day of _____, 200_ by and between Paul, Hastings, Janofsky & Walker LLP ("Escrow Agent"), Millennium BPC II Development LLC ("Sponsor") and Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority ("BPCA"),

WITNESSETH

WHEREAS, Sponsor is the tenant under that certain lease with the Battery Park City Authority ("BPCA") dated as of February 22, 2005, as amended by that certain First Amendment to Agreement of Lease dated as of November __, 2006, and as the same may be further amended hereafter from time to time (the "Lease") for the premises known as Site 2A at Battery Park City, also known as The Millennium Tower Residences, 30 West Street, New York, New York 10004 (the "Premises");

WHEREAS, Sponsor is the sponsor under that certain offering plan dated April 13, 2005, as amended (the "Plan"), to submit the Sponsor's leasehold interest in the Premises to a leasehold condominium regime;

WHEREAS, Sponsor has agreed, pursuant to the Plan and the Lease, to deposit into escrow (the "Certificate of Occupancy Escrow") the amount ("Completion Escrow Amount") (but only if positive), which is equal to (i) the amount which is equal to 125% of the amount certified by the Sponsor's Architect from time to time to be thereafter required to be expended in connection with the Completion of the Building (as defined in the Lease) and to obtain the permanent certificate of occupancy for the Building (the "Certificate of Occupancy") as more particularly described herein (the "Required Completion Cost Amounts"), minus (ii) the amount certified by Sponsor from time to time as being available to be advanced under the building loan for the construction of the Building (the "Unadvanced Building Loan Amount");

WHEREAS, pursuant to the Lease, Sponsor has undertaken various obligations, including, without limitation, the obligation to effect the Completion of the Building and to comply with its obligations under the Plan with respect to the Certificate of Occupancy Escrow, subject to and upon the terms and conditions set forth herein, including, without limitation, the condition that the Escrowed Funds (as hereinafter defined) shall not be paid to Sponsor so long as any obligations of Sponsor to complete construction under the Lease remain undischarged;

NOW, THEREFORE, the parties hereto agree as follows:

1. Appointment of Agent.

(a) Sponsor hereby appoints Escrow Agent to act as its escrow agent on the terms and conditions hereinafter set forth, and Escrow Agent accepts such appointment.

(b) Simultaneously with the execution of this Agreement, Sponsor has delivered to Escrow Agent, and Escrow Agent hereby acknowledges receipt of, the sum of \$ _____ (such aggregate sum, together with any interest earned thereon, as reduced by disbursements from time to time in accordance with the terms hereof, is hereinafter referred to as the “Escrowed Funds”), representing the Completion Escrow Amounts.

(c) Escrow Agent agrees to hold for, and on behalf of, Sponsor or, as applicable, BPCA, the Escrowed Funds and to take such actions with respect to the Escrowed Funds as are provided in Section 2 hereof.

2. Disposition of the Escrowed Funds.

(a) At any time, and from time to time, after the date hereof, subject to the provisions hereof, Escrow Agent shall release to Sponsor from the Escrowed Funds such portion of the Escrowed Funds authorized hereunder, upon not less than five (5) business days’ written demand therefor made by Sponsor, and subject to the satisfaction of the following conditions:

(i) Sponsor shall deliver to Escrow Agent and BPCA (A) a written request for the Escrowed Funds or the portion thereof requested to be disbursed, (B) a certificate from the Architect therefor (the “Architect’s Certificate”) in the form annexed hereto as Exhibit A (i) confirming that all Work completed through the date of such Architect’s Certificate was performed in accordance with the applicable plans and specifications, and the requirements set forth in the Lease (to the extent there are plans, specifications and/or requirements for same); and (ii) certifying as to the Required Completion Cost Amount, and (C) a certificate from Sponsor confirming the Unadvanced Building Loan Amount and calculating the updated Completion Escrow Amount.

(ii) The Escrowed Funds held hereunder after any disbursement shall at all times be an amount equal to or greater than the sum of (x) the Required Completion Cost Amounts, as established from time to time, minus (y) the Unadvanced Building Loan Amount, as established from time to time (the “Minimum Escrow Amount”) and no disbursement shall be made that would cause the Escrowed Funds to be less than the Minimum Escrow Amount.

(b) Not earlier than five (5) business days after receipt by Escrow Agent and BPCA of each such demand for the Escrowed Funds or any portion thereof including the certificates required under Section 2(a)(i) hereof, Escrow Agent shall deliver to Sponsor that portion of the Escrowed Funds then being requested by Sponsor, subject to compliance with the terms of this Section 2 of this Agreement including Section 2(c).

(c) In the event BPCA shall dispute the initial amount of the Escrowed Funds or any amount sought to be released by Sponsor pursuant to the terms of any Architect’s Certificate submitted to Escrow Agent pursuant to Section 2(a)(i) of this Agreement, BPCA, within twenty (20) business days of the date hereof or the date of receipt of the disputed Architect’s Certificate, may submit the matter for resolution to the architectural firm of _____ or such other reputable architectural or engineering firm designated

by BPCA and subject to Sponsor's approval, which approval shall not be unreasonably withheld or delayed (the "BPCA Architect"). Except as provided below, nothing contained herein shall restrict the right of the Escrow Agent to disburse the Escrowed Funds requested in accordance with Section 2(a)(1) hereof. In the event that the BPCA Architect determines that the Escrowed Funds held by Escrow Agent are less than the Minimum Escrow Amount, Sponsor, within five (5) business days after notification of such determination, shall deposit the shortfall into the Escrow Account, and, following such notification, until such deposit is made no further disbursement from the Escrow Funds shall be made pursuant to Section 2(a) and 2(b).

(d) In the event that the Sponsor shall fail timely to effect Completion of the Building as provided in the Lease, any remaining Escrowed Funds shall be disbursed by the Escrow Agent to BPCA or to any third parties as directed by BPCA, to cover the costs and expenses incurred by BPCA, as reasonably documented, to effect Completion of the Building in accordance with the terms and provisions of the Lease (including, without limitation, any of BPCA's legal, architectural and other costs and expenses) and upon receipt of a certificate by an engineer or architect designated by BPCA, in the form annexed hereto as Exhibit A, (i) certifying the estimated cost to complete the remaining Work and (ii) confirming that the Escrowed Funds remaining in the escrow hereunder after such disbursement are at least equal to the Minimum Escrow Amount. Notwithstanding the foregoing, the Escrowed Funds shall at all times be an amount equal to or greater than the Minimum Escrow Amount.

(e) Notwithstanding anything to the contrary set forth herein, upon completion of the Work, as certified by the Architect, any remaining Escrowed Funds shall be released from escrow by Escrow Agent to Sponsor; provided, however, that if BPCA has drawn down upon the Design/Construction Period Letter of Credit or Replacement Letter of Credit as provided under the Lease, the first portion of any then remaining Escrowed Funds equal to the amounts so drawn shall be released to BPCA and no further amount shall be disbursed to Sponsor for so long as a Default or an Event of Default exists under the Lease.

(f) Sponsor and Escrow Agent hereby expressly acknowledge and agree:

(i) that BPCA has had no role whatsoever in the calculation or other determination of the Escrowed Amount, and does not have, and shall never have, any obligations to any person or entity whatsoever relating to the adequacy of the Escrowed Amount or the performance of the acts secured by the Escrowed Amount, the provisions of this Escrow Agreement pertaining to BPCA being intended by all parties to relate only to BPCA's interest pursuant to the Lease in the availability of funds to complete the Work;

(ii) that the establishment of the Certificate of Occupancy Escrow is a material condition of BPCA consenting to the first conveyance of a condominium unit at the Premises; and

(iii) that the acknowledgments and agreement contained in this subsection (f) shall not in any way expand the obligations or limit the rights of BPCA under the Lease or otherwise modify the Lease.

(g) Nothing in this Section 2 shall have any effect whatsoever upon Escrow Agent's rights, duties and obligations under Section 3.

(h) Sponsor and Escrow Agent hereby expressly agree that this Agreement shall not be modified, amended or terminated without BPCA's express written consent except as expressly provided herein.

3. Concerning Escrow Agent.

(a) It is expressly understood that Escrow Agent acts hereunder as an accommodation to Sponsor and as a depository only and is not responsible or liable in any manner whatever for the sufficiency, correctness, genuineness or validity of any instrument deposited with it, or for the form of execution of such instruments or for the identity, authority or right of any person executing or depositing the same or for the terms and conditions of any instrument pursuant to which Escrow Agent or the parties may act.

(b) Escrow Agent shall not have any duties or responsibilities except those set forth herein and shall not incur any liability in acting in accordance with the provisions hereof in reliance upon any signature, notice, request, waiver, consent, receipt or other paper or document believed by Escrow Agent to be genuine, and Escrow Agent may assume that any person purporting to give it any notice on behalf of any party in accordance with the provisions hereof has been duly authorized to do so.

(c) The duties of Escrow Agent hereunder shall be purely ministerial in nature. Escrow Agent shall not be liable to the other parties hereto, for any action taken or omitted by it or any action suffered by it to be taken or omitted, in good faith and in the exercise of reasonable judgment, except for its own gross negligence or willful misconduct and, except with respect to claims based upon such gross negligence or willful misconduct that are successfully asserted against Escrow Agent, Sponsor hereby agrees to indemnify, save and hold Escrow Agent harmless of, from and against any and all loss, damage, claims, liabilities, judgments, and other cost and expense of every kind and nature which may be incurred by Escrow Agent by reason of its acceptance of and its performance under this Agreement (including, without limitation, either attorneys' fees paid to retained attorneys or amounts representing the fair value of legal services rendered to itself). Escrow Agent may act or refrain from acting in respect of any matter referred to herein in reliance upon and with the advice of counsel which may be selected by it, including a member of its firm, and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

(d) Escrow Agent shall be automatically released from all responsibility and liability under this Agreement upon Escrow Agent's delivery, disbursement or deposit of the Escrowed Funds in accordance with the provisions of this Agreement, except for matters arising hereunder prior to such delivery or deposit.

(e) Escrow Agent shall be entitled to rely upon any order, judgment, certification, demand, notice, instrument or other writing delivered to it hereunder without being required to determine the authenticity or the correctness of any fact stated therein or the propriety or validity or the service thereof. Escrow Agent may act in reliance upon any instrument or

signature reasonably believed by it to be genuine and may assume that any person purporting to give notice or receipt or advice or make any statement or execute any document in connection with the provisions hereof has been duly authorized to do so. If for any reason there shall be any dispute or uncertainty concerning any action to be taken hereunder, Escrow Agent in the case of dispute, shall take no action, and in the case of uncertainty, shall have the right to take no action until it shall have received written instructions concurred to by BPCA and Sponsor or until directed by a court of competent jurisdiction in the State of New York or by a Federal Court in the State of New York, whereupon Escrow Agent shall take such action in accordance with such instructions or such order.

(f) Escrow Agent (and any successor escrow agent) may at any time resign as such by delivering the Escrowed Funds not yet delivered to Sponsor to any successor escrow agent jointly designated by the parties hereto in writing, or by depositing such Escrowed Funds, in accordance with appropriate procedures, with any appropriate court of competent jurisdiction in the State of New York, whereupon Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Agreement. The resignation of Escrow Agent will take effect on the earlier of (i) the appointment of a successor or (ii) the day which is 30 days after the date of delivery of its written notice of resignation to the other parties hereto. If at that time Escrow Agent has not received a designation of a successor escrow agent, Escrow Agent's sole responsibility after that time shall be to safekeep the Escrowed Funds not yet disbursed to Sponsor until receipt of a designation of successor escrow agent or a joint written disposition instruction by the other parties hereto or a final and nonappealable order of an appropriate court of competent jurisdiction in the State of New York.

(g) Escrow Agent shall hold the Escrowed Funds in such commercial paper investments or in such other standard passbook savings accounts, U.S. Government securities, or certificates of deposit, as Escrow Agent may choose. Escrow Agent shall not have any duty to maximize the rate of interest.

(h) Nothing contained in this Agreement shall prevent Escrow Agent from complying with (i) any federal, state or local law, (ii) any order of a court of competent jurisdiction or (iii) the terms of any stay imposed in a bankruptcy or insolvency proceeding or otherwise.

(i) Escrow Agent or any member of its firm, shall be permitted to act as counsel for Sponsor in any dispute between Sponsor and BPCA whether or not Escrow Agent is in possession of the Escrowed Funds and continues to act as Escrow Agent under this Agreement.

4. Termination.

This Agreement shall automatically terminate upon the delivery or disbursement by Escrow Agent of the Escrowed Funds in accordance with the terms hereof.

5. Notices.

(a) Whenever it is provided in this Agreement that a notice, demand, request, consent, approval or other communication shall or may be given to or served upon any

party hereto, and whenever such party shall desire to give or serve upon another any notice, demand, request, consent, approval or other communication with respect hereto or the Premises, each such notice, demand, requests consent, approval or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall be effective for any purpose if given or served as follows:

(i) If to Sponsor, by personal delivery with receipt acknowledged or by mailing the same to Sponsor by registered or certified mail, postage prepaid, return receipt requested by FedEx or other similar reputable national overnight courier service, addressed to Sponsor c/o Millennium Partners, 1995 Broadway, 3rd Floor, New York, New York 10023, Attn: Chief Financial Officer with an additional copy to Paul, Hastings, Janofsky & Walker LLP, 75 East 55th Street, New York, New York 10022, Attn: Eric R. Landau or to such other address(es) and attorneys as Sponsor may from time to time designate by notice given to BPCA and/or Escrow Agent as provided herein,

(ii) if to BPCA, by personal delivery with receipt acknowledged or by mailing the same to BPCA by registered or certified mail, postage prepaid, return receipt requested, or by FedEx or other similar reputable national overnight courier service addressed to BPCA at One World Financial Center, New York, New York 10281, Attn: President (with a copy, given in the manner provided above, addressed to the attention of Landlord's General Counsel, at the address set forth above or at such other address as Landlord may from time to time designate by notice to Tenant as aforesaid) with an additional copy to _____, Attn: _____, or to such other address(es) and attorneys as BPCA may from time to time designate by notice given to Sponsor and/or Escrow Agent as provided herein, and

(iii) if to Escrow Agent, by personal delivery with receipt acknowledged or by mailing the same to Escrow Agent by registered or certified mail, postage prepaid, return receipt requested, or by FedEx or other similar reputable national overnight courier service, addressed to Paul, Hastings, Janofsky & Walker LLP, 75 East 55th Street, New York, New York 10022, Attn: Eric R. Landau, or to such other address(es) and attorneys as Escrow Agent may from time to time designate by notice given to BPCA and/or Sponsor as provided herein.

(b) Every notice, demand, request, consent, approval or other communication hereunder shall be deemed to have been given, or served when delivered, or if mailed, three (3) Business Days after the date that the same shall have been deposited in the United States mails, postage prepaid, in the manner aforesaid (except that a notice designating the name or address of a person to whom any notice or other communication, or copy thereof, shall be sent shall be deemed to have been given when same is received). Any notice sent by Sponsor to BPCA may be sent by Sponsor's agent or attorneys. Notwithstanding the foregoing, any notice given to Escrow Agent shall be effective only upon actual receipt thereof.

6. Capitalized Terms.

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Plan or the Lease; notwithstanding the foregoing, it is expressly

understood and agreed by the parties hereto that all references to the Plan or the Lease are for the convenience of Sponsor, and that Escrow Agent shall have no obligation or duties with respect thereto.

7. GOVERNING LAW.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE, WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES OF SUCH STATE.

8. Successors.

This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, provided, however, that this Agreement may not be assigned by any party without the prior consent of the other party, which consent shall not be unreasonably withheld.

9. Entire Agreement.

This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter.

10. Amendments.

Except as expressly provided in this Agreement, no amendment, modification, termination, cancellation or rescission to this Agreement shall be effective unless it shall be in writing and signed by each of the parties hereto.

11. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall constitute an original, but all of which, taken together, shall be considered one and the same agreement.

12. Severability.

If any provision of this Agreement or the application of any such provision to any person or circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed and delivered this Escrow Agreement as of the date and year first above written.

ESCROW AGENT:

PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: _____
Name:
Title:

SPONSOR:

MILLENNIUM BPC II DEVELOPMENT LLC

By: _____
Name:
Title:

BATTERY PARK CITY AUTHORITY d/b/a
Hugh L. Carey Battery Park City Authority

By: _____
Name:
Title:

EXHIBIT A

HANDEL ARCHITECTS LLP
150 Varick Street, 8th Floor
New York, NY 10013-1218

_____, 2006

Battery Park City Authority
d/b/a Hugh L. Carey Battery Park City Authority
One World Financial Center
New York, New York 10281-1097

Re: Millennium Tower Residences
30 West Street
New York, New York 10004 (the "Premises")

Ladies and Gentlemen:

We were retained by Millennium BPC II Development LLC ("Tenant"), the tenant of the referenced Premises pursuant to an agreement between Handel Architects LLP and Millennium BPC II Development LLC dated October 1, 2003 to provide certain architectural design services for the Tenant in connection with the Premises. We are familiar with the Premises and the work being performed by Tenant to construct the Building.

In order to achieve Completion of the Building, certain work must be completed. As of the date hereof, we estimate, based upon information provided by the Construction Manager that the cost to reasonably complete such work is \$_____. We hereby confirm that to the best of our knowledge all work completed through the date of this letter was performed substantially in conformance with the applicable plans and specifications and the requirements set forth in the Lease (to the extent there are plans, specifications and/or requirements for same). We also confirm that to the best of our knowledge no modifications to the Construction Documents were made in contravention of the requirements set forth in the Lease.

Any terms not defined herein shall have the meaning ascribed thereto in the Lease.

Very truly yours,

HANDEL ARCHITECTS LLP

Gary E. Handel AIA
President

EXHIBIT B

FORM OF SPONSOR'S CERTIFICATE

Reference is made to that certain Agreement of Lease, dated as of February 22, 2005, as amended by that certain First Amendment to Agreement of Lease, dated as of November __, 2006, as the same may hereafter be further amended from time to time, the "Lease"), by and between Battery Park City Authority, d/b/a Hugh L. Cary Battery Park City Authority, as Landlord ("Landlord") and Millennium BPC II Development LLC, as Tenant ("Sponsor").

As required pursuant to Section 3(b)(ix) of Exhibit F of the Lease, the undersigned hereby certifies to Landlord that the Unadvanced Building Loan Amount exceeds or is equal to the Required Completion Cost Amounts (as such terms are defined in the Lease).

SPONSOR:

MILLENNIUM BPC II DEVELOPMENT LLC

By: _____
Name:
Title: