

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MCK Millennium Centre Retail LLC) Chapter 11
Debtor)
) Case No. 16-06369
)
) Hon. Jack B. Schmetterer

NOTICE OF MOTION

PLEASE TAKE NOTICE that on Friday, April 7, 2017, at the hour of 10:30 a.m., I shall appear before the Honorable Jack B. Schmetterer or any judge sitting in his stead, in Courtroom 682 of the United States Courthouse, 219 S. Dearborn Street, Chicago, Illinois and then and there present DEBTOR'S 3rd MOTION FOR AUTHORITY TO ENTER INTO A LEASE AGREEMENT, which is attached.

Respectfully submitted,

By: /s/ Jonathan D. Golding
Attorney for the Debtor

Jonathan D. Golding, Esq. (ARDC# 6299876)
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a copy of the attached DEBTOR'S 3rd MOTION FOR AUTHORITY TO ENTER INTO A LEASE AGREEMENT with attached proposed order to be filed with the Clerk of the U. S. Bankruptcy Court, Northern District of Illinois, using the CM/ECF filing system on this March 17, 2016, served by electronic mail to registered parties and by deposit with US Mail 1st class prepaid to the parties on the following notice list:

VIA US MAIL:

The Residences at Millennium Centre
Condominium Association
c/o Levenfeld Pearlstein LLC
2 N. LaSalle, Suite 1300
Chicago, IL 60602
Attn: H.S. Dakoff

Marcia Owens
Hamilton Thies & Lorch LLP
200 S Wacker Drive, Ste. 3800
Chicago, IL 60606

Eggsperience of Chicago Inc.
1300 W. Higgins Road #209
Park Ridge, IL 60068

ComEd
Bankruptcy Dept.
P.O. Box 87522
Chicago, IL 60680

Internal Revenue Service
District Director
230 S. Dearborn Street
Chicago IL 60651

Millennium Centre Facilities
c/o Marshall N. Dickler
85 W. Algonquin Road, Suite 420
Arlington Heights IL 60005

Craig Shaffer & Assoc. Ltd.
2720 S. River Road #109
Des Plaines, IL 60018

Law Office of Arnold H. Landis PC
77 W Washington St., Ste. 702
Chicago, IL 60602

Elliot & Associates
1430 Lee Street
Des Plaines IL 600187

SP-Ontario Loan LLC
c/o Jason Torf
Horwood Marcus & Berk Chartered
500 W. Madison, Suite 3700
Chicago, IL 60661

VIA ECF:

Paul Tsakiris
c/o Howard L. Teplinsky
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Lombard IL 60148
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/s/Jonathan D. Golding

**UNITED STATES BANKRUPTCY COURT
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3rd MOTION FOR AUTHORITY TO ENTER INTO A LEASE AGREEMENT

NOW COMES MCK Millennium Centre Retail LLC, Debtor and Debtor-In-Possession, (“Debtor”) pursuant to §363 of the United States Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure, move this Court for the entry of an order authorizing it to enter into a certain proposed lease agreement with The Residences at Millennium Centre Condominium Association, an Illinois limited liability company (“Tenant”), and in support thereof respectfully states as follows:

I BACKGROUND AND JURISDICTION

1. On February 25, 2016, Debtor filed his voluntary petition for relief under Chapter 11 of Title 11, United States Code (“Code”). Debtor has continued to operate his business and manage his business and personal affairs as a Debtor-in-Possession pursuant to §1107 and §1108 since that date.

2. No official committee of unsecured creditors has been appointed in this Chapter 11 case.

3. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §1334 and General Rule 2.33 of the Local General Rules of the United States District Court for the Northern District of Illinois. This proceeding is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A) and (M). Venue is proper in this district pursuant to 28 U.S.C. §1408. The

statutory predicates for the relief sought herein are §105 and §363 of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure.

4. The Debtor is in the business of operating condominium retail space located at 33 W. Ontario Street, Chicago, IL 60654 (the “Retail Parcel”) and as such ordinarily and necessarily enters into leases granting tenants spaces and rights that affect the property for periods in excess of five years. Although entering into such leases upon negotiated terms and conditions are generally in the ordinary course of its business, out of an abundance of caution and for the clear protection of the rights of its tenant, the Debtor presents this Motion.

II. RELIEF REQUESTED

5. The Debtor has entered into a certain lease, subject to the approval of the Court, leasing specific space located at 35 West Ohio Street, Chicago, Illinois within the Retail Parcel which consists of approximately 350 square feet at a market rental. The term of the lease is for fifteen years after the lease Commencement Date and further grants certain options to renew. The lease provides for an initial monthly rent payment of \$2,500.00, increasing to \$2,550.00 in the sixth year, and further increasing to \$2,601.00 in the eleventh year. The general terms of the lease are on a triple net basis. A copy of the lease is appended hereto and made a part hereof as Exhibit A (the “Lease”). The definition of any of the lease terms shall control to the extent that anything contained in this motion is inconsistent with provisions of the Lease.

6. The Lease pertains to the space currently occupied by Eggsperience of Chicago, Inc., which shall be subdivided out pursuant to a new lease with a successor entity currently pending before this Court.

7. It is the Debtor's considered business opinion that the Lease is highly beneficial to the future operation and value of the Debtor's real property and benefits its estate and its creditors, including its secured creditors.

WHEREFORE, MCK Centre Retail, LLC, Debtor, prays the entry of an order as follows:

(i) authorizing the Debtor to execute the Lease with The Residences at Millennium Centre Condominium Association which is appended to this Motion and perform its obligations thereunder; and, (ii) for any further relief that the court deems just.

Respectfully submitted,

MCK Millennium Centre Retail, LLC

By:/s/ Jonathan D. Golding

Jonathan D. Golding

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LEASE

THIS LEASE (this "Lease") is made and entered effective as of the ^{27th} day of February, 2017, by and between MCK MILLENNIUM CENTRE RETAIL, LLC, an Illinois limited liability company ("Landlord"), and THE RESIDENCES AT MILLENNIUM CENTRE CONDOMINIUM ASSOCIATION, an Illinois corporation principally located at 33 West Ontario Street, Chicago, Illinois 60654, d/b/a 33 West Ontario Condominium Association (the "Tenant"). Landlord and Tenant are hereinafter collectively referred to as the "Parties".

The Parties hereby mutually covenant and agree as follows:

ARTICLE I GRANT, TERM AND BASIC LEASE PROVISIONS

1.0 Grant.

(a) Landlord, for and in consideration of the rents and other payments herein reserved and of the covenants and agreements herein contained on the part of Tenant to be performed, hereby leases to Tenant, and Tenant hereby lets from Landlord approximately three hundred fifty (350) square feet on the ground level located at 35 West Ontario, Chicago, Illinois (the "Leased Premises") in the building commonly known as Millennium Centre (the "Building") on the land located at Ohio and Ontario Streets between State and Dearborn Streets, Chicago, Illinois, which land is legally described on Exhibit A, attached hereto (the land, together with the Building, hereinafter called the "Property"). The location and description of the Leased Premises in the Property is set forth on Exhibit B, attached hereto. Tenant acknowledges that the Leased Premises constitute a part of a mixed use development project composed of retail uses, residential uses and parking uses (the "Mixed Use Project"). The Leased Premises constitutes a part of that portion of the Mixed Use Project designated for retail use (the "Retail Portion"). As part of the Mixed Use Project, Tenant acknowledges that Tenant and the Leased Premises are and shall be subject to all of the terms, conditions, obligations and restrictions as imposed by a certain Operation and Reciprocal Easement Agreement dated July 11, 2003, as may be amended from time to time (the "REA") recorded by Landlord and applicable to all parties to the Mixed Use Project, a copy of which shall be made available to Tenant upon request.

(b) Tenant shall be granted non-exclusive access to and use of the Building's loading docks, doors, retail trash compactor, platforms, staging areas and other common areas serving the Retail Portion, in accordance with the terms and conditions contained in the REA. Tenant shall keep all trash within the Leased Premises until placed in the trash compactor.

1.1 Term. The term of this Lease (the "Initial Term") shall commence on the Commencement Date" (as defined in Section 2.2) and shall continue for a period of fifteen (15) years (the "Termination Date") unless sooner terminated as herein set forth. Tenant shall have the four (4) options to extend the term of this Lease as hereinafter provided in Section 19.0 hereof (collectively, the

"Options"). The subsequent terms as a result of the exercise of any Option shall be referred to herein as the "Renewal Term." The Initial Term and Renewal Term(s) (if any) are hereinafter referred to individually and/or collectively as the "Term."

1.2 Basic Lease Provisions. Tenant shall pay to Landlord Rent determined as provided in Article IV hereafter. It is the intention of Landlord and Tenant that this is a "gross lease" and that Tenant shall not be responsible for payment of any additional sums to Landlord on account of operating expense or real estate taxes.

ARTICLE II POSSESSION, CONDITION & COMMENCEMENT DATE

2.0 Possession of the Leased Premises. Landlord shall deliver possession of the Leased Premises upon execution of the Lease, broom-clean with all systems in good working order and with all personal property of the prior occupant removed, but otherwise in its "as is" condition.

2.2 Lease Commencement Date. The Lease Commencement Date shall be the date upon which Tenant completes its initial Alterations to ready the Premises for its occupancy (the "Commencement Date"), which Alterations shall be done timely by the Tenant and the entire cost of such Alterations to be borne by Tenant (the "Tenant's Work"). Tenant shall timely submit its structural or mechanical plans to Landlord for approval of Tenant's Work (not to be unreasonably withheld, conditioned or delayed). However, no alterations or modifications can be made to the granite on the exterior of the Building. Tenant shall have the right to delay completion of the Tenant's Work for a period equal to any delay caused by Landlord or by Force Majeure (as defined in Section 22.16). Tenant shall submit its plans as soon as reasonably possible to the City of Chicago to obtain proper permit(s) for the Tenant's Work. Tenant agrees to use reasonable commercial efforts to process, expedite and obtain the receipt of said permit(s), including using a qualified third party expeditor to handle the application process. Tenant shall commence the Tenant's Work promptly following receipt of the permit(s) and shall proceed diligently to timely complete the Tenant's Work. The Tenant's Work shall also be done in accordance with all applicable terms and conditions of the Lease relating to Alterations, including those set forth in Section 9.1.

ARTICLE III PURPOSE

3.0 Purpose. Tenant shall use and occupy the Leased Premises as office space or for related uses as permitted by law. No use by Tenant shall (a) violate any certificate of occupancy or law, ordinance or other governmental regulation in effect from time to time affecting the Leased Premises or the use thereof, (b) cause injury to the improvements, (c) constitute a nuisance or waste, (d) authorize Tenant to use, treat, store or dispose of hazardous or toxic materials on the Leased Premises other than such quantities of cleaning materials, fluorescent light bulbs, batteries and other similar materials which may be hazardous and which are commonly used in businesses similar to that of Tenant's, or (e) render the insurance on the Leased Premises void or the insurance risk more hazardous.

ARTICLE IV
RENT

4.0 Rent.

Commencing on the Commencement Date, Tenant shall pay Landlord Rent as follows:

Time Period	Monthly Rent	Annual Rent
Commencement Date – 12/31/21	\$2,500.00	\$30,000.00
1/1/22 – 12/31/27	\$2,550.00	\$30,600.00
1/1/28 – 12/31/32	\$2,601.00	\$31,212.00
Renewal Term 1	\$2,653.02	\$31,836.24
Renewal Term 2	\$2,706.08	\$32,472.96
Renewal Term 3	\$2,760.20	\$33,122.42
Renewal Term 4	\$2,815.41	\$33,784.87

4.1 Lease Year. The term "Lease Year" as used herein shall be defined to mean a period of twelve (12) consecutive calendar months.

4.2 Due Date. Rent shall be due and payable on the first day of each month during the Lease Term.

4.4 Address for Payments. Rent shall be paid to or upon the order of Landlord at the Landlord's address set forth in Section 22.4 below. Landlord shall have the right to change its address for payment of such rent by giving written notice thereof to Tenant.

ARTICLE V
INTENTIONALLY OMITTED

ARTICLE VI
INSURANCE

6.0 Intentionally Blank.

6.1 Tenant's Insurance. Tenant shall procure and maintain policies of insurance, at its own cost and expense, insuring:

(a) Landlord, Landlord's affiliates or any of their agents, partners, directors, officers and employees ("Landlord Protected Parties"), and Landlord's mortgagee, if any, of which Tenant is given written notice, as loss payees, and Tenant, Tenant's affiliates or any of their agents, directors,

officers and employees ("Tenant Protected Parties"), from all claims, demands or actions (which may be insured against under a commercial general liability policy containing standard provisions) made by or on behalf of any person or persons, firm or corporation and arising from, related to or connected with the Leased Premises, for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than \$2,000,000, combined single limit per occurrence/aggregate. Said insurance shall be written on an "occurrence" basis and not on a "claims made" basis. If at any time during the Term of this Lease, Tenant owns or rents more than one location, the policy shall contain an endorsement to the effect that the aggregate limit in the policy shall apply separately to each location owned or rented by Tenant. Tenant agrees that the insurance coverage limits of Tenant may be increased (no more than once per year) if reasonably requested by Landlord and provided the increases are in line with the amounts required by lessors of comparable buildings in the Chicago area.

(b) The improvements and fixtures at any time situated in the Leased Premises against loss or damage by fire, lightning, wind storm, hail storm, aircraft, vehicles, smoke, explosion, riot or civil commotion as provided by the Standard Fire and Extended Coverage Policy and all other risks of direct physical loss as insured against under Special Form coverage. The insurance coverage shall be for not less than the replacement cost of such improvements and fixtures with agreed amount endorsement or its equivalent, replacement cost endorsement and building ordinance coverage, all subject only to reasonable deductibles. Landlord and Tenant shall be named as loss payees as their interests may appear and all proceeds of such insurance shall be payable jointly to Landlord and Tenant as their interests may appear. Said insurance shall contain an endorsement waiving the insurer's right of subrogation against any Landlord Protected Party or any Tenant Protected Party, provided that such waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage or increase the cost thereof (except that either party shall have the right, within thirty (30) days following written notice, to pay such increased cost, thereby keeping such waiver in full force and effect).

(c) Tenant's business income, protecting Tenant from loss of income and other expenses during the period while the Leased Premises are untenable due to fire or other casualty, for a period of not less than twelve (12) months.

(d) All contents and Tenant's Trade Fixtures (as hereinafter defined), machinery, equipment, furniture and furnishings in the Leased Premises to the extent of at least ninety percent (90%) of their replacement cost under Standard Fire and Extended Coverage Policy and all other risks of direct physical loss as insured against under a standard "all risk" policy. Said insurance shall contain a replacement cost endorsement and an endorsement waiving the insurer's right of subrogation against any Landlord Protected Party, provided that such waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage or increase the cost thereof (except that Landlord shall have the right, within thirty (30) days following written notice, to pay such increased cost, thereby keeping such waiver in full force and effect). Tenant shall be the sole loss payee on such policy.

(e) Tenant Protected Parties from all workers' compensation claims.

(f) An excess "umbrella" policy for an additional \$3,000,000 insurance coverage for losses in excess of the limits set forth above.

(g) Tenant shall, at Tenant's sole cost and expense, maintain during the entire Term hereof, adequate plate glass insurance in commercially reasonable amounts with respect to all plate and other glass on the Leased Premises.

6.2 Form of Insurance. All of the aforesaid insurance carried by Tenant pursuant hereto shall be issued by insurance companies which have a Best's Rating of "A" or better and are included within Best's Financial Size "Class VIII" or larger in the most current available "Best's Insurance Reports," and which are qualified to do business in the state where the Leased Premises is situated. The insurer and the form, substance and amount (where not stated above) shall be reasonably satisfactory from time to time to Landlord and any mortgagee of Landlord, and Tenant shall endeavor to cause such policies to provide that they are not subject to cancellation or non-renewal except after at least thirty (30) days' prior written notice to Landlord. Tenant shall provide Landlord with certificates of insurance prior to Tenant taking possession of the Premises and proof of renewals thereof not less than fifteen (15) days prior to the end of the term of such coverage. Each Tenant policy of insurance set forth above shall name as loss payees thereunder Landlord and any mortgagee of Landlord.

6.3 Mutual Waiver of Subrogation. Landlord and Tenant hereby waive any claims each may have against the other on account of any loss or damage occasioned to their respective property, the Leased Premises or its contents arising from any risk which is covered by the insurance actually maintained by the other party or, if not covered, which the other party is obligated to insure under this Lease; and the parties each, on behalf of their respective insurance companies insuring the property of either Landlord or Tenant against any such loss, waive any right of subrogation that it may have against Landlord or Tenant, as the case may be.

6.4 Landlord's Insurance. Landlord shall maintain or cause to be maintained, special form property insurance and commercial general liability insurance on the Retail Portion in accordance with the REA.

ARTICLE VII REBUILDING

7.0 Casualty.

(a) If 50% or less of the Leased Premises shall be destroyed or damaged by fire or other casualty, then Landlord shall repair, restore, reconstruct or rebuild only the structural components and demising walls of the Leased Premises. Landlord shall repair and restore the same with reasonable promptness; provided, however, such time period shall not exceed one hundred and eighty (180) days (the "Outside Completion Date"), subject to reasonable delays for insurance adjustments, permit delays and/or Force Majeure. If the Building is damaged but not the Leased Premises, Landlord (subject to the terms of the REA) shall make repairs so Tenant is able to

operate in the Leased Premises and use the other areas available to Tenant in the Building. If such repair and restoration is not actually completed by the Outside Completion Date, Tenant shall have the option to terminate this Lease upon written notice thereof to Landlord, such notice to be effective immediately.

(b) If greater than 50% of the Leased Premises shall be destroyed or damaged by fire or other casualty, then Landlord shall have the right, at its option to (i) to rebuild and restore the Leased Premises as set forth in paragraph (a), above, or (ii) terminate this Lease by giving Tenant written notice thereof, which such notice shall include a termination date providing at least 60 days for Tenant to vacate the Premises, in which event this Lease shall automatically be canceled and terminated as of the date specified in such notice. Upon such termination, all proceeds of the insurance required to be maintained pursuant to Section 6.1(b) of this Lease shall be paid to the parties as their interests may appear; provided that Landlord shall be entitled to receive all insurance proceeds received by Tenant with respect to Tenant Improvements and other property which shall become property of Landlord at the termination of the Lease in an amount which represents the portion of the proceeds that is allocable to the unamortized amount of Tenant's original leasehold improvement cost amortized on a straight-line basis over the Lease Term. Landlord shall not be liable for delays in the making of any repairs which are due to reasonable delays for insurance adjustments, permit delays, and/or Force Majeure. If Landlord does not elect to terminate this Lease, then, within sixty (60) days of the damage, Landlord shall deliver to Tenant an estimate of the time required to complete the repair and restoration (the "Completion Estimate"). If the Completion Estimate estimates that Landlord's repairs to the Leased Premises and access thereto cannot be reasonably completed within one hundred eighty (180) days, or such repair and restoration is not actually completed in one hundred eighty days (180) days, Tenant shall have the option to terminate this Lease upon written notice thereof to Landlord, such notice to be effective immediately. If Landlord elects to rebuild, then Rent shall abate from the date of the casualty until the date the Leased Premises is repaired and delivered to Tenant for occupancy.

(c) Except as otherwise provided for herein, any right to terminate or any other option provided for any party in this Article VII must be exercised by written notice to the other party served within thirty (30) days after such damage or right shall have occurred or arisen.

7.1 Tenant's Obligation to Rebuild. Upon Tenant being notified in writing by Landlord that the structural components and demising walls of the Leased Premises have been substantially completed following a casualty event, Tenant shall diligently, at its expense, complete the repairing, restoration or rebuilding of the Leased Premises, subject to reasonable delays for insurance adjustment and Force Majeure, and all repairs shall be performed in accordance with Article IX hereof.

7.2 Preconditions to Rebuilding. Before Tenant commences such repairing, restoration or rebuilding involving an estimated cost of more than \$50,000, Tenant shall furnish to Landlord (a) plans and specifications therefor; (b) an estimate of the cost of the proposed work, certified to by Tenant's architect; and (c) satisfactory evidence of sufficient contractor's comprehensive general liability insurance covering Landlord, builder's risk insurance, and worker's compensation

insurance.

7.3 Failure to Rebuild. If Tenant shall not commence the repair or rebuilding of the Leased Premises within a period of thirty (30) days after the later of (i) the delivery of the Completed Shell after completion of the structural components and demising walls of the Leased Premises following a casualty event, or (ii) the settlement of the insurance claim with respect thereto (including receipt of payment), which thirty (30) day period shall be subject to extension for delays caused by Force Majeure as defined in Section 22.16, and prosecute the repair or rebuilding of the improvements with such dispatch as may be necessary to complete the same within a reasonable period after said damage or destruction occurs, not to exceed two hundred seventy (270) days from the date of commencement of such repair or rebuilding, which period shall be subject to extension for delays caused by Force Majeure as defined in Section 22.16, then, in addition to whatever other remedies Landlord may have either under this Lease, at law or in equity, the money received by and then remaining in the hands of the Escrowee shall be paid to and retained by Landlord as security for the continued performance and observance by Tenant of Tenant's covenants and agreements hereunder.

ARTICLE VIII CONDEMNATION

8.0 Taking.

(a) If the whole of the Leased Premises shall be taken or condemned or sold in lieu of condemnation by any competent authority for any public use or purpose, or sold to any such authority which has the power of eminent domain and has threatened to exercise such power with respect to the Leased Premises, this Lease Term shall terminate upon the vesting of title to the condemning authority and Landlord shall be entitled to any and all condemnation awards or judgments and Tenant hereby assigns such award or judgment to Landlord. The foregoing shall not prevent Tenant from claiming and receiving an award made by the governmental body to Tenant for its leasehold estate, personal property and trade fixtures, as well as costs and expenses.

(b) If a portion of the Leased Premises shall be taken or condemned or sold in lieu of condemnation for a public or quasi-public use or purpose by a competent authority such that as a result thereof the balance of the Leased Premises cannot, in the reasonable judgment of Tenant, be used for the same purpose and with substantially the same utility to Tenant as immediately prior to such taking, Tenant shall have the right to terminate this Lease, which election shall be made by giving written notice thereof to Landlord within ten (10) days after the vesting of title in the condemning authority. Upon termination, Landlord shall be entitled to receive the entire condemnation award or judgment without any payment to Tenant and Tenant hereby assigns such award or judgment to Landlord. In such event, Tenant shall have the right to retain its trade fixtures. The foregoing shall not prevent Tenant from claiming and receiving an award made by the governmental body to Tenant for its leasehold estate, personal property and trade fixtures, as well as costs and expenses.

8.1 Partial Taking Without Termination. If only a part of the Leased Premises shall be so taken or condemned, but the Lease is not terminated pursuant to Section 8.0(b) hereof, Rent shall abate ratably as to the portion of the Leased Premises so taken from and after the date title vests in the condemning authority. Landlord shall make any structural repairs or restoration necessary to make a complete architectural unit of the remainder of the Leased Premises. Tenant shall be responsible for all other repairs or restoration of the Leased Premises. In the event the Leased Premises are not returned to substantially the same condition (other than size) as prior to the taking, Tenant shall have the right to terminate the Lease after giving 30 days advance written notice and right to cure to Landlord.

ARTICLE IX
MAINTENANCE AND ALTERATIONS

9.0 Maintenance.

(a) Except as otherwise provided for in the REA and for damage covered under Article VII, Tenant shall keep, maintain, repair and replace (i) the entire interior of the Leased Premises, and (ii) those systems (or portions thereof) exclusively serving the Leased Premises. As used herein, each and every obligation of Tenant to keep, maintain, repair and replace shall include, without limitation, all nonstructural repairs and replacements. Tenant shall be responsible for washing the interior and exterior windows of the Leased Premises. Subject to the terms of the REA, Tenant shall further keep and maintain the Leased Premises in full compliance with all building, zoning, health, safety, fire and police regulations in force. Landlord shall not be required to repair or rebuild, or make any repairs, replacements or renewals of any nature or description to, the non-structural portions in the Leased Premises, whether ordinary or extraordinary, or to maintain the Leased Premises in any way (except as set forth in paragraph (c), below), and Tenant hereby expressly waives the right to make repairs or replacements at the expense of the Landlord as may be provided for in any statute, ordinance or other law in effect at the execution of this Lease or which may hereafter be enacted.

(b) Tenant shall put, keep and maintain all portions of the Leased Premises in a clean and orderly condition, free of dirt, rubbish and unlawful obstructions, and should Tenant fail to do so within ten (10) days after having received written notice of such failure from Landlord (or within such longer period of time as may be reasonably necessary for Tenant to correct such failure so long as Tenant has promptly begun to correct such failure and Tenant thereafter diligently proceeds to correct such failure), Landlord, at its option, may do so, and any reasonable sums expended by Landlord in so doing shall be deemed additional Rent payable upon demand to Landlord, but any such action taken by Landlord shall not be deemed to waive or release the default hereunder by Tenant until Tenant pays such additional Rent.

(c) Landlord shall repair, replace^g and maintain (or cause to be repaired, replaced and maintained), at its sole cost and expense and in good condition, the structural portions of

the Retail Portion of the Building and the Leased Premises, including foundations, subfloor, roofs, load bearing walls and structural columns and beams of the Property and the Leased Premises and all structural defects in the Building; provided, however, that, subject to Sections 6.0 and 6.6 above, Tenant shall have the obligation to pay for all costs and expenses attributable to any maintenance, repairs and replacements that are caused, directly or indirectly, by the gross negligence or willful misconduct of Tenant, its agents, employees, invitees or contractors, including, without limitation, damage to the roof caused by the maintenance and/or repair by such parties of Tenant's HVAC system or other equipment located thereon and servicing the Leased Premises. Landlord shall keep and maintain the Retail Portion and its components (other than the interior of the Leased Premises) in full compliance with all building, zoning, health, safety, fire and police regulations in force.

(d) Landlord shall repair, maintain and clean (or cause to be repaired, maintained and cleaned) in good condition similar to other first class residential/commercial projects in the River North area of Chicago, Illinois, the common areas of the Retail Portion, including, without limitation, the sidewalks, windows (other than windows belonging to Tenant), entrances and facade of the Retail Portion. Landlord shall remove (or cause to be removed) snow, ice and debris from the sidewalk of the Retail Portion.

9.1 Alterations.

(a) Tenant shall make all additions, improvements and alterations on the Leased Premises, and on and to the improvements, and equipment thereon, required by any governmental authority, required pursuant to Articles VII or VIII or which may be deemed desirable by Tenant. In making any such Alterations, Tenant shall obtain Landlord's prior consent (not to be unreasonably withheld, conditioned or delayed) and Tenant shall comply with all Landlord requirements regarding any such work and all government requirements relating to design, renovation, alteration or construction. Tenant shall be solely responsible to pay for all costs and expenses relating to any such design, renovation, alteration or construction and shall use only contractors approved by Landlord in writing, which shall not be unreasonably withheld. In addition, if any of such Alterations require changes to structural portions or common areas, of the Property or penetration of the roof of the Leased Premises, such work shall be performed by Landlord's contractor at Tenant's sole cost and expense or by Tenant's contractors (reasonably approved by Landlord) and under Landlord's supervision at Tenant's sole cost and expense. Tenant shall employ only union labor and perform any construction work in or about the Premises as will not cause any conflict or controversy with any organization representing building trades performing work for Landlord in or about the Property. Notwithstanding the foregoing, Tenant may make cosmetic alterations to the Premises that do not affect the structural portions of the Premises (i.e. replacement of carpet, painting and installation of Tenant's personal property) without Landlord's consent.

(b) With respect to all Alterations, Tenant shall comply with all applicable laws and ordinances, all orders and decrees of court and all requirements of other governmental authorities (including, without limitation, the Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12101

et. m.), as the same may be amended from time to time, and any regulations promulgated thereunder), and shall not directly or indirectly, make any use of the Leased Premises which may thereby be prohibited by law or be dangerous to person or property or which may jeopardize any insurance coverage or may subject Landlord to any liability for injury to person or property.

(c) As to all Alterations, or as to any work performed pursuant to Article XVII hereof, such work shall be performed with new materials, in a good and workmanlike manner. All Alterations shall be constructed in accordance with the orders, rules and regulations of the State of Illinois, and City of Chicago, and Tenant shall maintain, at all times when any work is in process in connection with any Alterations, commercial general liability insurance for the benefit of the Landlord Protected Parties, Landlord's lender, Millennium Centre Tower, LLC and the Tenant Protected Parties, as their interests may appear, along with builder's risk insurance and the coverage described in Section 6.1. Upon completion of any such work by or on behalf of Tenant, Tenant shall provide Landlord with such documents as Landlord may reasonably require (including, without limitation, sworn contractors' statements and supporting lien waivers) evidencing payment in full for such work, and "as built" working drawings, if obtained. In the event Tenant performs any work not in compliance with the provisions of this Section 9.1(c), Tenant shall, upon written notice from Landlord, promptly correct such work. Tenant shall provide to Landlord a copy of the certificate of insurance for its general contractor, naming Landlord Protected Parties as additional insureds.

9.2. Construction.

(a) Tenant shall be solely responsible for payment of all costs and related expenses or liabilities arising from or related to any Alterations and/or construction work occurring on or about the Leased Premises and agrees to hold Landlord harmless and indemnify it for any losses suffered in connection with any Alterations and/or construction work occurring on or about the Leased Premises in furtherance of the indemnity provisions set forth below. If required, Tenant shall submit its plans to the City of Chicago and any other applicable governmental agency to obtain the necessary permits for the Leased Premises. Tenant shall commence the work promptly following the receipt of the necessary permits and shall proceed diligently to have the work completed.

(b) Tenant shall, at all times during the Lease Term, comply with all laws and/or codes applicable to any Alterations and/or construction work occurring on or about the Leased Premises and Tenant and shall not, in the use and occupancy of the Leased Premises, or construction of Alterations thereon, cause or contribute to, or permit or suffer any other party to cause or contribute to any violation of such laws and/or codes.

9.3 Improvements to Become the Property of Landlord. So long as this Lease remains in force, the improvements constructed in the Leased Premises after the date hereof shall be owned by Tenant, but upon termination of this Lease or Tenant's right to possession, whether by expiration of the Lease Term or otherwise, the improvements shall become the property of Landlord in fee simple, free and clear of all encumbrances, except those liens and encumbrances caused by Landlord, its employees, agents or any other parties claiming by, through or under Landlord. The

foregoing provision is not intended to act as a waiver of Tenant's rights to such improvements in the event of a breach of the Lease by Landlord. Landlord and Tenant acknowledge that the utility systems are being connected to the systems serving the common areas of residential portion of the Mixed Use Project, and, as such, no portion of any utility systems connected to the Mixed Use Project shall become the property of Landlord.

ARTICLE X
ASSIGNMENT AND SUBLETTING

10.0 Consent Required.

(a) Tenant shall be permitted to assign or sublease this Lease with the prior written consent of Landlord in accordance with this Section 10.0. The consent of Landlord required under this Section shall not be unreasonably withheld or delayed.

(b) If Tenant proposes to assign this Lease or enter into any sublease of the Leased Premises, Tenant shall deliver written notice thereof to Landlord, together with a copy of the proposed assignment or sublease agreement at least thirty (30) days prior to the effective date of the proposed assignment, or the commencement date of the term of the proposed sublease. Any proposed assignment or sublease shall be expressly subject to all of the terms, conditions and covenants of this Lease. Any proposed assignment shall contain an express written assumption by assignee of all of Tenant's obligations under this Lease. Any proposed sublease shall (i) provide that the sublessee shall procure and maintain policies of insurance as required of Tenant under the terms of Sections 6.1 and 6.2, (ii) provide for a copy to Landlord of notice of default by either party, and (iii) otherwise be reasonably acceptable in form to Landlord.

(c) No permitted assignment shall be effective and no permitted sublease shall commence unless and until any default by Tenant hereunder shall have been cured. No permitted assignment or subletting shall relieve Tenant from Tenant's obligations and agreements hereunder and Tenant shall continue to be liable as a principal and not as a guarantor or surety to the same extent as though no assignment or subletting had been made.

(d) Landlord shall have the right to assign this Lease at any time upon prior notice to Tenant.

(e) For purposes of this Lease, any transfer of any stock or interest in Tenant in the aggregate in excess of 50% shall be deemed an assignment subject to this paragraph. Tenant further agrees to reimburse Landlord as additional Rent, for Landlord's reasonable costs and expenses, including reasonable attorneys' fees not to exceed Two Thousand and No/100 Dollars (\$2,000.00) incurred in connection with the processing and documentation of such requested assignment, subletting or change of ownership of this Lease.

ARTICLE XI

LIENS AND ENCUMBRANCES

11.0 Encumbering Title. Tenant shall not do any act which shall in any way encumber the title of Landlord in and to the Leased Premises or any other applicable portion of the Building, nor shall the fee interest or estate of Landlord in the Leased Premises or any other applicable part of the Building in any way be subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by Tenant. Any claim to, or lien upon, the Leased Premises arising from any act or omission of Tenant shall accrue only against the leasehold estate of Tenant and shall be subject and subordinate to the paramount title and rights of Landlord in and to the Leased Premises.

11.1 Liens and Right to Contest. Tenant shall not permit the Leased Premises or Building to become subject to any mechanics, laborers or materialmen's lien on account of labor or material furnished to Tenant or claimed to have been furnished to Tenant in connection with work of any character performed or claimed to have been performed on the Leased Premises by, or at the direction or sufferance of, Tenant; provided, however, that Tenant shall have the right to contest, in good faith and with reasonable diligence, the validity of any such lien or claimed lien. If Tenant fails to obtain the release of any such lien within thirty (30) days after the filing thereof, Tenant may continue to contest such lien if Tenant shall give to Landlord such security (such as a title indemnity from a title company acceptable to Landlord) as may be reasonably satisfactory to Landlord to assure payment thereof and to prevent any sale, foreclosure, or forfeiture of the Leased Premises by reason of nonpayment thereof; provided further, that on final determination of the lien or claim for lien, Tenant shall immediately pay any judgment rendered, with all proper costs and charges, and shall have the lien released and any judgment satisfied.

ARTICLE XII UTILITIES

12.0 Utilities. Tenant shall purchase and pay for all utility services, including but not limited to fuel, water, sewerage, electricity, trash removal, chilled water and air from the utilities or municipalities providing such service (or to the extent provided by the Mixed Use Project), and shall pay for such services directly to the provider of such services when such payments are due. Tenant shall pay all utility bills directly to Landlord, if not separately metered by utility company. Landlord will charge Tenant it's pro rata share of usage but reserves the right to install a submeter which will reflect Tenant's actual usage, in which case Tenant will be charged in accordance with the submeter reading. Landlord and Tenant acknowledge that the utility systems are being connected to the systems serving the common areas of residential portion of the Mixed Use Project.

ARTICLE XIII INDEMNITY

13.0 Indemnity.

(a) Tenant will protect, indemnify and save harmless Landlord Protected Parties (as defined in Section 6.0) from and against any and all liabilities, obligations, claims, demands, damages, penalties, causes of action, costs and expenses (including without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against the Landlord Protected Parties or any of them by reason of (i) any failure on the part of Tenant to perform or comply with any of the terms of this Lease; (ii) performance of any labor or services or the furnishing of any materials or other property by Tenant or its agents or contractors in respect of the Leased Premises or any part thereof; (iii) personal injuries or for loss of or damage to property occurring in or arising out of or in connection with the use, possession or occupancy of the Leased Premises by Tenant or Tenant's assignees, subtenants, agents, employees or invitees; or (iv) the act or omission of Tenant, or any concessionaire, subtenant or assignee or their respective contractors, invitees, licensees, agents, servants, employees or other persons in or about the Leased Premises (provided that Tenant shall have no obligation to a Landlord Protected Party under this Section 13.0 with respect to any indemnified matters caused by or resulting from the gross negligence or willful misconduct of such Landlord Indemnified Party). In case any demand, action, suit or proceeding is brought against the Landlord Protected Parties or any of them by reason of any occurrence described in this Section 13.0, Tenant will, at Tenant's expense, by counsel reasonably approved by Landlord, resist and defend such action, suit or proceeding, or cause the same to be resisted and defended. In the event Tenant fails to assume the defense upon notice from Landlord, Landlord shall have the right to assume the defense, upon notice from Landlord, Landlord shall have the right to assume the defense, all at the cost and expense of Tenant. The obligations of Tenant under this Section 13.0 shall survive the expiration or earlier termination of this Lease.

(b) Landlord will protect, indemnify and save harmless Tenant from and against any and all liabilities, obligations, claims, demands, damages, penalties, causes of action, costs and expenses (including without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against the Tenant or any of them by reason of (i) any failure on the part of Landlord to perform or comply with any of the terms of this Lease; or (ii) any negligent act or omission of Landlord or any of its contractors, invitees, licensees, agents, servants, employees or other persons done in the common areas, the Retail Portion or any part thereof (except inside the Leased Premises)(provided that Landlord shall have no obligation to a Tenant under this Section 13.0 with respect to any indemnified matters caused by or resulting from the gross negligence or willful misconduct of Tenant). In case any action, suit or proceeding is brought against the Tenant by reason of any occurrence described in this Section 13.0, Landlord will, at Landlord's expense, by counsel reasonably approved by Tenant, resist and defend such action, suit or proceeding, or cause the same to be resisted and defended. The obligations of Landlord under this Section 13.0 shall survive the expiration or earlier termination of this Lease.

ARTICLE XIV RIGHTS RESERVED TO LANDLORD

14.0 Rights Reserved to Landlord. Without limiting any other rights reserved or available to Landlord under this Lease, at law or in equity, Landlord reserves the following rights to be exercised at Landlord's election:

- (a) To inspect the Leased Premises four (4) times per year with 24 hours prior notice to Tenant; and
- (b) If Tenant shall theretofore have abandoned the Leased Premises for a period of thirty (30) days, upon notice to Tenant, to decorate, remodel, repair, alter or otherwise prepare the Leased Premises for new occupancy.

Landlord may enter upon the Leased Premises for any and all of said purposes and may exercise any and all of the foregoing rights hereby reserved, during normal business hours after twenty-four (24) hours' prior written notice has been given to Tenant (unless an emergency exists, in which case Landlord may enter without notice if reasonably required) without being deemed guilty of any eviction or disturbance of Tenant's use or possession of the Leased Premises, and without being liable in any manner to Tenant; provided that Landlord must use all reasonable efforts to minimize any disruption to the conduct of Tenant's business and shall not have the right to inspect the Leased Premises more than four (4) times per year, except with reasonable cause.

14.1 Access Panels. Tenant acknowledges and agrees that Landlord and other Owners of the Mixed Use Project shall have access to all access panels in and around the Leased Premises for purposes of performing maintenance and equipment service behind/above the access panels. Any access shall be upon reasonable notice to Tenant, except in case of emergency. Landlord and other Owners shall use their best efforts to schedule such access during off business hours (i.e., either before or after Tenant's peak business hours) and to minimize the interference with Tenant's business.

ARTICLE XV SUBORDINATION OR SUPERIORITY

15.0 Subordination or Superiority. This Lease and all rights of Tenant hereunder are subject and subordinate to any mortgage or trust deed, blanket or otherwise granted by Landlord, held by any person or entity (herein referred to as a "Mortgagee"), and which now or may hereafter affect the Property and the Leased Premises, and to any and all renewals, modifications, consolidations, replacements and extensions thereof. It is the intention of the parties that this provision be self-operative and that no further instrument shall be required to effect such subordination of this Lease. Tenant shall, however, upon demand at any time or times execute, acknowledge, and deliver to Landlord without expense to Landlord, any and all instruments that may be necessary or proper to subordinate this Lease and all rights of Tenant hereunder to any such mortgage or mortgages or to confirm or evidence such subordination. Tenant covenants and agrees, in the event any proceedings are brought for the foreclosure of any such mortgage, to attend, without any deductions or set-off whatsoever, to the purchaser upon any such foreclosure sale if so requested to do by such purchaser, and to recognize such purchaser as the Landlord under this Lease. Tenant agrees to execute and deliver at any time and from time-to-time, upon the request of Landlord or of any holder of such mortgage or of such requesting party, such instruments as may be necessary or appropriate in any such foreclosure proceeding or otherwise to evidence such attornment provided

purchaser agrees not to disturb Tenant's possession.

ARTICLE XVI
SURRENDER

16.0 **Surrender.** Upon the termination of this Lease, whether by forfeiture, lapse of time or otherwise, or upon termination of Tenant's right to possession of the Leased Premises, Tenant will at once surrender and deliver up the Leased Premises, together with all improvements thereon to Landlord, broom swept, in good condition and repair, reasonable wear and tear and damage occasioned by casualty excepted. Conditions existing because of Tenant's failure to perform maintenance, repairs or replacements as required herein, shall not be deemed "reasonable wear and tear". Tenant shall deliver to Landlord all keys to all doors therein. As used herein, the term "improvements" shall include, without limitation, all plumbing, lighting, electrical, heating, cooling and ventilating fixtures and equipment, and all Alterations (as said term is defined in Section 9.1 hereof) whether or not permitted under Section 9.1. The foregoing provision is not intended to act as a waiver of Tenant's rights to such improvements in the event of a breach of the Lease by Landlord.

16.1 **Removal of Tenant's Property.** Upon the termination of this Lease, whether by forfeiture, lapse of time or otherwise, or upon termination of Tenant's right to possession of the Leased Premises, Tenant shall remove Tenant's articles of personal property incident to Tenant's business and Tenant's trade dress items ("Trade Fixtures"); provided, however, that Tenant shall repair any injury or damage to the Leased Premises which may result from such removal, and shall restore the Leased Premises to the same condition as prior to the installation thereof. If Tenant does not remove Tenant's Trade Fixtures from the Leased Premises upon the expiration or earlier termination of the Lease term or Tenant's right to possession of the Leased Premises, Landlord may, at its option, (i) remove the same (and repair any damage occasioned thereby) and dispose thereof or deliver the same to any other place of business of Tenant or warehouse the same, and Tenant shall pay the cost to Landlord, on demand, of such removal, repair, delivery and warehousing, or (ii) Landlord may treat such Trade Fixtures as having been conveyed to Landlord with this Lease as a Bill of Sale, without further payment, allowance or credit by Landlord to Tenant.

16.2 **Holding Over.** Tenant shall have no right to occupy the Leased Premises or any portion thereof after the expiration of this Lease or after termination of this Lease or of Tenant's right to possession pursuant to Section 18.0 hereof. In the event Tenant or any party claiming by, through or under Tenant holds over, Landlord may exercise any and all remedies available to it at law or in equity to recover possession of the Leased Premises, and for damages. For each and every month or partial month that Tenant or any party claiming by, through or under Tenant remains in occupancy of all or any portion of the Leased Premises after termination of the Lease or Tenant's right to possession, Tenant shall pay, as liquidated damages and not as a penalty, monthly rental at a rate equal to 150% of the rate of Rent payable by Tenant hereunder

immediately prior to the expiration or other termination of the Lease or of Tenant's right to possession. The acceptance by Landlord of any lesser sum shall be construed as a payment on account and not in satisfaction of damages for such holding over.

ARTICLE XVII
ENVIRONMENTAL CONDITIONS

17.0 "Environmental Condition" Defined. As used in this Lease, the phrase "Environmental Condition" shall mean: (a) any adverse condition relating to surface water, ground water, drinking water supply, land, surface or subsurface strata or the ambient air, and includes, without limitation, air, land and water pollutants, noise, vibration, light and odors, or (b) any condition which may result in a claim of liability under the Comprehensive Environment Response Compensation and Liability Act, as amended ("CERCLA"), or the Resource Conservation and Recovery Act ("RCRA"), or any claim of violation of the Clean Air Act, the Clean Water Act, the Toxic Substance Control Act ("TSCA"), or any claim of liability or of violation under any federal statute hereafter enacted dealing with the protection of the environment or with the health and safety of employees or members of the general public, or under any rule, regulation, permit or plan under any of the foregoing, or under any law, rule or regulation now or hereafter promulgated by the state in which the Leased Premises are located, or any political subdivision thereof, relating to such matters (collectively "Environmental Laws").

17.1 Compliance by Tenant. Tenant shall, at all times during the Lease Term, comply with all Environmental Laws applicable to the Leased Premises and Tenant and shall not, in the use and occupancy of the Leased Premises, or construction of Alterations thereon, cause or contribute to, or permit or suffer any other party to cause or contribute any Environmental Condition on or about the Leased Premises not existing prior to the Commencement Date. Without limiting the generality of the foregoing, Tenant shall not, without the prior written consent of Landlord, receive, keep, maintain or use on or about the Leased Premises any substance as to which a filing with a local emergency planning committee, the State Emergency Response Commission or the fire department having jurisdiction over the Leased Premises is required pursuant to Section 311 and/or Section 312 of CERCLA, as amended by the Superfund Amendment and Reauthorization Act of 1986 ("SARA") (which latter Act includes the Emergency Planning and Community Right-To-Know Act of 1986); in the event Tenant makes a filing pursuant to SARA, or maintains substances as to which a filing would be required, Tenant shall simultaneously deliver copies thereof to Landlord or notify Landlord in writing of the presence of those substances.

17.2 Environmental Indemnity. Tenant will protect, indemnify and save harmless the Landlord Protected Parties from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) of whatever kind or nature, contingent or otherwise, known or unknown, incurred or imposed, based upon any Environmental Laws or resulting from any Environmental Condition on or about the Leased Premises which occurs or is contributed to during the Lease Term caused by Tenant, except as described in the next sentence. Landlord will protect, indemnify and save harmless the Tenant Protected Parties from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) of whatever kind or nature, contingent or otherwise, known or unknown, incurred or imposed, based upon or resulting from any Environmental Condition existing on or under the Leased Premises prior to the Commencement Date. In case any action, suit or proceeding is brought against any of the parties indemnified herein by reason of any occurrence described in this Section 17.2, the party that is obligated to indemnify will, at its expense, by counsel approved by the party entitled to such indemnification, resist and defend such action, suit or proceeding, or cause the same to be resisted and defended. The obligations of Landlord and Tenant under this Section 17.2 shall survive the expiration or earlier termination of this Lease.

ARTICLE XVIII REMEDIES

18.0 Defaults. Tenant agrees that any one or more of the following events shall be considered Events of Default as said term is used herein:

(a) Tenant shall be adjudged an involuntary bankrupt, or a decree or order approving, as properly filed, a petition or answer filed against Tenant asking reorganization of Tenant under the Federal bankruptcy laws as now or hereafter amended, or under the laws of any state, shall be entered, and any such decree or judgment or order shall not have been vacated or set aside within sixty (60) days from the date of the entry or granting thereof; or

(b) Tenant shall file or admit the jurisdiction of the court and the material allegations contained in any petition in bankruptcy or any petition pursuant or purporting to be pursuant to the Federal bankruptcy laws as now or hereafter amended, or Tenant shall institute any proceeding or shall give its consent to the institution of any proceedings for any relief of Tenant under any bankruptcy or insolvency laws or any laws relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangements, composition or extension; or

(c) Tenant shall make any assignment for the benefit of creditors or shall apply for consent to the appointment of a receiver for Tenant or any of the property of Tenant; or

(d) A decree or order appointing a receiver of the property of Tenant shall be made and such decree or order shall not have been vacated or set aside within sixty (60) days from the date

of entry or granting thereof, or

(e) Tenant shall fail to make any payment of Rent required to be made by Tenant hereunder within five (5) days after receiving written notice of such failure from Landlord; or

(f) Tenant shall default in keeping, observing or performing any of the other covenants or agreements herein contained to be kept, observed and performed by Tenant, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant; provided that if such default cannot be reasonably cured within such thirty (30) day period, such failure shall not constitute an Event of Default hereunder so long as Tenant promptly commences to cure such default and thereafter continuously prosecutes the curing of such default to completion.

18.1 Remedies.

(a) Upon the occurrence of any one or more of such Events of Default, Landlord may at its election terminate this Lease, or terminate Tenant's right to possession only without terminating the Lease. Upon termination of the Lease, or upon any termination of the Tenant's right to possession without termination of the Lease, the Tenant shall surrender possession and vacate the Leased Premises immediately, and deliver possession thereof to the Landlord (in accordance with Sections 16.0 and 16.1 hereof), and hereby grants to the Landlord the full and free right, without demand or notice of any kind to Tenant (except as hereinabove expressly provided for), to enter into and upon the Leased Premises in such event with process of law and to repossess the Leased Premises as the Landlord's former estate and to expel or remove the Tenant and any others who may be occupying or within the Leased Premises without being deemed in any manner guilty of trespass, eviction, or forcible entry or detainer, without incurring any liability for any damage resulting therefrom and without relinquishing the Landlord's rights to Rent or any other right given to the Landlord hereunder or by operation of law.

(b) Upon termination of the Lease, Landlord shall be entitled to recover as damages all Rent and other sums due and payable by Tenant on the date of termination, plus an amount equal to the present value of the Rent (determined using a discount rate equal to six percent (6%) per annum), and other sums provided herein to be paid by Tenant for the residue of the stated term hereof. If the Landlord elects to terminate the Tenant's right to possession only without terminating the Lease, the Landlord may, at the Landlord's option, enter into the Leased Premises, remove the Tenant's signs (subject to Section 9.4 hereof) and other evidences of tenancy, and take and hold possession thereof as hereinafter provided, without such entry and possession terminating the Lease or releasing the Tenant, in whole or in part, from the Tenant's obligations to pay the Rent hereunder for the full term or from any other of its obligations under this Lease. Landlord shall use commercially reasonable efforts to relet all or any part of the Leased Premises for such rent and upon such terms as shall be reasonably satisfactory to Landlord (including the right to relet the Leased Premises as a part of a larger area, and the right to change the character or use made of the Leased Premises). For the purpose of such reletting, Landlord may decorate or make any repairs,

changes, alterations or additions in or to the Leased Premises that may be reasonably necessary or convenient. If Landlord is not able to relet the Leased Premises, Tenant shall pay to Landlord, on demand, damages equal to the amount of the Rent, and other sums provided herein to be paid by Tenant for the remainder of the Lease Term. If the Leased Premises are relet and a sufficient sum shall not be realized from such reletting after paying all of the expenses of such decorations, repairs, changes, alterations, additions, the reasonable expenses of such reletting and the collection of the rent accruing therefrom (including, but not by way of limitation, reasonable attorneys' fees and brokers' commissions) (collectively, "Costs of Reletting"), to satisfy the Rent and other charges herein provided to be paid for the remainder of the Lease Term, Tenant shall pay to Landlord on demand any deficiency and Tenant agrees that Landlord may file suit to recover any sums falling due under the terms of this Section from time to time. Landlord shall, however, use reasonable efforts to mitigate its damages arising out of Tenant's default; provided that Landlord shall not be deemed to have failed to use such reasonable efforts by reason of the fact that Landlord has sought to relet the Leased Premises at a rental rate higher than that payable by Tenant under the Lease (but not in excess of the then current market rental rate).

(c) Landlord shall at all times have the right, without prior demand or notice except as required by applicable law, to: (i) seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease or restrain or enjoin a violation of any provision thereof, and (ii) sue for and collect any unpaid Rent which has accrued.

18.2 Remedies Cumulative. Except for the liquidated damages provisions contained herein, no remedy herein or otherwise conferred upon or reserved to Landlord or Tenant shall be considered to exclude or suspend any other remedy but the same shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute, and every power and remedy given by this Lease to Landlord or Tenant may be exercised from time to time and so often as the occasion may arise or as may be deemed expedient.

18.3 No Waiver. No delay or omission of Landlord or Tenant to exercise any right or power arising from any default shall impair any such right or power or be construed to be a waiver of any such default or any acquiescence therein. No waiver of any breach of any of the covenants of this Lease shall be construed, taken or held to be a waiver of any other breach, or as a waiver, acquiescence in or consent to any further or succeeding breach of the same covenant. No failure by Landlord to insist upon the strict performance of any covenant, agreement, term or condition of this Lease and no acceptance of full or partial rent during the continuance of any breach, shall constitute a waiver of any such breach or such covenant, agreement, term or condition.

ARTICLE XIX EXTENSION OPTION

19.0 Extension Option. Tenant is hereby given four (4) options (each referred to herein as an "Option") to extend the term of the Lease. Each Option shall be for an additional five (5)

year period. The subsequent term(s) as a result of the exercise of an Option shall each be referred to herein as the "Renewal Term." Each Option shall be exercised by Tenant by giving to Landlord, written notice of Tenant's election to exercise the Option at least 180 days prior to the end of the initial Term of the Lease or any Renewal Term, as applicable. Upon the giving of notice of the exercise of the Option, the Lease will forthwith automatically be extended for the additional five (5) year period, upon the same terms, conditions and covenants as contained in this Lease, and Rent for the applicable Renewal Term shall be as set forth in Section 4 hereof. The right to exercise the Option shall be conditioned upon there being no uncured Event of Default under this Lease at the time the Option is exercised and at the time the Renewal Term is to commence.

ARTICLE XX
INTENTIONALLY BLANK

ARTICLE XXI
INTENTIONALLY BLANK

ARTICLE XXII
MISCELLANEOUS

22.0 Tenant's Statement. Tenant shall furnish to Landlord, within ten (10) business days after written request therefor from Landlord (but in no event more than two (2) times per year), a copy of Tenant's then most recent financial statements, certified by an officer of Tenant. It is mutually agreed that Landlord may deliver a copy of such statements to any mortgagee or prospective mortgagee of Landlord, or any prospective purchaser of the Property, but otherwise Landlord shall treat such statements and information contained therein as confidential.

22.1 Estoppel Certificates. Landlord and Tenant shall at any time and from time to time, upon not less than ten (10) business days prior written request from the other party, execute, acknowledge and deliver to the requesting party, in form reasonably satisfactory to the requesting party, a written statement certifying (if true) that (i) Tenant is in possession of the Leased Premises, (ii) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (iii) that the requesting party is not in default hereunder, (iv) the date to which the rental and other charges have been paid in advance, if any, and (v) such other accurate certifications as may reasonably be required by the requesting party. It is intended that any such statement delivered pursuant to this Section may be relied upon by any prospective purchaser or mortgagee of the Leased Premises and/or the Property or Tenant's business and any of Tenant's lenders or prospective lenders and any of their respective successors and assigns.

22.2 Appearance of Leased Premises. Tenant shall not paint or decorate the exterior of

the Leased Premises without first obtaining Landlord's written approval, which shall not be unreasonably withheld or delayed.

22.3 Right to Cure. Subject to any required notice and opportunity of Tenant to cure an Event of Default under this Lease, Landlord may, but shall not be obligated to, cure any Event of Default by Tenant (specifically including, but not by way of limitation, Tenant's failure to obtain insurance, pay real estate taxes, make repairs, or satisfy lien claims); and whenever Landlord so elects, all reasonable costs and expenses paid by Landlord in curing such Event of Default, including without limitation reasonable attorneys' fees, shall be so much additional Rent due on the next monthly Rent payment date after such advance by Landlord, together with interest at a rate per annum equal to four percent (4%) in excess of the Prime Rate in effect on the date of such advance, from the date of the advance to the date of repayment by Tenant to Landlord.

22.4 Notices. All notices to or demands upon Landlord or Tenant desired or required to be given under any of the provisions hereof shall be in writing. Except for email notice, any notices or demands shall be deemed to have been duly and sufficiently given if a copy thereof has been mailed by United States registered or certified mail in an envelope properly stamped and addressed, with receipt, or personally delivered or sent by a recognized national courier service to the party and addressed as follows:

If to Landlord:

MCK Millennium Centre
Retail, LLC
do Commercial Credit Corp.
1919 South Highland Avenue
Building D, Suite 124
Lombard, Illinois 60148
Attn: Joseph Khoshabe

With a copy via email to:

Kraft Law Office
Attn: Michael A. Kraft, Esq.
[Email: mike@mkraftlaw.com](mailto:mike@mkraftlaw.com)

(In no event, however, shall notice to Kraft Law Office constitute notice to Landlord)

If to Tenant:

The Residences at Millennium Centre Condominium Association
33 West Ontario Street

Chicago, Illinois 60654

With copy to:

Levenfeld Pearlstein, LLC
2 N. LaSalle
Suite 1300
Chicago, Illinois 60602
Attn: Howard S. Dakoff, Esq.

The effective date of any mailed notice shall be three (3) days after delivery of the same to the United States Postal Service and the effective date of any personal delivery or courier service notice shall be as shown on the messenger or courier service's receipt.

In the event Tenant changes its address from the ones listed above, Tenant shall give notice of any such change to Landlord within five (5) business days of said change(s).

22.5 Quiet Enjoyment. Landlord covenants that if Tenant shall perform all of the covenants and provisions of this Lease to be performed by Tenant, Tenant shall peaceably and quietly occupy and enjoy the full possession and use of the Leased Premises.

22.6 Time of Essence. Time is of the essence of this Lease, and all provisions herein relating thereto shall be strictly construed.

22.7 Relationship of Parties. Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third party, as creating the relationship of principal and agent or of partnership, or of joint venture, by the Parties hereto, it being understood and agreed that no provision contained in this Lease nor any acts of the Parties hereto shall be deemed to create any relationship other than the relationship of landlord and tenant.

22.8 Captions. The captions of this Lease are for convenience only and are not to be construed as part of this Lease and shall not be construed as defining or limiting in any way the scope and intent of the provisions hereof.

22.9 Severability. If any term or provision of this Lease shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, but each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

22.10 Law Applicable; Jurisdiction and Venue. This Lease shall be construed and enforced in accordance with the laws of the State of Illinois. Each of the parties hereby knowingly, voluntarily and intentionally agrees that any actions or proceedings arising directly or indirectly in

connection with, out of, related to or from this Lease shall be litigated exclusively in Federal or state courts having situs within the State of Illinois, County of Cook. Each of the parties hereby irrevocably consents and submits to the exclusive jurisdiction and venue of any state or Federal court located within such county. Each of the parties hereby waives any right either of them may have to transfer or change the venue of any litigation brought against it or brought by it in accordance with this Section.

22.11 Covenants Binding on Successors. All of the covenants, agreements, conditions and undertakings contained in this Lease shall extend and inure to and be binding upon the successors and assigns of the respective parties hereto, the same as if they were in every case specifically named, and wherever in this Lease reference is made to either of the parties hereto, it shall be held to include and apply to, wherever applicable, the successors and assigns of such party. Nothing herein contained shall be construed to grant or confer upon any person or persons, firm, corporation or governmental authority, other than the parties hereto, their successors and assigns, any right, claim or privilege by virtue of any covenant, agreement, condition or undertaking in this Lease contained.

22.12 Brokerage. Landlord and Tenant each warrants to the other that it has had no dealings with any broker or agent in connection with this Lease. All commissions due shall be paid by a separate agreement. Each of Landlord and Tenant covenants to pay, hold harmless, indemnify and defend the other from and against any and all costs, expenses or liability (including without limitation, reasonable attorneys' fees) for any compensation, commissions and charges claimed by any other broker or agent as a result of dealings with it with respect to this Lease or the negotiation hereof.

22.13 Landlord Means Owners. The term "Landlord" as used in this Lease, so far as covenants or obligations on the part of the Landlord are concerned, shall be limited to mean and include only the owner or owners at the time in question of the fee or of the beneficial interest in a land trust which owns the fee of the Leased Premises, and in the event of any transfer or transfers of the title to such fee or such beneficial interest, Landlord herein named (and in case of any subsequent transfer or conveyances, the then grantor) shall be automatically freed and relieved, from and after the date of such transfer or conveyance, of all liability as respects the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed; provided that any funds in the hands of such Landlord or the then grantor at the time of such transfer, in which Tenant has an interest, shall be turned over to the grantee, and any amount then due and payable to Tenant by Landlord or the then grantor under any provisions of this Lease shall be paid to Tenant.

22.14 Attorneys' Fees. Tenant covenants and agrees to pay on demand all reasonable costs, expenses and fees, including reasonable attorney's fees and court costs, which may be incurred by Landlord in enforcing any of the terms or provisions of this Lease. All attorneys' fees hereunder shall be considered additional Rent. The Landlord shall be entitled to recover reasonable

attorney's fees and costs from Tenant in any action brought pursuant to this Lease.

22.15 Execution of Lease by Landlord. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Leased Premises and this document shall become effective and binding only upon the execution and delivery hereof by Tenant and by Landlord. All negotiations, considerations, representations and understandings between Landlord and Tenant are incorporated herein.

22.16 Force Majeure. If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, fire, an act of God, government action, the inability to obtain building permits or materials or any other reason which is not the fault of the party delayed in performing work or doing acts required under this Lease, the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

22.17 No Counterclaims. Tenant hereby waives its right to plead any noncompulsory counterclaim unrelated to this Lease or Tenant's occupancy of the Leased Premises, or to seek an offset, in any action or proceeding brought by Landlord against Tenant for non-payment of Rent, or any other default hereunder. This shall not, however, be construed as a waiver of Tenant's right to assert any claim in a separate action brought by Tenant.

22.18 Counterparts. This Lease may be executed in any number of counterparts, all of which will be considered one and the same Lease notwithstanding that all parties hereto have not signed the same counterpart. Signatures on this Lease which are transmitted by electronic means including e-mail or facsimile shall be valid for all purposes. Any party shall, however, deliver an original signature on this Lease to the other party upon request.

22.19 Authority. Landlord and Tenant each hereby represent and warrant to each other that all consents or approvals required of third parties (including, but not limited to, any Board of Directors) for the execution, delivery and performance of this Lease have been obtained and that each party has the right and authority to enter into and perform its covenants contained in this Lease, and that this Lease is binding upon each party in accordance with its terms.

22.20 Amendments Must Be in Writing. None of the covenants, terms or conditions of this Lease, to be kept and performed by either party, shall in any manner be altered, waived, modified, changed or abandoned except by a written instrument, duly signed and delivered by both of the Parties hereto.

22.21 Waiver of Jury Trial. IN THE EVENT THAT LANDLORD SHALL COMMENCE ANY PROCEEDINGS FOR POSSESSION HEREUNDER, THE PARTIES HERETO WAIVE A TRIAL BY JURY ON ANY AND ALL ISSUES ARISING IN ANY ACTION OR PROCEEDING BETWEEN THEM OR THEIR SUCCESSORS UNDER OR CONNECTED WITH THIS LEASE OR ANY OF ITS PROVISIONS THAT RELATE TO TENANT'S PAYMENT OF RENT OR ANY NEGOTIATIONS IN CONNECTION HEREWITH.

22.22 Drafting Construction. This Lease shall be construed to have been drafted by both parties and any ambiguity contained herein shall not be construed against any party on the basis of such party having drafted or prepared the language of such provision.

22.23 Entire Agreement. This Agreement includes the entire agreement between Landlord and Tenant with respect to the Leased Premises and all prior negotiations, agreements or understandings are superseded by the terms of this Lease. Each provision and agreement herein shall be treated as separate and independent from any other provision or agreement herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

22.24 Late Charge. Commencing on the second (2nd) occasion per calendar year, Tenant shall pay a late payment service charge of five percent (5%) of any payment of Rent or any other sum payable by Tenant to Landlord which is not paid, within ten (10) days as and when due. Tenant acknowledges that such late payment service charge is for additional expenses incurred by Landlord due to late payment, shall not be considered interest, and shall be payable as additional Rent at the time of the next monthly Rent payment date after such late payment of Rent or any other sum payable by Tenant to by Landlord.

22.25 Exculpatory Provisions. Notwithstanding anything to the contrary contained in this Lease, it is expressly understood and agreed by and between the parties hereto that the recourse of Tenant or its successors or assigns against Landlord with respect to the alleged breach by or on the part of Landlord of any representations, warranty, covenant, undertaking or agreement contained in this Lease shall extend only to Landlord's interest in the Leased Premises and not to any other assets of Landlord or its constituent partners.

22.26 Lender Approval. If this Lease is subject to the approval by Landlord's lenders, such approval will be obtained promptly after execution of this Lease. In the event said lenders shall not approve of the terms and conditions of this Lease, Landlord shall have the right to terminate this Lease by written notice to Tenant within 5 business days after said non-approval by Lenders, in

which case this Lease shall be terminated and of no further force and effect.

22.27 Rules and Regulations. Landlord shall have the right (upon reasonable notice) to adopt reasonable rules and regulations for the safety, care and cleanliness of the Leased Premises and the preservation of good order thereon. Such rules and regulations are hereby expressly made a part hereof, and Tenant agrees to obey all such rules and regulations within ten (10) business days following delivery thereof by Landlord. Landlord shall not be responsible to Tenant for the non-performance by any other tenant or occupant of the Building of any of said rules and regulations. Landlord agrees all rules and regulations shall be uniformly enforced, except as may be specifically applicable to Tenant's use. In the event a conflict between rules and this Lease occurs, the Lease shall control, provided, however, that the lack of a provision in this Lease covering the subject matter of the rule or regulation shall not be deemed a "conflict" for purposes of this sentence.

Landlord:

MCK MILLENNIUM CENTRE RETAIL, LLC
an Illinois limited liability company

By: MCK Millennium Corp.
Its: Manager

By: 

Name: JOSEPH H. HAGAN

Its: MADONNI STRAUSS
ANALYST

Tenant:

THE RESIDENCES AT MILLENNIUM
CENTRE CONDOMINIUM ASSOCIATION,
an Illinois corporation d.b.a. 33 West Ontario
Condominium Association

By: 

Name: CHRISTINE A. GIBBS

Its: MANAGER & AGENT
BOD APPROVED 2.27.17

EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

LOTS 3A, 3B AND 3C IN MILLENNIUM CENTRE SUBDIVISION RECORDED AS DOCUMENT NUMBER 0318145084, BEING A RESUBDIVISION IN THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR INGRESS AND EGRESS, STRUCTURAL SUPPORT, USE OF FACILITIES, ENCROACHMENTS, MAINTENANCE OF FACILITIES, CONSTRUCTION, DELIVERIES AND CLEANING AND MAINTAINING THE EXTERIOR OF THE BUILDING AS GRANTED IN THE OPERATION AND RECIPROCAL EASEMENT AGREEMENT MADE AND ENTERED INTO AS OF THE 11TH DAY OF JULY, 2003 BY AND AMONG MILLENNIUM CENTRE RETAIL, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, ("MCR") MILLENNIUM CENTRE PARKING, LLC AN ILLINOIS LIMITED LIABILITY COMPANY, ("MCP") MILLENNIUM CENTRE TOWER, LLC AN ILLINOIS LIMITED LIABILITY COMPANY, ("MCT") AND MILLENNIUM CENTRE CHILLER, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, ("MCC") RECORDED AS DOCUMENT NUMBER 0319203102.

EXHIBIT B
LOCATION OF LEASED PREMISES

