



MILLENNIUM TOWER RESIDENCES - INSTRUCTIONS FOR PURCHASERS/OWNERS/REFINANCERS/BORROWERS

FAILURE TO COMPLY MAY RESULT IN CLOSING DELAYS OR RENDER A LIEN INVALID

Battery Park City Authority d/b/a Hugh L. Carey Battery Park City Authority ("BPCA") entered into a lease agreement, dated as of February 22, 2005, (as amended, the "Lease") with Millennium BPC II Development, LLC. The Lease requires that all financing purchasers or refinancing owners (collectively, the "Borrower"), the Board of Millennium Tower Residences (the "Board"), BPCA, and ALL banks/lenders ("Mortgagee") execute a unit mortgage subordination and recognition agreement (the "Subordination Agreement") (*see form attached*) which provides that the interest of a Mortgagee with respect to a unit mortgage are subject and subordinate to BPCA's interest in monies owed with respect to such unit.

In accordance with the Lease, BPCA requires that the Board, ALL Mortgagees, BPCA, and the Borrower execute **FOUR (4) ORIGINAL Subordination Agreements** as follows:

1. Borrower must notify BPCA of the closing at least **ten (10) business days** in advance and provide BPCA with all relevant information to complete the Subordination Agreement. **BPCA will then create a final form version and return it to Borrower for execution by all parties.** Borrower must notify BPCA if there is more than one loan. Borrowers should contact Nancy S. Harvey, Senior Counsel (contact information is below).
2. The signature pages are in counterpart, so that Borrower does not have to send the original sets from party to party to sign. Borrower must arrange for all signatures, including the Board's. All four (4) sets of original signature and notary pages must be delivered to the closing for final collation by BPCA. BPCA will provide its signatures at the closing itself.
3. The Mortgagee's signatory must be a company officer or authorized attorney; i.e. a loan "officer" who is not truly a company officer, would not be sufficient, but a Vice President would be.
4. At least **three (3) business days** before the closing, Borrower must provide BPCA with a copy of the partially executed Subordination Agreement (including, at a minimum, Mortgagee signature/notary pages), or the closing may be adjourned.
5. At the closing, a BPCA representative will assemble the final Subordination Agreements. At that time, Borrower must provide BPCA with a copy of the unit deed (if a sale), mortgage(s)/loan(s) and an **administrative fee**, payable to Battery Park City Authority, of **\$300**, as of December 4, 2010, but subject to increase as per Exhibit F of the Lease.
6. The Subordination Agreement **MUST BE RECORDED** with the mortgage/loans. BPCA does not pay for this recording, so typically the Borrower or seller must do so.
7. Please note that **even if a unit is purchased without financing, the purchaser must still provide BPCA with a copy of the unit deed and the administrative fee** under the terms of Exhibit F of the Lease.
8. Closings that adjourn, through no fault of BPCA, within 24 hours of their scheduled time may result in a penalty to Borrower, equal to the administrative fee. Therefore, please **IMMEDIATELY** notify BPCA if any scheduling changes occur.

NO MORTGAGE WILL BE VALID/ENFORCEABLE UNLESS A SUBORDINATION AGREEMENT IS FULLY EXECUTED AND RECORDED!

Questions? Contact: Lauren Bruggess, Assistant Corporate Secretary, ph 212-417-4122,
lauren.bruggess@bpcanyc.gov Battery Park City Authority, One World Financial Center, 24th Fl, NY,
NY 10281 Fax 212-417-4123
(revised 5/01/13)

Date: As of _____

UNIT MORTGAGE SUBORDINATION AND RECOGNITION AGREEMENT

among

THE BOARD OF MANAGERS OF THE MILLENNIUM TOWER RESIDENCES
(the "Board")

and

BATTERY PARK CITY AUTHORITY,
d/b/a HUGH L. CAREY BATTERY PARK CITY AUTHORITY
("BPCA")

and

("Unit Owner")

and

(together with its successors and assigns, "Mortgagee")

Premises Address: Unit No. _____
30 West Street, New York, New York 10004
Section: 01
Block : 16
Lot : _____

This instrument prepared by, and after recording please return to:

Lauren Brugess
Assistant Corporate Secretary
Battery Park City Authority, One World Financial Center
New York, New York 10281-1097
Ph 212-417-4122/Fx 212-417-4123/Email:
lauren.brugess@bpca.ny.gov
Revised 09/25/2012

UNIT MORTGAGE SUBORDINATION AND RECOGNITION AGREEMENT

AGREEMENT, dated as of _____ (this "Agreement"), between THE BOARD OF MANAGERS OF THE MILLENNIUM TOWER RESIDENCES, an unincorporated association having an address c/o Millennium Partners LLC, 1995 Broadway, New York, New York 10023 (the "Board"), BATTERY PARK CITY AUTHORITY, d/b/a HUGH L. CAREY BATTERY PARK CITY AUTHORITY, a body corporate and 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 (together with its successors, assigns and mortgagees, "BPCA"), _____, having an address at 30 West Street, Unit No. _____, New York, NY 10004 (collectively, "Unit Owner") and _____, having an address of _____ (together with its successors and assigns, "Mortgagee").

W I T N E S S E T H:

WHEREAS, BPCA, as ground lessor, and Millennium BPC II Development LLC, as ground lessee ("Millennium"), have entered into that certain Ground Lease dated as of February 22, 2005, a memorandum of which labeled Memorandum of Ground Lease dated as of February 22, 2005 was recorded March 30, 2005 under CRFN 2005000183110 in the office of the City Register of the City of New York for the County of New York (such lease, as the same may be assigned, amended or restated from time to time, the "Ground Lease") pursuant to which BPCA leased to Millennium that certain land described on Exhibit A hereto (the "Land"), together with the improvements to be constructed thereon;

WHEREAS, the leasehold condominium known as The Millennium Tower Residences, having the street address 30 West Street, New York, New York 10004 (the "Condominium"), was created by that certain Declaration dated September 28, 2006 and recorded on November 28, 2006 in the Office of the City Register of the City of New York for the County of New York as CRFN 2006000657458 (the "Declaration") subjecting the ground Lessee's interest in the Land and the building and other improvements thereon (collectively, the "Property") to the provisions of Article 9-B of the Real Property Law of the State of New York;

WHEREAS, the Condominium is subject and subordinate to the Ground Lease in all respects;

WHEREAS, the Unit Owner is the Owner of Unit No. _____ (the "Unit") in the Condominium, Block 16, Lot _____.

WHEREAS, Mortgagee is making a loan (the "Loan") to the Unit Owner secured by a mortgage lien (the "Unit Mortgage") against the Unit Owner's interest in the Unit which is being recorded simultaneously herewith in the sum of \$ _____.

WHEREAS, each Unit Owner is obligated to pay, as part of such Unit Owner's Common Charges, "Proportionate Rent" as such term is defined in the Ground Lease; and

WHEREAS, under the terms of the Ground Lease, the Unit Owner may not mortgage the Unit unless the Mortgagee making the Loan enters into this Agreement.

NOW, THEREFORE, in consideration of the promises and agreements set forth herein and for Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Subordination. Unit Owner and Mortgagee hereby agree and acknowledge that their respective interests in the Unit and the Unit Mortgage are subject to the terms of this Agreement and subject and subordinate to the Ground Lease.

2. Common Charges. The Board hereby represents that Common Charges for the Unit have been paid through _____. BPCA hereby represents that, to the best of its knowledge, as of the date of this Agreement there is no default in the payment of Proportionate Rent due with respect to the Unit.

3. Priority of Lien. (a) The parties hereto expressly agree that the interest of the Unit Owner is subject and subordinate to the interest of BPCA, its successors, assigns and mortgagees, under the Ground Lease, and that the interest and rights of Mortgagee in respect of the Unit Mortgage, including the right of Mortgagee to be paid any amount due on account of the Unit Mortgage, are subject and subordinate to BPCA's right to be paid Proportionate Rent, together with interest and collection and other costs set forth in the Ground Lease. To the extent that Section 339(z) of the Real Property Law has any application to Proportionate Rent to be paid by the Unit Owner, Mortgagee and the Unit Owner hereby expressly and irrevocably waive for the benefit of BPCA and the Board any rights they may have under or pursuant to said Section 339(z). Mortgagee further agrees and acknowledges that to the extent that the Unit Mortgage is not a first mortgage lien on the Unit, the lien of the Unit Mortgage is subject and subordinate to the Board's right to be paid Common Charges and to BPCA's right to receive all Rent payable under the Ground Lease allocable to the Unit.

(b) Mortgagee hereby agrees that in the event that it shall at any time receive any funds or proceeds resulting from the foreclosure or enforcement of its lien against the Unit in violation of the priorities of right to payment set forth in Section 3(a) and Section 10 of this Agreement, Mortgagee shall hold such funds in trust for and on behalf of BPCA and shall turn such funds over to BPCA on demand.

4. Default Notices. In the event of a default by the Unit Owner in the payment of Common Charges (a "Unit Owner Default"), the Board will issue a notice of such Unit Owner Default to the Unit Owner within ten (10) business days thereof, with a copy of such notice to be issued simultaneously to Mortgagee and to BPCA. If the Board fails to give such notice, BPCA is permitted, but not obligated, to give such notice to the Unit Owner and the Mortgagee. In the event of a default by the Board with respect to its obligations under the Ground Lease

(hereinafter a “Condominium Default”), BPCA will give notice thereof to the Board, and the Board shall deliver a copy of such notice to the Mortgagee and to the Unit Owner, provided that if the Condominium Default is a monetary default, BPCA shall also deliver a copy of such default notice to Mortgagee and to the Unit Owner.

5. Unit Owner Default. Mortgagee shall have the right to cure a Unit Owner Default, and BPCA shall accept payments from the Mortgagee on behalf of the Unit Owner within thirty (30) days after receipt of the notice of default from the Board or BPCA. If Mortgagee fails to timely cure the Unit Owner Default and if the Board or the Residential Board fails to institute foreclosure proceedings within ninety (90) days after the issuance of the notice of default described in Section 4 of this Agreement, the Board, the Mortgagee and Unit Owner acknowledge and agree that BPCA shall have the right to institute such proceedings. If, during the pendency of any Legal Proceeding (as defined in Section 8 hereof) by BPCA, the Mortgagee remedies the Unit Owner Default, BPCA shall, at the reasonable request of such Mortgagee, either discontinue such proceeding or assign its interests in such proceeding to the Mortgagee, without recourse, to permit the Mortgagee to continue such action or proceeding.

6. Condominium Default. In the event of a Condominium Default, the Mortgagee shall have a period of forty-five (45) days from the issuance of notice by BPCA as provided in Section 4 of this Agreement, or such longer period as may be granted by BPCA in writing, in its sole discretion, to remedy or cause to be remedied such Condominium Default. In the event of a Condominium Default which cannot by its nature reasonably be cured within such forty-five (45) day period, the Board, the Unit Owners or the Mortgagee may take such actions (the “Unit Owner Action”) to be commenced within such forty-five (45) day period and shall thereafter cause such Unit Owner Action, to be prosecuted diligently, continuously and in good faith to completion to cause the Condominium Default promptly thereafter to be remedied. Notwithstanding anything to the contrary set forth above, any Condominium Default will be required to be remedied within one hundred eighty (180) days after the date on which BPCA has given notice as provided in Section 4 of this Agreement (or within such longer period to which BPCA may consent in writing). If Unit Owner Action is required to remedy a Condominium Default, the Board, the Unit Owner or the Recognized Unit Mortgagee, as the case may be, shall notify BPCA thereof and shall keep BPCA fully and currently informed of the status of such Unit Owner Action, the nature and timing of such Unit Owner Action and each step, act or thing done in connection therewith, together with the anticipated completion date of such Unit Owner Action. BPCA acknowledges that Mortgagee is permitted but not required to cure a Condominium Default. No payment by Mortgagee or performance of any terms, conditions, covenants and agreements that are required to be performed by the Board under this Ground Lease by Mortgagee as permitted under this Agreement is intended to limit Mortgagee’s rights against the Unit Owner.

7. Notices. All notices, demands or requests made pursuant to, under, or by virtue of this Agreement must be in writing and delivered to the party to whom the notice, demand or request is being made (i) by personal delivery with receipt acknowledged or (ii) by mailing the same by registered or certified mail, postage prepaid, return receipt requested, or (iii) by FedEx or other similar reputable national overnight courier service (a “Courier Service”), (a) if to BPCA, at One World Financial Center, New York, New York 10281, Attention: President, with

a copy to General Counsel; (b) if to the Board, Attention: President, Board of Managers of The Millennium Tower Residences, 30 West Street, New York, NY 10004 and a copy c/o Millennium Partners, LLC, 1995 Broadway, New York, New York 10023, Attention: Chief Financial Officer; (c) if to Unit Owner, at 30 West Street, Unit No. _____ New York, NY 10004; and (d) if to Mortgagee, at _____

_____ with an additional copy to _____; or to such other address as any party may from time to time designate by notice given to the other parties in the manner herein provided at least fifteen (15) days prior to such address becoming effective. Every notice is deemed to have been given and served when addressed as provided in the preceding sentence, and when delivered (if delivered by hand), or three business days after the date when deposited with the United States mail, postage prepaid, in the manner aforesaid (if mailed), or one business day after the date when deposited with the Courier Service (except that a notice designating the name or address of a person to whom any notice, or copy thereof, must be sent is deemed to have been given when same is received.

8. Legal Proceedings. After the giving of notice as described in Section 4 hereof and the expiration of the time for cure or the time for action by the Board as provided in Sections 5 and 6 hereof, BPCA may exercise its rights under the Ground Lease for any Unit Owner Default or any Condominium Default that remains uncured, including, without limitation, the right to prosecute a foreclosure of any statutory lien provided under the Condominium Act, including, without limitation, the lien for Common Charges provided therein (which lien is hereby assigned by the Board to BPCA) or a suit to recover a money judgment (such proceedings are hereinafter referred to as the “Legal Proceedings”) against the Unit Owner and the Unit Owner’s interest in the Unit. If Mortgagee does not cure a Unit Owner Default as permitted under the Ground Lease and this Agreement, BPCA will have no obligation to Mortgagee with respect to such Unit Owner Default, except that in the event of a transfer or letting of the Unit by BPCA as a result of such Unit Owner Default, whether or not as the result of Legal Proceedings, BPCA shall recognize Mortgagee’s rights as lienor as more fully described in Section 10 of this Agreement.

9. Mortgagee Rights to Enforce Lien. BPCA hereby recognizes the rights of Mortgagee as a lienor against the Unit, including Mortgagee’s right (a) to foreclose or otherwise enforce its lien against the Unit Owner’s interest in the Unit, or to acquire such interest by assignment in lieu of foreclosure, and (b) to transfer its interest therein as provided for in the agreements between Mortgagee and the Unit Owner, subject to BPCA’s rights under the Ground Lease and this Agreement, and (c) in any of such events, to have the Unit Owner’s interest in the Unit transferred on the books and records of BPCA to Mortgagee’s name or the name of its designee.

10. Rights to Proceeds. If BPCA prosecutes Legal Proceedings against the Unit Owner or Mortgagee succeeds to the interest of the Unit Owner in the Unit, BPCA will recognize the rights of the Mortgagee against the proceeds realized by BPCA or by Mortgagee as a result thereof, subject, however, to the priorities as described herein and in Exhibit F of the Ground Lease and Section 6.6 of the By-Laws. Mortgagee shall indemnify BPCA against any loss, damage, claim and expense (including reasonable attorneys’ fees and disbursements) which

BPCA may incur or suffer by reason of any claim by the Unit Owner regarding Mortgagee's acts and BPCA's acts undertaken upon Mortgagee's request relating to this Agreement. The foregoing indemnity shall continue to apply to the acts of Mortgagee or its designee from and after any transfer of the Unit to Mortgagee or its designee. BPCA will give Mortgagee prompt notice of any such claim and Mortgagee may contest any such claim in the name and on behalf of BPCA, but at the expense of Mortgagee. BPCA will cooperate with the Mortgagee in such defense and execute all documents and take all acts reasonably required therefor.

11. BPCA's Rights. The terms and provisions hereof are subject to all of the terms and provisions of the Ground Lease, including, without limitation, the terms and provisions of Exhibit F thereof. Except for the express accommodations to the Mortgagee as set forth herein, nothing herein shall be deemed to limit the rights and remedies of BPCA under the Ground Lease in respect of any Condominium Default or Unit Owner Default or any other default thereunder. In the event of any conflict between the terms of the Ground Lease and the terms hereof or of the Condominium Documents, the terms of the Ground Lease shall control.

12. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, representatives, successors and assigns, including, without limitation, any party to which Mortgagee may transfer, sell or assign its interest in the Unit Mortgage and its rights thereunder and hereunder. The failure of the Board or of the Unit Owner to execute and deliver this Agreement shall not affect the validity on or enforceability of this Agreement against any party that has executed and delivered this Agreement.

13. Further Assurances. BPCA, the Board, Unit Owner and Mortgagee shall execute and deliver such other further documents and instruments as may be necessary or reasonably requested by any party hereto to carry out and consummate the transactions contemplated by this Agreement.

14. Capitalized Terms. Capitalized terms not defined herein are used as defined in the Ground Lease, and to the extent not defined therein, in the Declaration.

15. Governing Law.

(a) This Agreement and the rights and obligations of the parties hereunder shall be governed by, construed and enforced in accordance with the laws of the State of New York applicable to agreements to be performed entirely within such state (without regard to principles of conflicts of laws). This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto or their respective successors in interest.

(b) Should any term or provision of this Agreement or the application thereof to any Person or circumstances, to any extent, be invalid or unenforceable, the parties hereby agree to modify such term or provision so that the remainder of this Agreement shall not be affected and that the balance of which shall continue to be binding upon the parties hereto with any such modification to become a part hereof and treated as though originally set forth in this Agreement. The parties further agree to modify any such unenforceable provision of this Agreement in lieu of severing such unenforceable provision from this Agreement in its entirety, whether by rewriting the offending provision, deleting any or all of the offending provision, adding

additional language to this Agreement, or by making such other modifications as are appropriate to carry out the intent of the parties as embodied herein to the maximum extent permitted by law. The parties expressly agree that this Agreement as so modified shall be binding upon and enforceable against each of them. In any event, should one or more of the provisions of this Agreement be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and if such provision or provisions are not modified as provided above, this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been set forth herein.

16. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and together shall constitute one agreement.

[Signature Page Follows]

DRAFT ONLY

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

THE BOARD OF MANAGERS
OF THE MILLENNIUM TOWER
RESIDENCES

By: _____
Name: _____
Title: _____

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

By: _____
Name: _____
Title: _____

UNIT OWNER:

By: _____
Name: _____

By: _____
Name: _____

MORTGAGEE:

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss:
COUNTY OF _____)

[Board]

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

[BPCA]

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

[Unit Owner]

Notary Public

[Unit Owner]

Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

[Mortgagee]

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

[Mortgagee]

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT A

ALL that certain plot, piece or parcel of land, situate, lying and being in Battery Park City South, in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly line of Second Place with the westerly line of Little West Street;

RUNNING THENCE the following four courses and distances:

1. South 12 degrees 26 minutes 10 seconds East, along said line of Little West Street, 202.76 feet to the corner formed by its intersection with the northerly line of First Place;
2. THENCE North 90 degrees 00 minutes 00 seconds West, along said northerly line of First Place, 102.40 feet to a point therein, distant South 90 degrees 00 minutes 00 seconds East, along said northerly line of First Place, 131.12 feet from the corner formed by the intersection of said northerly line of First Place with the easterly line of Battery Place;
3. THENCE North 12 degrees 26 minutes 10 seconds West, through and across the lands of Battery Park City Authority, parallel with and distant westerly 100.00 feet measured at right angles from the first course of lands herein described, 202.76 feet to a point on the aforesaid southerly line of Second Place, distant therein North 90 degrees 00 minutes 00 seconds East, 111.58 feet from the corner formed by the intersection of said easterly line of Battery Place with said southerly line of Second Place;
4. THENCE North 90 degrees 00 minutes 00 seconds East, along said southerly line of Second Place, 102.40 feet to the point and place of BEGINNING.
