

Sears or providing services ancillary to the retail operations of Sears and, provided further, that for the duration of the operating covenant of Sears such departments or ancillary services shall be operated as a part of and under the auspices of Sears.

Section 5.05. Right of First Refusal. Commencing on the fifteenth (15th) anniversary date of the opening of the Sears Building for business and continuing until the twentieth (20th) anniversary date of the opening of the Sears Building for business, Sears agrees that before Sears shall sell, assign or transfer any of its right, title or interest in and to the Sears Site, or any part thereof, to any person or entity, Sears shall (i) secure a bona fide written offer from such person or entity and (ii) by notice to the Developer offer such right, title or interest to the Developer upon the terms and conditions contained in such offer, a copy of which shall be enclosed. Within the ninety (90) day period following the date of receipt of such notice by the Developer, the Developer may, by delivering a written agreement to Sears, elect to purchase such right, title and interest upon the terms and conditions contained in such offer at a closing to take place within three (3) months after the date of the receipt by the Developer of Sears notice. In the event the Developer shall fail to elect to purchase said right, title or interest within said ninety (90) day period, Sears shall be free to sell, assign or transfer such right, title or interest upon the terms and conditions on which they were offered to Sears, to the person or entity which made the original offer at any time within the period specified in such original offer, or, if no such period was so specified, within six (6) months from the date of such original offer, but not otherwise. Any sale, assignment or transfer shall be made expressly subject to the provisions, covenants, terms and conditions of this