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EASEMENT AND OPERATING AGREEMENT

between

CHICAGO UNION STATION COMPANY,  
an Illinois corporation,

and

TRIZECHAHN 10/120 FEE LLC,  
a Delaware limited liability company

for

120 South Riverside Plaza  
Chicago, Illinois

Dated: As of November 8, 2001.

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## EASEMENT AND OPERATING AGREEMENT

THIS EASEMENT AND OPERATING AGREEMENT ("Agreement") dated as of the \_\_\_\_ day of November, 2001, is by and between CHICAGO UNION STATION COMPANY, an Illinois corporation (hereinafter called the "Lower Owner") and TRIZECHAHN 10/120 FEE LLC, a Delaware limited liability company (hereinafter called the "Upper Owner"; the Lower Owner and the Upper Owner are sometimes individually referred to herein as an "Owner" and collectively as the "Owners"):

### RECITALS

The terms used in the Recitals, if not otherwise defined in the Recitals, shall have the meanings set forth in Article 1 hereof.

The Upper Owner is the record owner of the real property described on Exhibit A attached hereto and made a part hereof (the "Upper Part of Lot 3"). From and after the date hereof, the "Upper Parcel", as such term is used herein, shall mean the Upper Part of Lot 3.

The Lower Owner is the record owner of the real property described on Exhibit B attached hereto and made a part hereof (the "Lower Part of Lot 4"). The Lower Owner is also the record owner of the real property described on Exhibit C attached hereto and made a part hereof (the "Lower Part of Lot 3"). From and after the date hereof through the Original Lease Termination Date (as hereinafter defined), the "Lower Parcel", as such term is used herein, shall mean the Lower Part of Lot 4 and the Lower Part of Lot 3, and after the Original Lease Termination Date, the "Lower Parcel", as such term is used herein, shall mean the Lower Part of Lot 3 only and not the Lower Part of Lot 4. The Upper Parcel and the Lower Parcel are sometimes individually referred to herein as a "Parcel" and collectively as the "Total Property".

The Upper Parcel and the Lower Parcel are not structurally or functionally independent. The Upper Parcel depends upon the Lower Parcel for structural support, ingress and egress, utility services and certain other facilities and components necessary for the operation and use of the Upper Parcel and the Lower Parcel depends upon the Upper Parcel for ingress and egress, utilities services and certain other facilities and components necessary for the operation and use of the Lower Parcel.

PCC 38 Corp., an Illinois corporation (hereinafter referred to, together with its successors and assigns, as "Penn Central") is the record owner of the real property described on Exhibit D attached hereto and made a part hereof (the "Penn Central Parcel").

The Penn Central Parcel and certain other property are subject to that certain Lease (as heretofore amended without regard to amendments after the date hereof, the "Original Lease") dated as of July 1, 1965 and recorded on October 14, 1965 as Document Number 19618053 by and between Lower Owner, The Pennsylvania Railroad Company and Pittsburgh, Fort Wayne and Chicago Railway Company, collectively as lessor, and LaSalle National Bank, as Trustee under Trust Agreement dated June 3, 1965 and known as Trust Number 33724 and Tishman-Monroe Inc., collectively as lessee.

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The Upper Parcel is subject to that certain Master Lease (as heretofore amended without regard to amendments after the date hereof, the "Master Lease") dated as of April 19, 1989 and recorded on April 19, 1989 as Document Number 89173339 by and between Lower Owner, as lessor, and LaSalle National Bank, as Trustee under Trust Agreement dated December 1, 1983 and known as Trust Number 107362, as lessee.

The Owners desire by this Agreement to provide for the effective operation of the Upper Parcel (including the Building) and the Lower Parcel by creating certain easements, covenants and restrictions against and affecting the Upper Parcel and the Lower Parcel which will be binding upon, and which will inure to the benefit of, the Owners.

**NOW, THEREFORE**, for and in consideration of the foregoing covenants and agreements of the parties hereto, it is hereby agreed as follows:

## ARTICLE 1 Definitions

As used in this Agreement, the following terms and phrases shall have the meanings herein specified unless the context otherwise requires:

**Section 1.1 Affiliate** means a Person, controlling, controlled by, or under the common control of or in partnership or in other active business with another Person, and if the latter is (a) a corporation, then any officer, employee, director or stockholder of such corporation, or (b) a partnership or joint venture, then any partner or joint venturer or employee of such partnership or joint venture, or (c) a trust, then any trustee, officer or employee of the trust or the beneficiary of such trust, or (d) any other business entity, then any principal or employee of such entity; and, (e) in the case of individuals, Persons who are related by blood, marriage or adoption. Neither Penn Central nor the United States Government shall be deemed an affiliate of Lower Owner. For purposes of the foregoing "control", "controlling" or "controlled by" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person through ownership of stock, ownership of partnership interests or by binding legal agreement.

**Section 1.2 Building** means the building or buildings and other improvements existing in the Upper Parcel as of the date of this Agreement and any other buildings or improvements erected in place thereof or in addition thereto in accordance with the terms of this Agreement, together with all Building Equipment.

**Section 1.3 Building Equipment** means all apparatus and fixtures of every kind appertaining to the Building (whether or not situated in the Upper Parcel), including, but without limiting the generality of the foregoing, (a) all furnaces, boilers, heaters, switchboards, electrical equipment, heating, plumbing, refrigerating, ventilating, air cooling and air conditioning apparatus, gas and electrical fixtures, fittings and machinery, elevators, escalators, hoists, sprinkler systems, fire protection equipment, water, sewer, gas, electrical and other utility lines and equipment, telecommunications equipment and cabling, generators, pumping stations, and all other building service equipment installed or to be installed and used primarily in connection with the operation and maintenance of the Building and including also (b) all furniture, furnishings, lighting

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fixtures, trade fixtures, removable partitions, equipment, machinery and appliances installed or used primarily in connection with the Building (except and excluding, however, any of the items described in this part (b) which are owned by any tenant or subtenant), installed or to be installed and used in connection with the operation of any business on the Upper Parcel.

**Section 1.4 Default Rate** means one percent (1%) above the corporate base rate of interest for short term borrowings from time to time quoted by Bank One, N.A., or its successor. If Bank One, N.A., or its successor, no longer quotes a corporate base rate, the corporate base rate shall be the comparable rate quoted by said bank or successor. If Bank One, N.A., or its successor is no longer in existence, said corporate base rate shall be the comparable rate of interest at the then national bank headquartered in the City of Chicago with the largest net worth.

**Section 1.5 Lower Owner** means Chicago Union Station Company or the owner or owners at any time of the Lower Parcel.

**Section 1.6 Lower Owner's Permitted Users** shall mean any railroad or other party authorized by Lower Owner to use its facilities (including passengers and invitees).

**Section 1.7 Lower Parcel** shall have the meaning set forth in the Recitals.

**Section 1.8 Lower Part of Lot 4** shall have the meaning set forth in the Recitals.

**Section 1.9 Lower Part of Lot 3** shall have the meaning set forth in the Recitals.

**Section 1.10 Master Lease** shall have the meaning set forth in the Recitals.

**Section 1.11 Master Lessee** shall mean the lessee from time to time under the Master Lease.

**Section 1.12 Mortgage** means any mortgage, and any other security instruments used in the State of Illinois including deeds of trust, security deeds and conditional deeds, as well as financing statements, security agreements and other documentation required pursuant to the Uniform Commercial Code.

**Section 1.13 Mortgagee** means the holder of any Mortgage.

**Section 1.14 Operating Railroads** means Chicago Union Station Company, its Affiliates, and such other railroads which operate in or over the Lower Parcel or the adjoining property of Lower Owner on a regularly scheduled, temporary or detoured basis.

**Section 1.15 Original Lease** shall have the meaning set forth in the Recitals.

**Section 1.16 Original Lease Termination Date** shall mean the earlier to occur of (a) [April 30, 2039] or (b) the termination of the Original Lease.

**Section 1.17 Original Lessee** shall mean the lessee from time to time under the Original Lease.

**Section 1.18 Penn Central** shall have the meaning set forth in the Recitals

**Section 1.19 Penn Central Parcel** shall have the meaning set forth in the Recitals.

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**Section 1.20 Person** means any individual, partnership, firm, trust, corporation, or other entity or governmental authority or political unit or agency.

**Section 1.21 Redevelopment** shall have the meaning set forth in Section 14.1.

**Section 1.22 Upper Owner** means TrizecHahn 10/120 Fee LLC or the owner or owners at any time of the Upper Parcel.

**Section 1.23 Upper Parcel** shall have the meaning set forth in the Recitals.

**Section 1.24 Upper Part of Lot 4** shall have the meaning set forth in the Recitals.

**Section 1.25 Upper Part of Lot 3** shall have the meaning set forth in the Recitals.

## ARTICLE 2

### Terms and Conditions Regarding Easements

**Section 2.1 Upper Parcel Easements.** The grants of easements in Sections 3.1, 3.3, 3.4 and 3.7 of this Agreement shall bind and be enforceable against the Lower Owner and its successors and assigns, and against the Lower Parcel and shall benefit the Upper Owner, and its successors and assigns and the Upper Parcel. The grant of an easement by the Lower Owner to the Upper Owner shall bind and burden the Lower Parcel, which shall, for the purpose of such easement, be deemed to be the servient tenement. The grant of an easement by the Lower Owner to Upper Owner is appurtenant to, runs with, and shall benefit the Upper Parcel, which shall, for the purpose of such easement, be deemed the dominant tenement.

**Section 2.2 Lower Parcel Easements.** The grants of easements in Sections 3.2 and 3.5 of this Agreement shall bind and be enforceable against the Upper Owner and its successors and assigns, and against the Upper Parcel and shall benefit the Lower Owner, and its successors and assigns and the Lower Parcel. The grant of an easement by the Upper Owner to the Lower Owner shall bind and burden the Upper Parcel, which shall, for the purpose of such easement, be deemed to be the servient tenement. The grant of an easement by the Upper Owner to Lower Owner is appurtenant to, runs with, and shall benefit the Lower Parcel, which shall, for the purpose of such easement, be deemed the dominant tenement.

**Section 2.3 General.** Unless otherwise provided in this Agreement, the easements granted by the Upper Owner or the Lower Owner under Article 3 of this Agreement are irrevocable and perpetual.

## ARTICLE 3

### Grant of Easements

**Section 3.1 Upper Parcel Grant.** Lower Owner hereby grants to Upper Owner a non-exclusive easement for ingress and egress for persons, materials and equipment over such areas located in the Lower Parcel as are reasonably necessary to confer upon Upper Owner and the Upper Parcel the rights and benefits created by this Agreement and a non-exclusive easement for

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the other uses and purposes and for the exercise of other rights expressly set forth in this Agreement except that such easement shall be exclusive (subject to the rights of Lower Owner under this Agreement) for purposes of Article 5 and the following sentence. The foregoing grant of easement includes, without limitation, an exclusive easement over the following land and spaces: all land and spaces below the horizontal planes described in Exhibit A and Exhibit D which, as of the date of this Agreement, are occupied by (i) the columns, caissons, foundations, gussets and all other supporting structures for the Building and improvements constructed in the Upper Parcel, and (ii) all other improvements, plenums, mechanical and electrical equipment, pipes, wires, conduits, utilities and other structures owned by Upper Owner in connection with said building and improvements, including, but not limited to the space occupied by the improvements and structures shown on the plat of survey prepared and certified by Chicago Guarantee Survey Company, dated January 3, 1968 (consisting of five sheets identified as Order Nos. 6501003 AA Sheets 1-5), which was recorded as part of Document 20370303. The Lower Owner may, from time to time, impose (a) reasonable limitations on the Upper Owner's use of the easements in, over, on, across and through the Lower Parcel described in this Article 3, including, without limitation, establishing paths of ingress and egress and hours of the day or days of the week during which the Upper Owner may use such easement, and (b) reasonable security controls consistent with the Lower Owner's operation of its business in the Lower Parcel and any overall security system for the Total Property. In imposing limitations or controls, the Lower Owner shall take into consideration the reasonable needs and requirements of the users of the easement as well as the Lower Owner's own needs and requirements. Notwithstanding the foregoing, in the event stricter limitations are set forth elsewhere in this Agreement with regard to the use or enjoyment of any of the easements set forth herein, such stricter limitations shall control with respect to the use and enjoyment of such easement.

**Section 3.2 Lower Parcel Grant.** Upper Owner hereby grants to Lower Owner a non-exclusive easement for ingress and egress for persons, materials and equipment over such areas located in the Upper Parcel as are reasonably necessary to confer upon Lower Owner and the Lower Parcel the rights and benefits created by this Agreement and a non-exclusive easement for the other uses and purposes and for the exercise of other rights expressly set forth in this Agreement. The Upper Owner may, from time to time, impose (a) reasonable limitations on the Lower Owner's use of any easement providing for ingress and egress in, over, on, across and thorough the Upper Parcel described in this Article 3, including, without limitation, establishing paths of ingress and egress and hours of the day or days of the week during which the Lower Owner may use such easement, and (b) reasonable security controls consistent with the Upper Owner's operation of its business in the Upper Parcel and any overall security system for the Total Property. In imposing limitations or controls, the Upper Owner shall take into consideration the reasonable needs and requirements of the users of the easement as well as the Upper Owner's own needs and requirements.

**Section 3.3 Parcel 3 Grant.** Subject to the terms and provisions of this Agreement, Lower Owner hereby grants to Upper Owner an easement appurtenant to the Upper Parcel in, over and across the west 20 feet of Lot 3 in said Railroad Companies' Resubdivision to construct, use, maintain, repair, replace or renew from time to time such columns, gussets, trusses, horizontal structural members, caissons, foundations and other supports as may be reasonably necessary or appropriate to maintain and support the plaza and other improvements contemplated by this Easement and Operating Agreement, including, without limitation, the columns (designated

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"DD") and the caissons, foundations and related structures shown on the plat of survey prepared and certified by Chicago Guarantee Survey Company, dated January 3, 1968 (consisting of five sheets identified as Order Nos. 6501003 AA Sheets 1-5), which was recorded as part of Document 20370303.

**Section 3.4 Construction and Encroachment Easements.** Lower Owner hereby grants to Upper Owner easements, the exercise of which shall be subject the other terms, provisions, limitations and restrictions of this Agreement, (i) to maintain so long as they exist such incidental encroachments of the Building or other improvements, as they now exist or are from time to time rebuilt or replaced in accordance with the terms of this Agreement, from the Upper Parcel into the Lower Parcel, and (ii) to from time to time temporarily use the Lower Parcel as needed for construction and staging purposes to repair, maintain, reconstruct or replace (a) the Building or other improvements on the Upper Parcel, or (b) the foundations or other facilities subject to easements created hereby.

**Section 3.5 Easements over the Penn Central Parcel.** Upper Owner hereby grants to Lower Owner a non-exclusive easement in, over and across the Penn Central Parcel for ingress and egress for persons, materials and equipment to the extent such rights are reserved to the lessor under the Original Lease for the term of the Original Lease. Lower Owner agrees to indemnify, defend and hold harmless Upper Owner and Master Lessee from all claims made by Penn Central arising out of the Lower Owner's exercise of the easements granted in this Section 3.5.

**Section 3.6 Termination of Easements over the Lower Part of Lot 4.** If requested by Lower Owner, and except as set forth in Section 3.7 below, on the Original Lease Termination Date, Upper Owner shall, at its sole cost and expense, remove any or all columns, gussets, trusses, horizontal structural members, caissons, foundations, elevator pits, smoke exhaust plenums, fuel tanks, pumping stations, mechanical equipment or other improvements owned by Upper Owner and/or placed in the Lower Part of Lot 4 by Upper Owner or Original Lessee pursuant to the Original Lease and restore any damage caused by its removal, it being understood that, except as set forth in Section 3.7 below, Upper Owner shall have no rights of support with respect to any buildings or other improvements located in the Upper Parcel or other rights in the Lower Part of Lot 4 after such date. If Upper Owner continues to have rights in the Lower Part of Lot 4 after the Original Lease Termination Date pursuant to Section 3.7 below, Upper Owner shall perform the obligations under this Agreement which relate thereto to the same extent as if the Lower Part of Lot 4 were a part of the Lower Parcel.

**Section 3.7 Limited Easement over the Lower Part of Lot 4.** Effective as of the Original Lease Termination Date, Lower Owner hereby grants to Upper Owner (a) an easement to use, maintain or repair any columns, gussets, trusses, horizontal structural members, caissons, foundations, elevator pits, smoke exhaust plenums, fuel tanks, pumping stations, mechanical equipment or other improvements owned by Upper Owner and located in Lot 4 as of the date of this Agreement, and (b) a non-exclusive easement for ingress and egress for persons, materials and equipment over such areas of the Lower Part of Lot 4 as are reasonably necessary for the purposes set forth in (a) and to enable Upper Owner to perform its obligations under this Agreement, including, but not limited to, the obligations set forth in Articles 6, 10, 15, 16, 18 and 31. Lower Owner agrees that improvements specified in this Section 3.7 which are relocated with the consent of the Lower Owner shall continue to constitute "improvements which are



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owned by Upper Owner and located in Lot 4 as of the date of this Agreement" for purposes of this Section 3.7. If, at any time after the Original Lease Termination Date, Upper Owner shall permanently discontinue use of any of its improvements specified in this Section 3.7, Lower Owner may, at its sole cost and expense, remove and dispose of such improvements from the Lower Part of Lot 4.

**Section 3.8 No Abandonment of Easements.** The easements granted pursuant to this Agreement shall not be presumed abandoned by non-use or the occurrence of damage or destruction of a portion of the Building, unless the Owner of the Parcel benefited by such easement states in writing its intention to abandon such easement, provided the consent of the Mortgagees shall also be required with respect to any such abandonment.

## ARTICLE 4

### Acquisition of Additional Air Rights

If at any time Upper Owner or any Affiliate of Upper Owner (or any land trust the beneficial interest in which is owned by Upper Owner or any Affiliate of Upper Owner) shall acquire directly or indirectly any interest in the Penn Central Parcel, then the Owners (and, if required, the Affiliate of Upper Owner) shall immediately execute an amendment to this Agreement which adds such interest in the Penn Central Parcel to the Upper Parcel.

## ARTICLE 5

### Foundations and Supports

Upper Owner shall, for the purpose of the Building, have the right to construct, use, maintain, repair, replace or renew from time to time in the Lower Parcel adequate columns, trusses, horizontal structural members, including the finished plaza floor, foundations and other supports for the Building, and smoke exhaust plenums, elevator pits, fuel tanks, pumping stations and mechanical equipment, and all other Building Equipment, either as are, as of the date hereof, located in the Building, or as are hereafter changed in accordance with Section 14.1. All columns, foundations and supports and other facilities hereafter erected shall be identical therewith in size and location unless the written consent of the Lower Owner, which consent shall not be unreasonably withheld, to changes in such size or location be first obtained. If Lower Owner withholds consent to improvements, equipment or facilities in the Lower Part of Lot 4 because it has determined that either their new size or location could conflict with Lower Owner's existing or future occupancy or use of the Lower Part of Lot 4 for railroad tracks, then Lower Owner's determination that it is reasonably withholding consent shall be conclusive. Upper Owner shall have a right of access over such portions of the Lower Parcel as may be reasonably necessary to permit Upper Owner to perform the acts specified in this Article or Article 6 of this Agreement. Lower Owner shall not do or permit any act which would adversely affect the structural safety or integrity of any portion of the Building or property of Upper Owner located in the Upper Parcel or the Lower Parcel.

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## ARTICLE 6

### Maintenance Of Foundations And Supports

Upper Owner, at its expense, shall maintain, repair and renew, keeping in good order and condition at all times in a manner reasonably satisfactory and safe to Lower Owner, the supports, columns, foundations, finished plaza floor, plaza, smoke exhaust plenums and the other facilities described in Article 5 hereof to the extent located in the Lower Parcel or otherwise required for the safety of the Lower Owner and the Lower Owner's Permitted Users.

## ARTICLE 7

### Maintenance of Penn Central Parcel

Upper Owner is not the record owner of the Penn Central Parcel but an Affiliate of Upper Owner is the Master Lessee and tenant under the Original Lease. In addition, Lower Owner has assigned its right, title and interest as lessor under the Original Lease to Upper Owner by an agreement dated November 8, 2001 and recorded as Document Number 11080261 in the Office of the Recorder of Deeds of Cook County, Illinois. Upper Owner agrees that, so long as the Original Lease is in effect, Upper Owner shall perform the obligations of Upper Owner under Articles 6, 10, 15, 16 and 18 with respect to the Penn Central Parcel to the same extent as if the Penn Central Parcel were a part of the Upper Parcel. Notwithstanding the foregoing, in the event Upper Owner is unable to perform its obligations under this Article 7 due to its inability to obtain access to the Penn Central Parcel, such inability to obtain access shall constitute an "Unavoidable Delay", as such term is defined in Article 47 of this Agreement. This Article 7 shall be superseded by the other terms and provisions of this Agreement to the extent any part of the Penn Central Parcel is added to the Upper Parcel.

## ARTICLE 8

### Rezoning of a Parcel

Either Owner may apply for changes in the then-existing zoning of its Parcel at any time provided, however, any changes which make more difficult or burdensome, or interfere with, the use or operation by the other Owner of its Parcel for commercial purposes or otherwise, reduce the value of the other Parcel, or, in the case of a rezoning of the Upper Parcel, interfere with the operation or use of the Lower Parcel by Lower Owner or any of Lower Owner's Permitted Users or, in the case of a rezoning of the Lower Parcel, interfere with the operation of any then existing office building on the Upper Parcel shall require the consent of the other Owner. If the consent of the other Owner to any such changes is required by law or pursuant to this Agreement, such Owner shall not withhold its consent so long as such changes meet the requirements set forth in this Agreement, and, in that regard, such Owner shall execute any such applications or other instruments as may be necessary to obtain any zoning variation or amendment requested by the other Owner.

## ARTICLE 9

### Use of Foundations and Supports by Lower Owner; Indemnity

Lower Owner shall have the right, without charge, but at the expense of Lower Owner, to construct and attach to any columns, foundations or supports for the Building and to the

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substructure of the Building, and to keep, use, maintain, repair and renew ducts, pipes, conduits, overhead wires, or rails, signals, apparatus, devices and facilities of whatsoever kind, nature and description, even though dissimilar to those specifically mentioned, which are necessary or useful in the operation of railroads or a pedway system or in connection with any other use permitted pursuant to Article 32 hereof in the Lower Parcel; provided, however, that as between Lower Owner and Upper Owner, Lower Owner shall be responsible for the safe and proper maintenance and preservation of the items so attached, and the use thereof by Lower Owner shall be such as not to impair or weaken any structure of Upper Owner, or any part thereof or to cause any substantially greater stress, load or burden thereof than that for which originally designed and provided. Lower Owner shall be responsible, as between Lower Owner and Upper Owner, for all loss, damage or injury (including loss of rentals) sustained to any part of such structure due to the use thereof by Lower Owner, and shall indemnify and save harmless Upper Owner against such loss, damage or injury. (Reference to substructure means and includes the columns, trusses, the underside of the building girders, floor beams, underside of lowest floor and members of the Building.) In performing any work hereunder, Lower Owner will not interfere with the normal operation of the Building and shall not cause or permit any mechanics' or other liens to be filed against the Building or the Upper Parcel.

## ARTICLE 10

### Bulkheads

Upper Owner shall, at its own expense, provide for any necessary strengthening, improvement or renewals of the bulkhead along the West side of the Chicago River between West Monroe Street and West Madison Street, necessitated by the Building, and shall indemnify and save harmless Lower Owner and the Operating Railroads, or their successors or assigns, from any and all cost, expense, damage, claim or demand arising from the added strain or load placed on such bulkhead by the Building.

## ARTICLE 11

### Changes in Existing Passageways, Entrances and Exits

If necessary to accommodate the purpose of Upper Owner, the location, elevation and dimensions of any entrance, exit, passageway, stairway, escalator or elevator, located either in the Upper Parcel or in the Lower Parcel or on property adjacent thereto or connected therewith shall, at the expense of Upper Owner, be changed, provided such changes shall not prevent or interfere with the convenient, proper and necessary use or occupation of the Lower Parcel or its commercial value or the property adjacent thereto or connected therewith of Lower Owner, any Operating Railroads or any other permitted occupants of the Lower Parcel in accordance with Articles 9 and 32 hereof; and during such work temporary or other adequate and proper means of access shall be provided. Such proposed changes or construction shall also be indicated upon plans, drawings or specifications to be approved by the Lower Owner, which shall not be unreasonably withheld.

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## ARTICLE 12

### Changes of Upper Owner in Lower Owner's Facilities

Should Upper Owner require any changes, temporary or permanent, in, or the performance of other work in respect of, the facilities of the Lower Owner or Lower Owner's Permitted Users (including, without limitation, lighting, air conditioning, heating or ventilating of the Lower Parcel) by reason of the maintenance, repair or renewal of Upper Owner's improvements as herein contemplated, or as the result of any Redevelopment, Upper Owner shall and will reimburse Lower Owner, any Operating Railroads or any other permitted occupants of the Lower Parcel for all reasonable cost occasioned thereby, not including retirement losses (if any) resulting from the retirement of any property. Lower Owner will cause such changes to be made as soon as reasonably possible, provided, however, Lower Owner shall not be required to make or to cause to be made any changes which shall make materially more difficult or burdensome, or interfere with, the use or operation by Lower Owner of its property for commercial purposes or otherwise or the operation or use of property of Lower Owner by Operating Railroads.

## ARTICLE 13

### Changes of Lower Owner in Lower Owner's Facilities

Lower Owner shall have the right at any time and from time to time but at its own cost and expense, to make such changes as may seem advisable to the supporting structures of the Building located within the Lower Parcel, and in the location of such supporting structures, or to change the location or design of passageways in, entrances to, and exits from the Lower Parcel, in such manner as Lower Owner and Upper Owner shall mutually agree (which agreement shall not be unreasonably withheld), to accommodate changes to the Lower Parcel desired by Lower Owner. During the work of making such changes Lower Owner or any Operating Railroad shall have the right and is hereby authorized, at reasonable hours, but after giving Upper Owner reasonable notice, to enter upon the Upper Parcel and to place therein such temporary shoring and blocking as may be reasonably required in making said changes, and also to remove all live loads from the particular supports affected by said changes, causing as little inconvenience as possible to the occupants, repairing all injury done to the Upper Parcel or the Building in any such work, in accordance with the rules and regulations of the Building Department of the City of Chicago, or rules and regulations of other similar governing municipal and/or state bodies, and reimbursing Upper Owner for all actual loss to Upper Owner (including rentals payable to Upper Owner) or its tenants of the portions of the Upper Parcel or the Building affected during the progress thereof by such work; provided that nothing herein shall be deemed or construed to authorize or permit said Lower Owner to diminish permanently the amount of space or area in the Building or Upper Parcel. This provision does not apply to changes required by reason of any of the work or project of Upper Owner as set forth in this Agreement. In performing any such work, Lower Owner will not materially interfere with the normal operation of the Building.

## ARTICLE 14

### Alteration of Building and Appurtenances

**Section 14.1 Lower Owner's Consent Required.** In the event Upper Owner desires in the future to (a) change, alter or improve the Building or any appurtenant structure thereof, including

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foundations, columns and supports, or to make any substantial repairs or renewals, other than Excluded Work (as hereinafter defined) (b) renovate, restore or reconstruct the Building, other than Excluded Work, or (c) demolish the then existing Building and construct a replacement Building (whether following damage, destruction, condemnation or otherwise)(any such work referenced in (a), (b) or (c) is collectively herein called a "Redevelopment"), Upper Owner shall first notify the Lower Owner and submit to Lower Owner detailed plans, drawings, outline specifications and, if such work is to be performed in the Lower Parcel, a procedure of work, and Lower Owner shall have right to review and disapprove only those aspects thereof which adversely affect the Lower Parcel or prevent or interfere with the use or occupation of the Lower Parcel for any existing or reasonably likely use or purpose permitted under Article 32.

**Section 14.2 Excluded Work.** "Excluded Work" means any improvements, renovations, alterations or additions to the interior or exterior of the Building within the Upper Parcel (including, without limitation, tenant improvements, redecoration or renovation of the Building within the Upper Parcel, legal compliance work in the Upper Parcel, telecommunications, security, or fire protection work within the Upper Parcel, HVAC, plumbing, electrical work within the Upper Parcel, or façade work) provided that such improvements, renovations, alterations or additional do not adversely affect the Lower Parcel or prevent or interfere with the use or occupation of the Lower Parcel for any existing or reasonably likely use or purpose permitted under Article 32.

**Section 14.3 Requirements for Approval of a Redevelopment.** No Redevelopment which requires Lower Owner's consent pursuant to Section 14.1 hereof shall commence unless and until:

(i) All requisite approvals of public authorities are secured for the Redevelopment.

(ii) Upper Owner has or will obtain funds, mortgage financing commitments and other financial commitments sufficient to perform the Redevelopment to a condition which would permit safe occupancy and use of the Lower Parcel

(iii) Upper Owner shall have complied with all other requirements on its part to be performed under the terms of this Agreement prior to the commencement of Redevelopment, including without limitation, the requirements (to the extent applicable) set forth in Sections 14.1, 31.2 and 31.4 and Articles 12 and 29.

(b) Any aspect of Redevelopment requiring Lower Owner's approval under Section 14.1 shall be constructed substantially in accordance with detailed plans, drawings, outline specifications and a procedure of work approved by Lower Owner in accordance with Section 14.1 hereof, which approval shall not be unreasonably withheld.

(c) If, after a Redevelopment has begun, Upper Owner desires to make material changes in, or additions to, any plans, drawings or specifications which were previously approved by Lower Owner, or which, as a result of such changes or additions, would require Lower Owner's approval under Section 14.1, Upper Owner shall furnish them to the Lower Owner with a written request for its approval, which approval shall not be unreasonably

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withheld, in order to determine whether they are in accordance with the requirements and provisions of this Agreement. Five sets of all approved plans, drawings and specifications shall be furnished by Upper Owner at its expense to Lower Owner.

(d) In the event any consent or approval is required from the Lower Owner pursuant to the terms of this Agreement, and such consent has not been given or denied or disapproval given within fifteen days after request therefor is submitted (ninety days in the case of a consent or approval regarding the exhaust plenums), a further written request shall be submitted to the Lower Owner for its approval or consent and if its approval or consent or disapproval has not been given within an additional thirty days, then in such event said consent or approval, as the case may be, shall be deemed to have been given.

(e) During any Redevelopment, Lower Owner, and any architect, engineer or other representative Lower Owner may select to act for it, may inspect (but shall have no duty or obligation to inspect) the work being performed upon the Upper Parcel which required Lower Owner's approval under Section 14.1 and the materials being used in, or to be used in, performance of such work to ensure compliance with this Agreement.

## **ARTICLE 15** **Waterproofing and Drainage**

The Building and appurtenant structures hereof or hereafter constructed or erected by Upper Owner over the Lower Parcel shall be thoroughly watertight and drained, and no water, liquid or waste of any character shall be permitted to drain or leak into the Lower Owner's drainage system, the Lower Parcel or in the area or vicinity thereof, except as approved by the Lower Owner.

## **ARTICLE 16** **Sidewalks, Driveways and Curbs**

Upper Owner, at its expense, will keep the sidewalks, driveways and curbing fronting the Upper Parcel, as well as all passageways through or across the Upper Parcel, free and clear of snow, ice and other substances and any obstruction to the free and safe use thereof at all times, and it will promptly maintain, repair, renew and replace the said sidewalks, driveways, curbing and passageways.

## **ARTICLE 17** **Real Estate Taxes**

Each Owner shall pay real estate taxes on its Parcel to the extent that failure to do so would result in a lien or encumbrance on the other Owner's portion of the Total Property or would impair or extinguish any material easement benefiting the other Owner. The Owners shall take steps necessary to insure that their Parcels are separately assessed and taxed.

## **ARTICLE 18** **Maintenance of the Building and Upper Parcel**

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The Building shall be kept in good, condition and repair by Upper Owner, at Upper Owner's sole cost and expense, including such foundations, columns or supports (including the underside of the lowest finished floor slabs of the plaza floor) as may be erected by Upper Owner or which presently exist, so as to maintain the Building in structurally sound condition.

## **ARTICLE 19** **Access to Lower Parcel**

Upper Owner shall have the right at all reasonable times, but only with the prior written consent of Lower Owner, which consent shall not be unreasonably withheld, to enter by itself, its servants or agents, into the Lower Parcel for the purpose of inspecting said supporting columns, footings and foundations, elevators, piping, electrical lines and any other services as well as the underside of the lowest floor of the Building and to bring therein such materials and perform such labor as may be necessary or convenient safely, adequately and properly to maintain, repair or strengthen such structures.

## **ARTICLE 20** **Condition of Area and Space after Construction Work**

Following any work, Upper Owner shall leave the Upper Parcel and Lower Parcel in a neat, clean and safe condition.

## **ARTICLE 21** **Safety of Trains and Persons**

Upper Owner definitely understands and agrees that the property, operations and traffic at and upon the property of Lower Owner or the Operating Railroads in the Lower Parcel shall be the first importance, and the work of constructing, inspecting, maintaining, repairing, altering, changing, improving, replacing or renewing the Building, columns, foundations, substructures or other work, or any part thereof, in respect of the Upper Parcel shall be performed so as not to interfere with or endanger any part of the Lower Owner's property or any railroad, or any property, facilities or movement of trains or traffic or persons upon or about the tracks of Lower Owner or any Operating Railroad upon or about or in the vicinity of the Lower Parcel; and Upper Owner shall arrange and perform any and all work accordingly. Whenever any work shall in any way affect or be likely to involve the operations or safety of persons, property, trains, or traffic upon or about or in the vicinity of the Lower Parcel, such proposed work shall first be submitted to the Lower Owner and shall be performed at such time and in such manner as approved by the Lower Owner, which approval shall not be unreasonably withheld, who shall at all times have the right to inspect the work and the performance thereof.

## **ARTICLE 22** **Performance of Work in Lower Parcel by Lower Owner**

Lower Owner expressly reserves the right, and Upper Owner agrees that Lower Owner shall have the right, at the expense of Upper Owner as defined in Article 23 and Section 24.1, to perform or cause to be performed such part of any of the work of Upper Owner below the Upper Parcel (whether construction, alteration, changes, improvements, repairs, renewals or

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reconstruction), as shall, in the reasonable judgment of Lower Owner, be deemed necessary for the better protection of property and the railroad operations and facilities in the Lower Parcel, provided that Lower Owner shall give reasonable prior written notice of Lower Owner's intention so to do (but not less than thirty (30) days except in cases of emergency).

## ARTICLE 23

### Performance of Work in Lower Parcel by Upper Owner

Where the character of the work is such as to make it advisable in the opinion of the Lower Owner to assign one or more inspectors, watchmen or flagmen to the work, Lower Owner may do so, and all costs incurred (including, without limitation, salary and benefits) shall be paid by Upper Owner. It is agreed that the providing of such personnel during any work of Upper Owner or its contractors or subcontractors shall not relieve Upper Owner or its contractors or any subcontractors or its, his or their insurer from any liability for damage arising in connection with the Upper Owner's work, and any damages resulting from any act or omission of such personnel shall be deemed part of Upper Owner's work or project and covered by the insurance to be furnished as herein provided, and it is also agreed that all loss, damage and expense as a result of injury to such personnel from any cause whatsoever shall be assumed by Upper Owner.

## ARTICLE 24

### Payment for Work Performed by Lower Owner and Others for Upper Owner

**Section 24.1 Obligation to Pay.** Upper Owner shall promptly pay the cost to Lower Owner or to any Operating Railroad, of any work or services performed or rendered by Lower Owner, any Operating Railroad, or others acting for or on behalf of them, pursuant to this Agreement or for or on behalf of Upper Owner, its contractors, subcontractors, or others acting for or on behalf of the project of Upper Owner, to accommodate or facilitate any work or project of Upper Owner. Bills shall be rendered in monthly installments and shall be paid as rendered; and no controversy or dispute in respect of any item shall delay payment, but any controversy or dispute shall be later considered and adjusted if proper. Each such amount shall bear interest at the Default Rate from the date the bill for such amount has been rendered.

**Section 24.2 Agreement to Pay.** It is hereby stipulated and agreed that the Lower Owner, or any Operating Railroad, may withhold approval of Upper Owner's plans until and unless Upper Owner agrees to bear and pay to Lower Owner or any such Operating Railroad any item of expense incurred or borne by them which may reasonably be attributable to such project. Approval by Lower Owner of Upper Owner's plans terminates any rights of Lower Owner under this Section 24.2 not theretofore invoked.

**Section 24.3 Assignment of Personnel.** All changes, work or assignment of personnel by the Lower Owner as authorized pursuant to the provisions of this Agreement, including without limitation such changes, work or assignment of personnel as are authorized pursuant to the provisions of Articles 12, 22 and 23 hereof, shall be reasonable, and the Lower Owner shall advise the Upper Owner in writing of the necessity of any such changes, work or assignment of personnel within 30 days following the submission by Upper Owner in writing of plans and work schedules in connection with the particular work being performed by the Upper Owner. Thereupon the Upper Owner shall have the opportunity to amend and modify its plans and work



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schedules so as to eliminate any such changes, work or assignment of personnel.

## **ARTICLE 25 Responsibility for Work**

Lower Owner or the Operating Railroads in approving any plans, drawings or specifications or contract for, or any manner or method of performing the work, or materials used by, Upper Owner, its employees, agents, contractors or subcontractors, does not assume any responsibility or liability in respect to safety, adequacy, sufficiency or otherwise, which responsibility or liability shall be and remain with Upper Owner.

## **ARTICLE 26 Option of Upper Owner to Lease Lower Parcel**

If, prior to the earliest of (a) the expiration or earlier termination of the Master Lease, (b) the termination of the existing Leasehold Mortgage (as defined in the Master Lease), or (c) October 31, 2011 the Lower Owner shall permanently discontinue the use of the Lower Parcel, in whole or in part, for railroad or other transportation purposes, Lower Owner shall give the Upper Owner written notice to that effect, and within a period of six months thereafter the Upper Owner shall have the option to lease that portion of the Lower Parcel so to be discontinued at a rental and for a term to be mutually agreed upon (in no event beyond the earliest to occur of (a), (b) or (c) above) and otherwise upon terms, covenants and conditions substantially similar to those contained in the Master Lease, as the same is in effect as of the date hereof, and the Upper Owner may use such space for any lawful purpose. If the Lower Owner and the Upper Owner shall be unable to agree upon such rental, the same shall be submitted to arbitration in the manner provided in Article 38 for determination of a fair and reasonable rental therefor.

## **ARTICLE 27 Mechanics Liens**

No Owner shall cause or permit any mechanic's liens or other liens to be filed against the other Owner's (the "Impacted Owner") Parcel. If any such liens shall be filed, such Owner (the "Liening Owner") shall procure and deliver to the Impacted Owner a full and complete cancellation and discharge thereof. The Impacted Owner agrees to cooperate with the Liening Owner in connection therewith without incurring any expense therefor. If the Liening Owner shall fail to procure and deliver to the Impacted Owner such full and complete cancellation and discharge within thirty (30) days after written notice from the Impacted Owner requesting the same, the Impacted Owner may, but shall not be required to, discharge or remove the same by deposit or payment, and the amount so deposited or paid with the costs incident thereto shall be payable by the Liening Owner immediately when the same shall have been deposited or paid by the Impacted Owner and shall bear interest at the Default Rate from the date of such deposit or payment by the Impacted Owner; provided that the Impacted Owner may not so discharge or remove any lien of the Liening Owner if the Liening Owner is in good faith contesting the same and the Liening Owner has furnished a cash deposit or a corporate surety bond or other security reasonably satisfactory to the Impacted Owner in an amount sufficient to pay such lien with interest and penalties.

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## ARTICLE 28

### Observance of Legal Requirements

Each Owner shall, at its own expense, promptly observe and comply with, and see that its employees, contractors, tenants, subtenants, licenses, invitees, patrons, and guests, promptly observe and comply with, all laws, orders, regulations, rules, ordinances and requirements of the federal, state, county and city governments or other public authority having jurisdiction, and each of them, and any and all of its or their departments, bureaus or officials and of the applicable board of underwriters, the applicable fire insurance exchange and/or of any body exercising similar functions, and of all insurance companies writing policies covering the Total Property, or any part or parts thereof, whether such laws, orders, regulations, rules, ordinances or requirements relate to use, construction, structural changes, alterations, repairs, renewals or requirements, to, or in, and about such Owner's Parcel, or any building thereon, or to changes or requirements incident to, or as the result of, or in respect to, any use or occupation thereof, or otherwise, and whether the same now are in force, or those that may, at any time in the future be passed, enacted or directed, and each Owner shall pay all costs, expenses, claims, fines, penalties and damages that may, in any manner, arise out of, or be imposed because of, the failure of such Owner to comply fully with this condition.

## ARTICLE 29

### Property Insurance

**Section 29.1 Fire and Extended Coverage.** Upper Owner, at its expense, shall at all times keep any and all improvements located in or on the Upper Parcel (including materials to be used in construction but excluding tenant improvements) insured against loss or damage by fire with extended coverage including debris removal in an amount sufficient so that Upper Owner is not deemed a co-insurer of the risks thereunder.

**Section 29.2 Builder's Risk.** Upper Owner shall also, at its own expense, during the process of construction of any improvements to or replacement of the Building have and keep said improvements to or replacement of the Building (including materials to be used in construction) insured with all risk builder's risk insurance, including collapse and debris removal.

**Section 29.3 Policy Language.** All the policies provided for in this Article 29 shall be with responsible insurance companies authorized to do business in Illinois. Lower Owner shall be furnished a duplicate copy of each policy or certificate evidencing the insurance coverage and receipts evidencing payment of the premiums thereon. All the policies provided for in this Article 29 shall contain waivers of subrogation, if obtainable from the insurance companies, against Lower Owner, its Mortgagee, if any, and all Operating Railroads. Upper Owner hereby releases Lower Owner and all Operating Railroads to the extent of its insurance coverage to be furnished as provided in this Article 29 from any and all liability for any loss or damage caused by fire or any of the extended coverage perils so insured. Policies delivered initially under this paragraph shall contain such waivers of subrogation. Upper Owner shall keep and maintain each policy of insurance in effect for the period hereinbefore provided and shall furnish to Lower Owner not less than thirty (30) business days before the expiration of any such policy a certificate evidencing the renewal of such policy and evidence of payment of the renewal premium for renewal of the policy.

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**Section 29.4 Self Insurance.** Notwithstanding anything to the contrary contained herein, Upper Owner may self-insure the risks to be insured by the property policies provided for in this Article 29 with the consent of Lower Owner, which consent shall not be unreasonably withheld, upon presentation to Lower Owner from time to time of appropriate financial information confirming to Lower Owner's reasonable satisfaction that such self-insurance program will provide protection which is reasonably equivalent to that which would be provided by the property policies provided for in this Article 29.

## ARTICLE 30

### Use of Insurance Proceeds

**Section 30.1 Obligation to Rebuild and Application of Proceeds.** If the Building, or any part thereof shall at any time or times, be destroyed or damaged by fire or other casualty and as often as the Building may be destroyed or damaged by fire or other casualty, Upper Owner, at its expense, and subject to the provisions of this Agreement, shall, at its option, (a) rebuild or repair the same in accordance with the provisions of Article 14; or (b) so long as the Upper Parcel can be and is made thoroughly watertight and drained to the same extent as required under Article 15 hereof and such exhaust plenums as are reasonably required in connection with the use and occupation of the Lower Parcel are provided, demolish the Building, remove all debris from the Upper Parcel and provide landscaping or ground cover on all areas of the Upper Parcel that have been cleared and are not covered by improvements.

**Section 30.2 Commencement and Completion of Restoration.** In the case of a serious fire or casualty, Upper Owner shall commence the work of repairing or restoring the Building or the Redevelopment or demolition thereof within three (3) months from the happening of any such event (such work to include the preparation of any necessary plans, the application for any required permits, and any other similar required steps) subject, however, to delays in the collection of any insurance proceeds and to delays resulting from causes beyond the reasonable control of Upper Owner, and diligently carry same through to completion. If the Building is not rebuilt, Upper Owner shall promptly clear debris from the Lower Parcel as is required for the continued use and safety of the Lower Parcel.

## ARTICLE 31

### Liability Insurance

**Section 31.1 Indemnification by Upper Owner.** Upper Owner shall at all times indemnify and save harmless, or cause to be indemnified and saved harmless, Lower Owner, its Mortgagee, if any, and all Operating Railroads from all loss, damage, expense, claims and actions, which they or any of them may suffer or sustain or be held liable for, growing out of loss of life or damage or injury to persons or property to whomsoever belonging, directly or indirectly, arising out of or connected with

(a) the work of erecting, constructing and thereafter inspecting, repairing, changing, improving, renewing or maintaining the Building, the appurtenances and the supporting structures thereof (including, to the extent applicable, the bulkhead along the west side of the Chicago River), by Upper Owner or its Representatives (as defined below), upon the Upper Parcel, or upon or in the Lower Parcel,

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(b) the use and occupancy of the Upper Parcel, including any appurtenant sidewalks and driveways,

from a cause not attributable to the sole negligence of Lower Owner or any Operating Railroad. Notwithstanding anything hereinbefore to the contrary, Lower Owner or an Operating Railroad, or any of them, shall not be liable for, and shall be protected, indemnified and saved harmless by Upper Owner from, all loss, damage, expense, claims and actions which they, or any of them, may suffer or sustain or for which they may be held liable by reason of damage to materials and equipment of, or injury (including death) to Upper Owner, its officers, agents or employees, any contractors, subcontractors or materialmen, its, his or their officers, representatives, or employees or other persons (collectively, "Representatives"), engaged in the work of Upper Owner, while on the Upper Parcel or the Lower Parcel, or property adjacent thereto, directly or indirectly arising out of or in any manner connected with erecting, constructing, inspecting, repairing, changing, improving, renewing or maintaining the Building, including the supporting structures, or other improvements on the Upper Parcel, whether due to any negligent or non-negligent act or a omission of Lower Owner or a Operating Railroad, or any of them, or its or their officers, representatives or employees, or otherwise.

**Section 31.2 Upper Owner's Liability Insurance.** Without limiting Upper Owner's liability under Section 31.1, Upper Owner shall produce evidence of insurance of its liability in amount of not less than \$25,000,000 combined single limit for damage or injury (including death) to any person or property until April 30, 2009; and thereafter in such amounts as is then customary for comparable property in the City of Chicago. Such policy or policies shall be endorsed to cover the contractual liability (as defined in Section 31.1) of Upper Owner to Lower Owner and the Operating Railroads, and all such corporations shall be named as additional insureds under this policy. Upper Owner shall maintain such insurance in force during the entire term of this Agreement.

Upper Owner shall require all its independent contractors who work on the Upper Parcel to maintain workers' compensation insurance, including coverage for occupational diseases (other than any asbestosis) in the amount required by law and employer's liability and general liability of not less than \$1,000,000.00 for independent contractors performing work in excess of \$750,000 and not less than \$500,000 for all other contractors until April 30, 2009; and thereafter in such amounts as is then customary for comparable property and work in the City of Chicago.

**Section 31.3 Additional Insurance During Performance of Work.** During any Redevelopment Upper Owner shall, at its expense, provide or cause to be provided excess umbrella liability insurance in an amount which, when added to the insurance carried pursuant to Section 31.2, is not less than \$75,000,000 combined single limit for damage or injury (including death) to any person or property until April 30, 2009; and thereafter in such amounts as is then customary for comparable property in the City of Chicago. Lower Owner and the Operating Railroads shall be named as additional insureds under this policy.

**Section 31.4 Railroad Protective Insurance.** In addition to and not in substitution for the foregoing insurance, Upper Owner shall during any Redevelopment, at its own expense, furnish a policy of railroad protective insurance in the form then presently required by Lower Owner for

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the nature of the work contemplated by Upper Owner with limits for public liability and property damage insurance of not less than \$15,000,000 multiplied by one plus the percentage increase, if any, in the Consumer Price Index from January 1, 1989, to the commencement of the Redevelopment. Such railroad protective insurance shall be in the name of Lower Owner and all Operating Railroads.

In lieu of the foregoing insurance, Upper Owner may furnish Lower Owner with a corporate surety bond, letter of credit, or other security reasonably acceptable to Lower Owner for the full amount of the required insurance.

As used herein, "Consumer Price Index" shall mean the Consumer Price Index for the City of Chicago and Northwest Indiana, All Urban Consumers, All Items (base index year 1982-84=100) as published by the United States Department of Labor, Bureau of Labor Statistics. If the manner in which the Consumer Price Index is determined by the Bureau of Labor Statistics shall be substantially revised, including, without limitation, a change in the base index year, an adjustment shall be made by Lower Owner in such revised index which would produce results' equivalent, as nearly as possible, to those which would have been obtained if such Consumer Price Index had not been so revised. If the Consumer Price Index shall become unavailable to the public because publication is discontinued, or otherwise, if equivalent data is not readily available to enable Lower Owner to make the adjustment referred to in the preceding sentence, then Lower Owner will substitute therefor a comparable index based upon changes in the cost of living or purchasing power of the consumer dollar published by any other governmental agency or, if no such index shall be available, then a comparable index published by a major bank or other financial institution or by a university or a recognized financial publication.

**Section 31.5 Lower Owner's Liability Insurance.** Lower Owner shall produce evidence of insurance of its liability in amount of not less than \$25,000,000.00 combined single limit for damage or injury (including death) to any person or property until April 30, 2009; and thereafter in such amounts as is then customary for comparable property in the City of Chicago. Lower Owner shall maintain such insurance in force during the entire term of this Agreement.

Lower Owner shall require all its independent contractors who work on the Lower Parcel to maintain workers' compensation insurance, including coverage for occupational diseases (other than any asbestosis) in the amount required by law and employer's liability and general liability of not less than \$1,000,000.00 for independent contractors performing work in excess of \$750,000 and not less than \$500,000 for all other contractors until April 30, 2009; and thereafter in such amounts as is then customary for comparable property and work in the City of Chicago.

**Section 31.6 Policy Requirements.** All the policies provided for in this Article 31 shall be with responsible insurance companies authorized to do business in Illinois. Lower Owner shall be furnished with the original insurance policy described in Section 31.4 above and Lower Owner or Upper Owner, as the case may be, shall be furnished a duplicate copy of each other policy or certificate evidencing same and receipts evidencing payment of the premiums thereon. Each Owner shall keep and maintain each policy of insurance in effect for the period hereinbefore provided and shall furnish to the other Owner not less than thirty (30) business days before the expiration of any such policy a certificate evidencing the renewal of such policy and evidence of payment of the renewal premium.

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## ARTICLE 32

### Use of Lower Parcel by Lower Owner

Upper Owner definitely understands and agrees that the Lower Parcel can and will be occupied and used by Lower Owner and all Operating Railroads and others to whom Lower Owner has extended, or may extend, the right, liberty and privilege for the construction, maintenance, use, repair, alteration, change or renewal of the railroad tracks and all railroad facilities and for the use and operation of engines, trains, cars and other equipment, and for all other uses and purposes incident to or in connection with the station, railroad and facilities thereof, or for such other and different and non-railroad purposes as Lower Owner, or any successor or assign, may from time to time or at any time or times hereafter deem advisable, provided, such purposes do not materially interfere with Upper Owner's rights and duties to construct, maintain, repair and renew the columns, foundations and supports of the Building and other rights and obligations under this Agreement, and provided such operations and purposes shall not interfere with the normal operation of the Building. No operations or activities in the Lower Parcel, whether for railroad or non-railroad purposes shall weaken or impair the foundation or structural supports of the Building. Upper Owner shall not have or make any claim or be entitled to any damages against Lower Owner or other persons to whom the use of the Lower Parcel has been or may be extended, for or by reason of or in connection with such use or operations, whether caused by electrical interference, noise, vibration, electrolysis, elements, sparks from locomotives, fumes, smoke, odor or other causes even though dissimilar from those specifically mentioned and howsoever caused or arising; provided, however, that nothing hereinbefore in this Article contained shall release Lower Owner or Lower Owner's Permitted Users from liability for injury to persons or property caused by their negligence.

## ARTICLE 33

### Floor Loads of the Building

Upper Owner will not suffer, allow or permit the loading of any of the floors of the Building at any time erected, or any portion or portions thereof, beyond the loads which the same will safely support.

## ARTICLE 34

### Payment and Location of Utilities

**Section 34.1 Payment of Utilities.** Upper Owner shall and will, at its own cost and expense, arrange for and pay for all heat, light, water, telephone, sewer, and any and all other services used on or in connection with the Upper Parcel or the Building, excluding services to the Lower Parcel.

**Section 34.2 Location of Utilities.** The necessary lines, pipes, wires, conduits and connections for such utilities and services may be located and installed in the Lower Parcel and in areas adjacent to the Upper Parcel at locations presently existing or other locations approved by Lower Owner, which approval shall not be unreasonably withheld. The Upper Owner and the utility companies shall at all reasonable times have access to such installations for the repair and maintenance thereof. Nothing herein shall prevent Lower Owner from restricting or otherwise charging for use of the Lower Parcel or areas adjacent to the Upper Parcel by such utilities or

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service providers if such use would permit such utilities or other service providers to provide utilities or services to any Person other than Upper Owner or to any improvement other than the Building.

## ARTICLE 35 Flammable or Explosive Materials

Upper Owner will not use or keep, or permit to be used or kept on the Upper Parcel, any oils, materials or substances of a flammable or explosive nature except in accordance with the rules and regulations of the board of fire underwriters or other public authorities.

## ARTICLE 36 Inspection of Upper Parcel

Upon reasonable prior notice to Upper Owner, Upper Owner will permit Lower Owner, or its authorized agents, to enter the Upper Parcel at any and all reasonable time or times solely for the purpose of inspecting the same to ensure compliance with the terms and provisions of this Agreement, provided Lower Owner shall use reasonable efforts to ensure that such inspection does not unreasonably interfere with Upper Owner's (or any of its tenants') use of Building.

## ARTICLE 37 Condemnation

In the event of the taking, condemnation or purchase in lieu of a taking, of a portion, but only a portion, of the Upper Parcel and/or Building, then Upper Owner, at its option, shall, to the extent reasonably practicable, (a) rebuild or repair the same in accordance with the provisions of Article 14 hereof, or (b) so long as the Upper Parcel can be and is made thoroughly watertight and drained to the same extent as required under Article 15 hereof and such exhaust plenums as are reasonably required in connection with the use and occupation of the Lower Parcel are provided, demolish the Building and provide landscaping or ground cover on all areas of the Upper Parcel that have been cleared and are not covered by improvements.

## ARTICLE 38 Enforcement of Agreement

**Section 38.1 Enforcement.** If any Owner (a "Defaulting Owner") breaches any obligation under this Agreement (including, without limitation, the payment of any funds due pursuant to this Agreement), the non-defaulting Owner ("Non-Defaulting Owner") may give written notice to the Defaulting Owner specifying the nature of the breach. If the Defaulting Owner has not cured the breach within thirty (30) days after such notice is received, or if such breach cannot be cured within said thirty (30) day period and Defaulting Owner has not commenced to cure such breach within said 30-day period, and thereafter diligently proceeded to cure such breach, then the Non-Defaulting Owner may, but shall not be required to, with or without entry upon the Defaulting Owner's Parcel, abate and remove, correct or repair the condition causing the breach; provided, however, that if the condition causing the breach creates an imminent threat of loss or damage to any improvement or property on the Non-Defaulting Owner's Parcel or any injury to

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any person, the Non-Defaulting Owner may immediately abate and remove, correct or repair the condition. In addition, the Non-Defaulting Owner may enforce this Agreement against the Defaulting Owner by legal proceedings, at law or in equity.

The total cost of any action taken (including labor, material, overhead and reasonable attorneys' or other consultant fees) by the Non-Defaulting Owner after the Defaulting Owner's breach and failure to cure shall be assessed against and paid by the Defaulting Owner within thirty (30) days after receipt by the Defaulting Owner of a statement specifying the nature and costs of the action taken by the Non-Defaulting Owner.

## **Section 38.2 Right to Lien.**

(a) **Establishment of Liens.** Any and all amounts owed by any Owner hereunder to the other Owner in accordance with the terms and provisions of this Agreement which are delinquent beyond applicable cure periods, together with interest thereon at the Default Rate and the costs of collection (including, without limitation, court costs and reasonably attorneys' fees)(all of the foregoing sometimes hereinafter collectively referred to as the "Lien Costs") shall become the personal obligation of each such Parcel.

(b) **Notice of Liens.** The Lien Costs shall become a charge on and continuing lien ("Lien") against the respective Parcel(s) only from and after the time of the recordation with the Cook County Recorder's Office of a written acknowledged statement ("Notice of Lien") by the Owner owed such Lien Costs setting forth the amount due such Owner as of the date the statement is signed, the legal description of the Parcel against which the Lien is charged and the record Owner thereof. A copy of the Notice of Lien shall be mailed to the Owner in the manner hereinafter provided for giving notice set forth in Section 41.6. Each Lien shall be subject and subordinate to the lien of any Mortgage of the Parcel in question which is recorded before the Notice of Lien for that Lien is filed.

(c) **Release of Liens.** Upon full payment of all sums secured by such Lien or other satisfaction thereof, the Owner who filed such Lien shall promptly cause to be recorded a release of the Lien stating the satisfaction and release of the amount claimed.

(d) **Foreclosure of Lien.** In addition to all other remedies available to any Owner who has established a Lien in accordance with this Section 38.2, such Owner shall have the right to file an action in equity to foreclose its Lien at any time after the effective date thereof in a manner similar to foreclosure of a mortgage lien. Such Owner shall have the right to purchase such Parcel at any foreclosure sale, and to retain, lease, mortgage or convey same.

**Section 38.3 Specific Performance/Injunction.** In the event of any violation or threatened violation by any Owner of any of the provisions of this Agreement, each of the Owners shall have the right to maintain an action for specific performance or injunction against the Owner(s) who are alleged to have violated or threatened to violate the provisions of this Agreement, and each Owner agrees that no objection to the form of action in any proceeding for specific performance or injunction shall be raised by any allegedly breaching Owner so that such specific performance or injunction may not be obtained by the other Owner.

**Section 38.4 Waiver of Default.** A waiver of any default by an Owner must be in writing and



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no such waiver shall be implied from any omission by a party to take any action in respect of such default. No express written waiver of any default shall affect any default or cover any period of time other than the default and the period of time specified in such express waiver. One or more written waivers of any default in the performance of any provision of this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained herein. The consent or approval by any Person to or of any act or request by another Person requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests. The rights and remedies given to a Person by this Agreement shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity that a party might otherwise have by virtue of a default under this Agreement, and the exercise of one such right or remedy by a party shall not impair such party's standing to exercise any other right or remedy.

## **ARTICLE 39 Arbitration**

If a dispute shall arise between the parties with respect to any of the matters mentioned in Articles 6, 9, 10, 11, 12, 14, 18, 24, 26 and 30, or if the parties are unable to reach agreement within thirty days on the matters mentioned in Article 13, or Sections 31.2, 31.3, 31.4, and 31.5 then, and in that event, such matters shall be arbitrated in the following manner: Lower Owner and Upper Owner shall each, within five days thereafter, select an arbitrator who shall be a disinterested person, with reasonable knowledge and experience relative to the subject to be arbitrated. The two arbitrators thus selected shall immediately thereafter select a third arbitrator who shall likewise be a disinterested person having knowledge and experience relative to the subject to be arbitrated. The three arbitrators shall meet promptly and by a majority vote, determine the matter subject to arbitration, and whether Lower Owner, Upper Owner, or both shall pay the expenses of the arbitration, which determinations shall be binding upon Lower Owner and Upper Owner. In case (a) either party fails to name its arbitrator within five days after receipt of notice of selection of the arbitrator of the other party, or (b) the two arbitrators so selected shall within five days after selection of the last thereof be unable to agree upon the selection of the third arbitrator, then upon the request of either party the then Chief Judge of the United States District Court for the Northern District of Illinois, Eastern Division, shall make such selection hereunder, and such selection shall be binding upon both parties. All selections and determinations shall be given promptly by written notice. The said arbitrations and determinations shall be conducted at Chicago, Illinois in accordance with the applicable provisions of the Uniform Arbitration Act of the State of Illinois and the determination shall be enforceable in any court having jurisdiction over the Total Property. Neither party will object to the Original Lessee or Master Lessee joining in the arbitration proceeding so long as it or they, as the case may be, join in at a time that will not delay the commencement or conduct of the arbitration proceeding.

## **ARTICLE 40 Rights of Lower Owner and Railroads**

It is understood and agreed that any right, privilege, benefit, indemnity or guarantee, herein expressed in favor of Lower Owner or any Operating Railroad, or the Lower Parcel or any of

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them, shall be enforceable at law or in equity by any of them in their own name or names, alone or jointly with Lower Owner or Upper Owner, as fully as if they and each of them were parties to and signatories of this Agreement; but no obligation of Lower Owner hereunder shall attach to or arise against any corporation not a signatory hereto. Notwithstanding the foregoing, this Agreement (including the rights of any Operating Railroads hereunder) may be modified or terminated by an instrument signed by the then Lower Owner and the then Upper Owner, without the consent or approval of the Operating Railroads.

## ARTICLE 41 Miscellaneous

**Section 41.1 Successors and Assigns; Covenants running with the Land.** The benefits and burdens of this Agreement shall inure to the Owners and their respective successors and assigns. All benefits and burdens shall be deemed to be covenants that run with the land.

**Section 41.2 Invalidity; Waiver.** If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure of any party to enforce against any other party any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against such other party the same or any other term or provision.

**Section 41.3 Amendments to Agreement.** This Agreement may be amended or terminated only by an instrument signed by the then Lower Owner and the then Upper Owner. Any amendment to or termination of this Agreement shall be recorded with the Cook County Recorder.

**Section 41.4 Term.** The covenants, conditions and restrictions contained in this Agreement shall be enforceable by the Owners and their respective successors and assigns for the term of this Agreement, which shall be perpetual (or, if the law provides for a time limit on any covenant, condition or restriction, then such covenant, condition or restriction shall be enforceable for such shorter period), subject to amendment or termination as set forth in Section 41.3.

**Section 41.5 Incorporation.** Each provision of the Recitals to this Agreement and each Exhibit attached hereto is hereby incorporated in this Agreement as an integral part hereof.

**Section 41.6 Notices.** All notices, demands, elections or other instruments required, permitted or desired to be served hereunder shall be in writing and shall be sent certified or registered mail, postage prepaid, addressed as set forth below or by Federal Express or similar overnight delivery service providing written proof of delivery. Any notice, demand, election or other instrument so delivered shall be deemed received when delivered or when delivery is refused. Addresses for service of notice may be changed by written notice served at least ten (10) days prior to the effective date of any such change.

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If to Lower Owner:

Chicago Union Station Company  
210 South Canal Street  
Chicago, Illinois 60606  
Attention: Managing Director - Real Estate

and to:

CUSCO  
c/o Amtrak  
60 Massachusetts Avenue N.E.  
Washington D.C. 20002  
Attention: General Counsel

and to:

National Railroad Passenger Corporation  
30th Street Station, 4S Box 15  
Philadelphia, Pennsylvania 19104  
Attention: Vice President, Real Estate Development

If to Upper Owner:

TrizecHahn Office Properties Inc.  
233 S. Wacker Drive, Suite 4600  
Chicago, Illinois 60606  
Attn: President

and to:

Piper Marbury Rudnick & Wolfe  
203 N. LaSalle Street, Suite 1800  
Chicago, Illinois 60601-1293  
Attn: James L. Beard or Sue Ann Fishbein

**Section 41.7 Estoppel Certificates.** Lower Owner and Upper Owner each agree at any time and from time to time upon not less than twenty (20) days prior written notice by the other, to execute, acknowledge and deliver to the requesting party or any Mortgagee, prospective transferee or its prospective mortgagee, a statement in writing stating (a) this Agreement is unmodified and in full force and effect (or if there shall have been modifications that the Agreement is in full force and effect as modified and stating the modifications); (b) whether or not to the best knowledge of the signer of such certificate, the requesting party is in default in keeping, observing or performing any terms, covenant, agreement, provision, condition or limitation contained in this Agreement and, if in default, specifying each such default of which the signer may have knowledge; and (c) whether any arbitration is then in progress pursuant to Article 38 and, if so, specifying the matter then being arbitrated, it being intended that any such statement delivered pursuant to this Article may be relied upon by any prospective transferee of

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the requesting party's interest in its Parcel, or any prospective mortgagee, but reliance on such certificate may not extend to any default of the requesting party as to which the signer shall have had no actual knowledge.

**Section 41.8 Cooperation of Owners.** In fulfilling obligations and exercising rights under this Agreement, each Owner shall cooperate with the other Owner to promote the efficient operation of each respective portion of the Total Property and the harmonious relationship among the Owners and to protect the value of each Owner's respective portion, estate or interest in the Total Property. To that end, each Owner shall share information which it possesses relating to matters which are the subject of this Agreement, except such information as an Owner may reasonably deem confidential or which may be the subject of litigation or which such Owner is prohibited from revealing pursuant to court order. From time to time after the date hereof, each Owner shall furnish, execute and acknowledge, without charge (except where elsewhere provided herein) such other instruments, documents, materials and information as another Owner may reasonably request in order to confirm to such requesting Owner the benefits contemplated hereby, but only so long as any such request does not restrict or abridge the benefits granted the other Owner hereunder.

**Section 41.9 No Third-Party Beneficiary.** This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary (except the Mortgagees) under any laws otherwise, except as expressly stated in this Agreement.

**Section 41.10 Transfer of Ownership.** If an Owner shall sell, assign, transfer, convey or otherwise dispose of all of the Upper Parcel or Lower Parcel, as the case may be, in its entirety (other than the grant or a mortgage or security interest for a loan to such Owner), then (a) such Owner shall be entirely freed and relieved of any and all covenants and obligations which accrue under this Agreement with respect to such portion of the Total Property from and after the date of such disposition, and (b) the person who succeeds to an Owner's interest in any portion of the Total Property shall be deemed to have assumed any and all of the covenants and obligations of such Owner which have accrued (except to the extent of any Liens which are extinguished in a foreclosure action or Lien Costs for which such Liens could have been filed) or thereafter accrue under this Agreement with respect to such portion of the Total Property.

## ARTICLE 42

### Notice to Mortgagees; Rights of Mortgagee

**Section 42.1 Notices to Mortgagee.** If a Mortgagee shall have served on the Owner which is not the mortgagor under the Mortgage held by such Mortgagee, by personal delivery or by registered or certified mail return receipt requested, a written notice specifying the name and address of such Mortgagee, such Mortgagee shall be given a copy of each and every notice required to be given by such Owner at the same time as and whenever such notice shall thereafter be given by such Owner pursuant to this Agreement, at the address last furnished by such Mortgagee, and in the case of notices identifying a failure of performance by an Owner, said Owner's Mortgagee shall have the right, but not the obligation, to perform said obligations on behalf of said Owner, and such performance shall have the same effect under this Agreement as though the obligation had been performed by said Owner at the time actually performed by

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said Owner's Mortgagee. Any Mortgagee as of the date of this Agreement whose name and address are set forth in Section 41.6 shall be deemed to have properly delivered to the Owners a written notice specifying its name and address.

**Section 42.2 Mortgagee Right to Cure.** A Mortgagee shall have the right to cure or correct a breach of this Agreement by the Owner whose property is secured by the Mortgagee's Mortgage within any applicable cure period provided for such breach by such mortgage Owner plus an additional period of twenty (20) days after notice to the Mortgagee of expiration of the cure period allowed the mortgage Owner before the other Owner may exercise any right or remedy to which it may be entitled as a Creditor Owner. Notwithstanding the foregoing, an Owner shall have the right of self-help in an emergency situation without regard to otherwise applicable cure periods.

## ARTICLE 43 Unavoidable Delays

No Owner shall be deemed to be in default in the performance of any obligation created under or pursuant to this Agreement, other than an obligation requiring the payment of a sum of money, if and as long as non-performance of such obligation shall be directly caused by fire or other casualty, national emergency, governmental or municipal laws or restrictions, enemy action, flood, civil commotion, strikes, lockouts, unavailability of labor or materials to projects generally in the Chicago metropolitan area, war or national defense preemptions, acts of God, energy shortages or other causes beyond the reasonable control of such Owner, whether similar or dissimilar to the foregoing (other than inability to make payment of money) ("Unavoidable Delay") and the time limit for such performance shall be extended for a period equal to the period of any such Unavoidable delay. The Owner unable to perform (hereinafter in this Article the "Non-Performing Owner") shall notify the other Owner in writing of the existence and nature of any Unavoidable Delay within a reasonable time after the onset of any such Unavoidable Delay. The Non-Performing Owner shall, from time to time upon written request of the other Owner, keep such other Owner fully informed, in writing, of all further developments concerning any such Unavoidable Delay. If non-performance is due to an Unavoidable Delay affecting the Non-Performing Owner which does not affect the other Owner's self-help remedy provided for elsewhere in this Agreement and which is otherwise exercisable for such non-performance, then notwithstanding such Unavoidable Delay, the other Owner shall still be entitled to the self-help remedy exercisable only under reasonable circumstances with respect to those obligations to have been performed by the Non-Performing Owner which are the subject of Unavoidable Delay.

## ARTICLE 44 Master Lease / Original Lease

Owners acknowledge that as of the date hereof, the Upper Parcel is encumbered by the Master Lease which obligates the Master Lessee to perform certain of the terms, covenants and conditions to be performed by Upper Owner hereunder, and the Penn Central Parcel is encumbered by the Original Lease which obligates the Original Lessee to perform certain of the terms, covenants and conditions to be performed by Upper Owner hereunder. Lower Owner

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agrees to accept performance by the Master Lessee and/or the Original Lessee of Upper Owner's obligations hereunder.

## **ARTICLE 45** **Section Headings**

All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

## **ARTICLE 46** **Execution**

This Agreement may be executed in any number of counterparts, each of which so executed, shall be deemed to be an original and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart.

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IN WITNESS WHEREOF, the parties hereto have caused this Easement and Operating Agreement to be executed and delivered as of the day and year first above written.

CHICAGO UNION STATION COMPANY, an  
Illinois corporation

By: Michael F. Dukakis  
Its Assistant Secretary

TRIZECHAHN 10/120 FEE LLC, a  
Delaware limited liability company

By: [Signature]  
Its: **EVAN M. BORIS**  
**Vice President**

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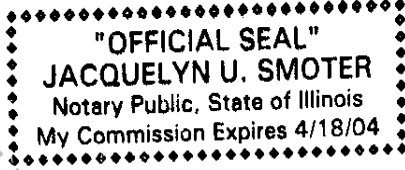
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STATE OF ILLINOIS        )  
                                  )  
                                  )        SS:  
COUNTY OF COOK        )

I, Jacquelyn U. Smoter, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Michael F. Dickter the Assistant Secretary, of CHICAGO UNION STATION COMPANY, personally known to me to be the same person whose name is subscribed to the foregoing instrument as said officer, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal on November 8, 2001.

Jacquelyn U. Smoter



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STATE OF ILLINOIS        )  
                                  )  
                                  )        SS:  
COUNTY OF COOK        )

I, Jacquelyn U. Smoter, a Notary Public in and for said County in the State aforesaid, do hereby certify that Evan M. Boris the Vice President of TRIZEHAHN 10/120 FEE LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged, that he/she signed and delivered such instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal on November 8, 2001.

Jacquelyn U. Smoter  
Notary Public



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## CONSENT

The undersigned, being the lessee under the "Original Lease" and the "Master Lease", as such terms are used in the foregoing Easement and Operating Agreement, hereby consents to the grant of the easements to the "Lower Owner" therein set forth in Section 3.2 and Section 3.5 of the Easement and Operating Agreement.

TRIZECHAHN REGIONAL POOLING, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EVAN M. BORIS**  
Vice President

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## Exhibit A

### Legal Description of Upper Part of Lot 3

That part of Lot 3 in Railroad Companies' Resubdivision of Blocks 62 to 76, both inclusive, 78, parts of 61 and 77 and certain vacated streets and alleys in School Section Addition to Chicago, a Subdivision of Section 16, Township 39 North, Range 14, East of the Third Principal Meridian, according to the Plat of said Resubdivision recorded in the Recorder's Office of Cook County, Illinois on March 29, 1924, in Book 188 of Plats at Page 16, as Document 8339751; falling within a tract of land comprised of parts of Lots 3 and 4 in said Railroad Companies' Resubdivision which is bounded and described as follows:

Beginning at the Southeast Corner of said Lot 4 and running thence west along the South line of said Lot 4 and of said Lot 3 a distance of 242.50 feet to the point of intersection of said South line of Lot 3 with the East line of the West 20 feet of said Lot 3; thence north along said East line of the West 20 feet of Lot 3 a distance of 397.635 feet to an intersection with the South line of the North 33.0 feet of said Lot 3; thence east along the South line of the North 33 feet of said Lots 3 and 4 a distance of 216.50 feet to an intersection with the Easterly line of said Lot 4; and thence southwardly along the Easterly line of said Lot 4 a distance of 398.60 feet to the point of beginning,

excepting, however, from the parcel of land above-described the respective portions thereof lying vertically below the following horizontal planes:

- (a) a horizontal plane 20.5 feet above Chicago City Datum, the perimeter of which is described as follows: beginning at the northwest corner of said parcel and running thence easterly along the north line of said parcel a distance of 168 feet; thence southwardly to a point on the south line of said parcel 168 feet from the southwest corner thereof; thence westerly a distance of 168 feet along said south line of said parcel to the southwest corner thereof, thence northerly along the west line of said parcel to the point of beginning of said horizontal plane, a distance of 397.64 feet, more or less; also
- (b) a horizontal plane 22.5 feet above Chicago City Datum over the remainder of said parcel which is not vertically below the horizontal plane described in clause (a) above.

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## Exhibit B

### Legal Description of Lower Part of Lot 4

That part of Lot 4 lying below a horizontal plane at an elevation of 22.50 feet, Chicago City Datum, in Railroad Companies' Resubdivision of Blocks 62 to 76 both inclusive, 78, parts of Blocks 61 and 77 and certain vacated streets and alleys in school section addition to Chicago, a subdivision of Section 16, Township 39 North, Range 14, East of the Third Principal Meridian, according to the plat of said Resubdivision recorded in the Recorder's office of Cook County, Illinois, on March 29, 1924, in book 188 of plats at page 16, as document 8339751.

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## Exhibit C

### Legal Description of Lower Part of Lot 3

That part of Lot 3 in Railroad Companies' Resubdivision of Blocks 62 to 76, both inclusive, 78, parts of 61 and 77 and certain vacated streets and alleys in School Section Addition to Chicago, a Subdivision of Section 16, Township 39 North, Range 14, East of the Third Principal Meridian, according to the Plat of said Resubdivision recorded in the Recorder's Office of Cook County, Illinois on March 29, 1924, in Book 188 of Plats at Page 16, as Document 8339751; falling within a tract of land comprised of parts of Lots 3 and 4 in said Railroad Companies' Resubdivision which is bounded and described as follows:

beginning at the Southeast Corner of said Lot 4 and running thence west along the South line of said Lot 4 and of said Lot 3 a distance of 242.50 feet to the point of intersection of said South line of Lot 3 with the East line of the West 20 feet of said Lot 3; thence north along said East line of the West 20 feet of Lot 3 a distance of 397.635 feet to an intersection with the South line of the North 33.0 feet of said Lot 3; thence east along the South line of the North 33 feet of said Lots 3 and 4 a distance of 216.50 feet to an intersection with the Easterly line of said Lot 4; and thence southwardly along the Easterly line of said Lot 4 a distance of 398.60 feet to the point of beginning,

excepting, however, from the parcel of land above-described the respective portions thereof lying vertically above the following horizontal planes:

- (a) a horizontal plane 20.5 feet above Chicago City Datum, the perimeter of which is described as follows: beginning at the northwest corner of said parcel and running thence easterly along the north line of said parcel a distance of 168 feet; thence southwardly to a point on the south line of said parcel 168 feet from the southwest corner thereof; thence westerly a distance of 168 feet along said south line of said parcel to the southwest corner thereof; thence northerly along the west line of said parcel to the point of beginning of said horizontal plane, a distance of 397.64 feet, more or less; also
- (b) a horizontal plane 22.5 feet above Chicago City Datum over the remainder of said parcel which is not vertically below the horizontal plane described in clause (a) above.

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## Exhibit D

### Legal Description of Upper Part of Lot 4 (the Penn Central Parcel)

That part of Lot 4 lying above a horizontal plane at an elevation of 22.50 feet, Chicago City Datum, in Railroad Companies' Resubdivision of Blocks 62 to 76 both inclusive, 78, parts of Blocks 61 and 77 and certain vacated streets and alleys in school section addition to Chicago, a subdivision of Section 16, Township 39 North, Range 14, East of the Third Principal Meridian, according to the plat of said Resubdivision recorded in the Recorder's office of Cook County, Illinois, on March 29, 1924, in book 188 of plats at page 16, as document 8339751.

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