

# UNOFFICIAL COPY

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## CONSERVATION RIGHT

**THIS CONSERVATION RIGHT**, dated as of December 26, 1989, by and between Harris Trust and Savings Bank, not individually but solely as trustee under Trust Agreement dated May 26, 1988 and known as Trust No. 94163 (hereinafter "Grantor") and Landmarks Preservation Council of Illinois, an Illinois not-for-profit corporation qualified to accept charitable gifts and whose purposes include the preservation of buildings, structures and sites of historical, architectural or cultural significance ("Grantee").

1. Grantor is the owner of the land (the "Real Property") described in the attached Exhibit "A" which Real Property is improved with a structure (the "Building"), more fully described in the attached Exhibit "B".

2. The Building is one of architectural significance, containing features described in greater detail in Exhibit "B". The Building is listed on the National Register of Historic Places of the U.S. Department of Interior ("National Register"). Furthermore, the building is located in a high visibility location at which its unique appearance and scale of construction are important assets to the City of Chicago and its immediate neighborhood. The Grantor desires to preserve the exterior structure of the Building (the "Facade") to prevent the destruction of the Building and its replacement with a larger structure, and to prevent the alteration of the profile and silhouette of the Building. The Grantor further desires to preserve the Facade in its present design and condition, subject to appropriate necessary maintenance. The Facade is described on Exhibit "B".

3. In consideration of One Dollar (\$1.00) and the mutual covenants and restrictions hereinafter set forth and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor hereby does grant, give, convey, bargain and sell unto Grantee, its successors and assigns, irrevocably forever, a Conservation Right, in perpetuity, in and to the aforesaid Real Property, for the purposes of preserving the Facade and accomplishing the other objectives set forth herein.

4. The terms of this Conservation Right are as follows:

A. Grantor's Covenants. In furtherance of the Conservation Right herein granted, Grantor covenants that:

(1) Demolition. Grantor shall not demolish, remove or raze the Building or the Facade.

This Instrument was prepared by and after recording should be returned to:

Mary K. Krigbaum  
Rudnick & Wolfe  
203 North La Salle Street  
19th Floor  
Chicago, Illinois 60601

Street Address:

1733-55 West Irving Park  
Chicago, Illinois 60613

PIN Nos. 14-19-205-001  
14-19-205-002

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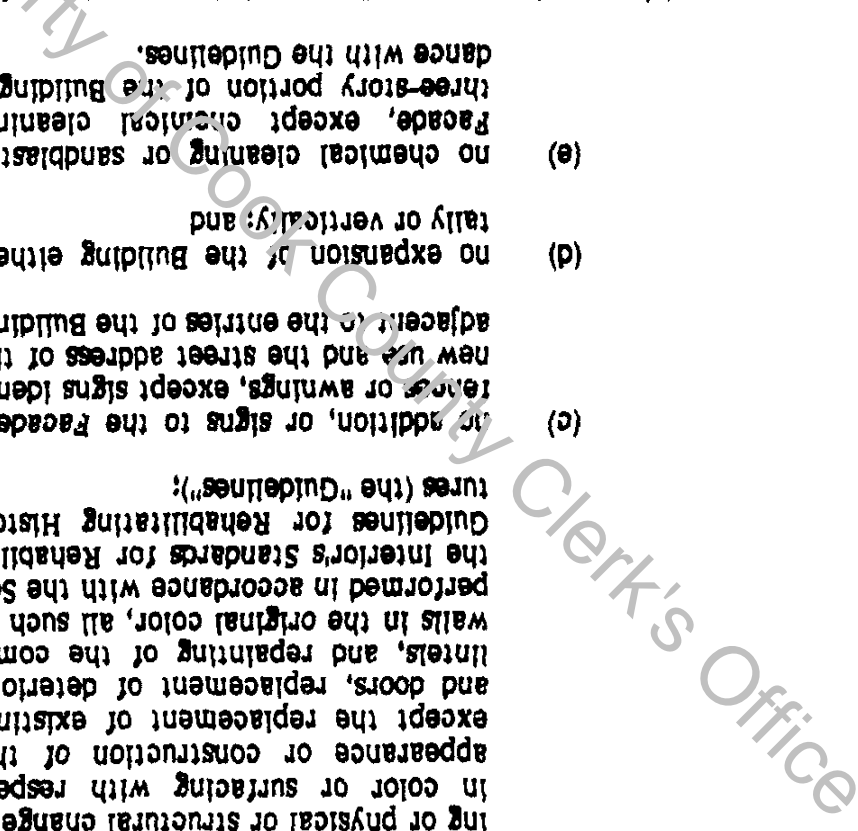
(4) **Specification of Materials.** In providing its written authorizations for work pursuant to Section 4A(2), Grantee may specify all materials, methods, cleaning substances and colors to be used in any such work on the facade.

(3) **Maintenance.** Grantor shall promptly perform all necessary maintenance on the facade to preserve its appearance and structural soundness and to prevent its deterioration including, without limitation, proper and timely chemical or steam cleaning of the brickwork of the facade. Without limiting the foregoing, Grantor shall maintain the building in accordance with all applicable building and fire codes and shall keep the building free of any violation of such codes. The windows and window frames in the east, west and north faces of the building shall be restored and/or maintained in the same design as the originals, as detailed in the description of the building in the National Register.

- (a) no partial demolition or removal of the facade;
- (b) no change in the facade, including no alteration, partial removal, construction, remodeling or physical or structural change, or change in color or surfacing with respect to the appearance or construction of the facade, except the replacement of existing windows and doors, replacement of deteriorated steel lintels, and repainting of the common brick walls in the original color, all such work to be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures (the "Guidelines");
- (c) no addition, or signs to the facade, including letters or awnings, except signs identifying the new use and the street address of the building adjacent to the entries of the building;
- (d) no expansion of the building either horizontally or vertically; and
- (e) no chemical cleaning or sandblasting of the facade, except chemical cleaning of the three-story portion of the building in accordance with the Guidelines.

(2) **Alteration.** Without the written permission of Grantee, executed by a duly authorized officer, which written permission or refusal to grant such permission, including a statement of reasons for refusal, shall be delivered to Grantor by Grantee within 14 days of receipt of Grantor's written request for such approval, there shall be:

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(b) **Casualty.** In the event the facade of the Building is damaged by explosion, fire, collision or any other casualty of any type whatsoever ("Casualty"), Grantor shall restore the facade of the Building to its condition immediately preceding such Casualty, subject to the provisions of any mortgages or trust deeds then encumbering the Real Property concerning receipt and application of insurance proceeds. No repairs or reconstruction of the facade of any type, other than emergency work to prevent further damage or to protect public safety, shall be undertaken by Grantor without the prior written approval of Grantee, which written approval shall be given as provided in subparagraph 4(a)(2) above. Notwithstanding the foregoing, in the event the Building is damaged by any Casualty or any other unexpected change beyond the control of Grantor which can make the continued use of the Building impossible or impractical for conservation purposes (other than financial difficulties of the Grantor or a subsequent owner), Grantor may elect by written notice to Grantee to petition a court to extinguish this Conservation Right, in which event the Grantor shall be obligated to pay to Grantee if such petition is granted, the "Stipulated Percentage" (as hereinafter defined) of the proceeds of such sale (after payment by Grantor of closing costs and legal fees). If the Real Property is sold, or in the case of a casualty, the Stipulated Percentage of the salvage value of the Building and the Real Property at the time the casualty occurred, or in the event there is no sale and no casualty, the Stipulated Percentage of the fair market value of the Building and the Real Property at the time the petition is filed. Grantee's right to payment under the immediately preceding sentence shall be superior to any rights of a mortgagee under any mortgage or trust deed then encumbering the Real Property. Grantee covenants that it will use such amount in a manner consistent with the conservation purposes of the grant of this Conservation Right. Upon the receipt by Grantee of such amount, it any, Grantee shall terminate and release this Grant of Conservation Right, in recordable form necessary for the release of a Conservation Right under Section 1(b) of the Conservation Rights in Real Property Act, Ill. Rev. Stat. Ch. 30, § 401 et seq. (1987). As used herein, "Stipulated Percentage" means a percentage which represents the proportionate value that the perpetual Conservation Right at the date hereof bears to the value of the Real Property as a whole at that time without regard to the grant of this Conservation Right, all as determined by an independent M.A.I. appraisal acceptable to Grantor and Grantee. Upon submission of such appraisal to Grantor and Grantee, the parties shall execute an amendment to this Conservation Right setting forth the percentage which constitutes the stipulated Percentage. It is intended by the parties that the foregoing provisions comply with regulations of the Internal Revenue Code Regulation § 1.170A-14(g)(6), and in the event such regulation may be altered or amended, the parties agree to amend the provisions of this subparagraph so as to preserve, as nearly as possible, the intent hereof. For purposes of determining whether the cost of restoration exceeds the fair market value of the restored Building, the Grantor shall, within 120 days of the Casualty, select an independent M.A.I. appraiser, subject to the reasonable approval of Grantee. Such appraiser shall determine the fair market value of the Building, assuming restoration and 95% occupancy, with appropriate discounting for the time required to obtain such

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(11) Indemnity. Grantor shall indemnify and hold Grantee harmless for any liability, costs, attorneys' fees, judgments or expenses to the Grantee or any officer, employee, agent or independent contractor of the Grantee resulting from actions or claims of any nature by third parties

(10) Accessibility. Any portion of the facade located inside the Building shall be made publicly accessible not less than 4 days (10:00 a.m. to 4:00 p.m.) per calendar year, and public access may be in the form sponsored, guided tours.

(9) Real Estate Taxes. The Grantor shall promptly pay all real estate taxes assessed and levied against the Building and prior to the due date; provided, however, that Grantor may challenge any proposed levy of real estate taxes if Grantor complies with all requirements of law necessary to prevent the sale of the Real Estate during the pendency of such challenge.

(8) Insurance. Grantor shall maintain a property insurance policy written on an all-risk basis insuring the Building against loss by fire and hazards included within the term "extended coverage" in an amount not less than 80% of the insurable value of the Building and its improvements. Grantor shall also maintain a comprehensive liability insurance policy providing coverage in the amount of \$1,000,000.00. The liability policy shall name the Grantee as a named additional insured and shall provide for at least ten (10) days prior notice of cancellation by the insurer to the Grantee. A certificate of the insurer so providing shall be delivered by Grantor to Grantee.

(7) Delivery to Condominium Purchasers. Grantor shall deliver a copy of the Conservation Right to each purchaser of any condominium within the Building, should a declaration of condominium ownership ever be filed for the Building.

(6) Inspection. Representatives of Grantee shall be permitted to inspect the Building (including the interior) at reasonable times upon reasonable notice for the purpose of determining conformance to this Conservation Right. Grantee's right to inspect the interior shall be subject to the rights of the tenants of the Building, but Grantor shall cooperate in obtaining the consent of such tenants to such inspection.

(5) Valuation. Such fair market value shall be compared to the total cost of restoration of the facade and the interior of the Building (including "hard" construction costs, interest reserve for construction and leasing periods, loan fees, legal and architectural fees, leasing commissions and other customary "soft" costs attributable to a rehabilitation project), as determined in accordance with generally accepted accounting principles by a licensed architect selected to Grantee's reasonable approval. The cost of restoration shall be reduced by the amount of any federal income tax credits or other tax incentives which may be available to Grantor as a result of such restoration. The cost of such appraisal and architectural study shall be paid by Grantor.

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D. Assessability. Grantor agrees that Grantee may, at its discretion, and without prior notice to Grantor, convey and assign this Conservation Right to any agency or the State of Illinois, unit of local government, or not-for-profit corporation or trust whose primary purposes include the preservation of buildings of historical,

(3) Grantor's sole remedy in the event of a failure by Grantee to perform any of its covenants herein contained shall be, in such failure shall continue for ten (10) days after written notice thereof to Grantee, to institute a suit for injunctive relief or specific performance. Grantor hereby waives any claim for damages resulting from such failure, and expressly acknowledges that any such failure by Grantee shall in no way affect the validity of this Conservation Right or any of the other covenants contained herein.

(2) The Grantee shall, prior to the tenth anniversary of the receipt of this Conservation Right, record a claim pursuant to the Illinois Code of Civil Procedure, §13-118, for the purpose of preserving the lien of this Conservation Right in perpetuity.

(1) The Grantee shall periodically, at reasonable intervals in Grantee's discretion, inspect the facade.

C. Grantee's Covenants.

3. Grantee's Remedies. In the event of a violation of any provision of this Conservation Right, in addition to any remedies now or hereafter provided by law (1) Grantee may, following reasonable notice to Grantor, institute a suit for injunctive relief, specific performance, or damages, or (ii) representatives of Grantee may enter upon the Real Property to correct any such violation, and hold Grantor and Grantor's successors, heirs and assigns in title responsible for the cost thereof, and such cost, until repaid, shall constitute a lien on the Real Property. In the event Grantor is adjudicated to have violated any of Grantor's obligations herein, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with the enforcement of its rights, including court costs and attorneys' fees. The exercise by Grantee of one remedy hereunder shall not have the effect of waiving any other remedy and the failure to exercise any remedy shall not have the effect of waiving the use of such remedy at any other time.

(12) Mechanics Liens. Grantor shall keep the Real Property free from any mechanics liens unless such liens are being contested in good faith and by appropriate proceedings. If any such liens are placed against the Real Property, Grantor shall promptly cause them to be released or, in the alternative, shall provide Grantee with title insurance reasonably acceptable to Grantee insuring over said liens.

arising from defaults under this Conservation Right by the Grantor, or arising out of the conveyance, ownership, possession, or exercise of rights under this Conservation Right (including any such costs and expenses incurred by Grantee in connection with preserving the validity or priority of this Conservation Right), excepting any such matters arising solely from the negligence of the Grantee.

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J. Compliance with Applicable Ordinances. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance relating to building materials, construction methods or use. In the event of any conflict between any such ordinance and the terms hereof, the ordinance shall prevail and the Grantor

I. Notices. Any notice called for herein shall be in writing and shall be mailed postage prepaid by registered or certified mail with return receipt requested, or hand delivered and receipted, to Grantor, then at 3110 North Sheffield, Chicago, Illinois 60657, and to Grantee, then at Landmarks Preservation Council of Illinois, 407 South Dearborn Street, Suite 970, Chicago, Illinois 60605. Each party may change its address set forth herein by a notice to such effect to the other party. The failure to serve a change of address notice shall not waive the notice requirement.

H. Statutory Authority. This instrument is made pursuant to Public Act 80-564, An Act Relating to Conservation Rights in Real Property, Ill. Rev. Stat. Ch. 30, §5401 et seq. (1987), but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this instrument according to its terms, it being the intent of the parties that this instrument constitutes a charitable trust, a preservation restriction, a common law easement in gross, and a restrictive covenant.

G. Eminent Domain. In the event that an eminent domain proceeding is filed against a portion of or all of the real property, the Grantor and the Grantee agree that the Grantee may appear as an additional party in the eminent domain proceeding and may participate fully in the litigation for the purpose of proving and recovering the damages caused to the Grantee by the eminent domain action. In the event that an award which assumes that this Conservation Right is not in effect, Grantee shall be entitled to share in the award to the extent of the stipulated Percentage thereof.

F. Runs with the Land. The obligations imposed by this Conservation Right shall be deemed to run as a binding servitude with the land. This instrument shall extend to and be binding upon Grantor and all persons hereafter claiming under or through Grantor, and the word "Grantor" when used herein shall include all such persons. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this instrument after such person shall cease to have any interest in the real property by reason of a bona fide transfer for full value.

E. Duration. This Conservation Right shall be effective in perpetuity. Internal Revenue Service shall control.

Notwithstanding the foregoing, Grantee may not convey or assign this Conservation Right, whether or not for consideration, unless (1) the proposed transferee is, at the time of such transfer an "eligible donee" under Regulation §1.170A-14(c)(1) promulgated by the Internal Revenue Service, and (2) Grantee requires, as a condition of the subsequent transfer, that the conservation purposes which the Conservation Right was originally intended to advance continue to be carried out. As between Grantor and its successors and assigns and Grantee, it is agreed that Grantee shall have fulfilled its obligations under clause (ii) of the immediately preceding sentence if Grantee obtains the agreement of its assignee to continue to carry out the conservation purposes which the Conservation Right was originally intended to advance; provided, however, that in the event the Internal Revenue Service subsequently determines that Grantee has additional obligations, the position of the Internal Revenue Service shall control.

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RECEIVED

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By: John M. Pedersen  
President  
ACCEPTED BY GRANTEE, Landmarks Preservation Council of Illinois, pursuant to the Conservation Rights in Real Property Act, this 7th day of December, 1989.

Attest: [Signature]  
Vice President

By: [Signature]  
HARRIS TRUST AND SAVINGS BANK,  
not individually but solely as trustee as  
aforesaid

GRANTOR:

IN WITNESS WHEREOF, on or as of the date first shown above, Grantor has caused this Conservation Right to be executed, sealed and delivered by its officers thereunto duly authorized.

8. This Conservation Right is executed by Harris Trust and Savings Bank, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee. No personal liability shall be asserted or enforceable against the Trustee with respect to this Conservation Right, all such liability, if any, being expressly waived by Grantee and its successors and assigns. Grantee and its successors and assigns accept this Conservation Right upon the express condition that no duty shall rest upon the Trustee to sequester the rents, issues and profits arising from the Real Property or the proceeds arising from the sale or other disposition thereof, but that in case of default in the payment of any obligation of Grantor hereunder, the sole remedy of Grantee with respect to the Trustee shall be by foreclosure of the lien created hereby.

7. The grantor acknowledges that the subject matter of this conveyance is perpetual donation to charity which cannot be transferred, hypothecated or subjected to senior liens or encumbrances by the grantor.

6. The Grantee shall have the right to install a plaque of suitable design, not larger than 12" X 12" on the facade, at a point easily visible by the public, from a public way, which plaque shall name the architect, the date of construction and state that the facade is subject to a Conservation Right held by the Landmarks Preservation Council of Illinois. The Grantor further agrees that Grantee shall have the exclusive right to exploit representations of the Facade in a tasteful manner on prints, photos, "T" shirts, literature and three dimensional items.

5. A copy of this Conservation Right shall be recorded with the Cook County Recorder of Deeds and copies shall be furnished by the Grantor to the Illinois Attorney General, Charitable Trust Division and the Illinois Department of Conservation.

promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the City of Chicago or other appropriate authority to accommodate the purposes of both this instrument and such ordinance.

Exoneration provision restricting  
any liability of Harris Trust and  
Savings Bank, stamped on the re-  
verse side hereof, hereby expressly  
made a part hereof.

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it is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, representations, covenants, indemnities, undertakings and agreements herein made on the part of the Harris Trust and Savings Bank while in operation, and all of the warranties, representations, covenants, indemnities, undertakings and agreements made on the part of the Harris Trust and Savings Bank are nevertheless each and every one of them made and intended not as personal warranties, representations, covenants, indemnities, undertakings and agreements by the Harris Trust and Savings Bank or for the purpose or with the intention of binding said Harris Trust and Savings Bank personally but are made and intended solely for the purpose of binding that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Harris Trust and Savings Bank not in its own right, but solely in the exercise of the powers conferred upon it by virtue of the land trust agreement; and that no personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against the Harris Trust and Savings Bank on account of this instrument or on account of any warranties, representations, indemnities, covenants, undertakings or agreements in this instrument contained, whether expressed or implied, all such personal liability, if any, being expressly waived and released by the other parties to this instrument and by no person claiming by, through, or under said parties. The parties to this instrument hereby acknowledge that under the terms of the land trust agreement the Harris Trust and Savings Bank has no obligations or duties in regard to the operation, management and control of the trust premises, nor does it have any possessory interest therein, and that said bank has no right in any of the rents, events and proceeds from said trust premises. Notwithstanding anything in this instrument contained the Harris Trust and Savings Bank is not the agent for the beneficiary of its trust and in the event of any conflict between the provisions of this exemplary paragraph and the body of this instrument, the provisions of this paragraph shall control.

Property

Office



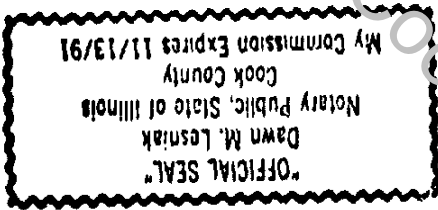
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Property of Cook County Clerk



Commission expires:

*Dawn M. Lesniak*  
NOTARY PUBLIC

Given under my hand and official seal, this 16th day of November, 1989.

I, the undersigned, a Notary Public, in and for the County and State aforesaid,  
DO HEREBY CERTIFY, that HERMAN A. KOLE Vice President  
of HARRIS TRUST AND SAVINGS BANK and JAMES J. PERNER  
Assistant Accountant, personally known to me to be the same person whose names are  
subscribed to the foregoing instrument as such Vice President and  
Secretary, respectively, appeared before me this day in person and  
acknowledged that they signed and delivered the said instrument as their own free and  
voluntary acts, and as the free and voluntary act of said HARRIS TRUST AND SAVINGS BANK  
as Trustee, for the uses and purposes therein set forth; and said  
Secretary did also then and there acknowledge that he, as custodian of the corporate seal of HARRIS TRUST AND SAVINGS BANK  
affix the said corporate seal of said Illinois Corporation to said instrument as his own  
free and voluntary act and the free and voluntary act of said Illinois Corporation, as  
Trustee, for the uses and purposes therein set forth.

STATE OF ILLINOIS )  
COUNTY OF COOK )  
SS: )

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Property of Cook County Clerk's Office

OFFICIAL SEAL  
NADINE K. BRYANT  
NOTARY PUBLIC, STATE OF ILLINOIS  
My Commission Expires Nov. 9, 1991

Nov. 9, 1991

Commission expires:

*Nadine K. Bryant*  
Notary Public

Given under my hand and official seal, this 28th day of December, 1989.

I, the undersigned, Notary Public, appointed in Cook County for the State of Illinois, do hereby certify that Susan M. Giddens, President and Treasurer, personally known to me to be the same persons whose names are as President and of Landmarks Preservation Council of Illinois, a not-for-profit corporation of the State of Illinois, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being duly authorized, signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of the corporation and as their own free and voluntary act for the uses and purposes therein set forth.

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

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Property of Cook County Clerk's Office

P.L.N. Nos. 14-19-205-001 and 14-19-205-002

1733-55 West Irving Park, Chicago, Illinois

Lots 1 through 10 in Block 2 in Buechner's Subdivision of Block 2 in the Subdivision of Section 19, Township 40 North, Range 14 East of the Third Principal Meridian (except the South West 1/4 of the North East 1/4 of South East 1/4 of the North West 1/4 and East 1/2 of South East 1/4 thereof), all in Cook County, Illinois

EXHIBIT "A"

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The West Building is approximately 125' X 125', and contains 15,625 feet per floor. With the exception of the office space at the northwest corner, the remaining floor areas are essentially open space. The floors and roof are of heavy timber construction supported by massive wooden columns and beams.

A distinctive peak-roofed tower at the northwest corner of the West Building denotes the former office space of the Curt Teisch Company. Its interior remains as originally built with wooden wainscoting, decorative wrought iron railings and a vaulted ceiling. The West Building contains a small freight elevator at the southwest corner that is dated but fully operational. The West Building connects to the East Building at each of its three floors.

The two separate structures which comprise the present Buildings share certain mechanical systems but are otherwise independent. The three-story West Building, the older of the two, was built in 1898. Its first floor is approximately four feet below the present street grade. The exterior walls are load bearing masonry intricately detailed with corbelled brickwork and arched window heads.

The Buildings at 1733-55 West Irving Park remain very much as they were when occupied by the Curt Teisch Company.

The Company remained under family ownership until 1974 when it was sold to the Regensteiner Printing Co. The company's archives and complete catalogs of the work accomplished during its 76-year history were subsequently donated to the Lake County Historical Society where they comprise a valuable research collection containing over 300,000 picture postcards documenting the changing face of America from 1898 to 1974.

The Building is situated between the railroad and the residential neighborhood to the south and east, and is typical of the industrial "corridor" flanking the Chicago & Northwestern right-of-way that is still visible for several miles along Ravenswood Avenue. This industrial corridor served as a buffer between the railroad and the residential neighborhood to the east. The Company drew from the skilled work force in the residential area, which was predominantly German in origin.

The property at 1733-55 West Irving Park consists of two separate but adjoining three-story building built in 1898. In 1910 it became the home of the Curt Teisch Printing Company which over the next 30 years grew to become the largest printer of color postcards in the country. The firm was known for the quality of its work and their postcards are valued by collectors. By 1922 the success of the Curt Teisch Company necessitated an addition. At this time, the five-story building which adjoins the original structure to the east was constructed. Designed by Curt Teisch's brother Frederick, it was solidly built to support heavy printing equipment and warehouse a line of printed products that by this time included thousands of items.

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Property of Cook County

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A boiler located in a partial basement at the southeast corner supplies heat to both buildings. Both buildings are also fully sprinklered with a roof tank providing the secondary water source.

The East Building was constructed in 1922 and has floors that are identical in size to the West Building. It contains five stories and is also of heavy timber construction but with smaller bays designed to carry heavier floor loads than the West Building. It has two fire-proof stair towers, a passenger elevator and a large freight elevator.

Despite their age, both buildings appear to be in need of little repair. This is probably attributable to long occupancy by the Curt Teisch Company and the fact that there have only been three owners of the buildings during their entire history. The existing mechanical systems are old but remain in serviceable condition. The General Partner has conducted a preliminary survey of both buildings with a structural engineer and other qualified personnel and has not observed any significant problems that require correction or would interfere with the proposed use of the buildings.

The buildings are different in appearance, each reflecting the prevailing aesthetic and technology of the period which it was built. They share the prime attributes of well constructed buildings which are the large windows, high ceilings and timber construction that make them appealing space when converted to residential use.

All faces of the building and the building's roof are all referred to herein collectively as the "facade", including, without limitation, all windows and window frames therein.

*Handwritten signature*