

# UNOFFICIAL COPY

THIS INSTRUMENT WAS PREPARED  
BY AND SHOULD BE RETURNED TO:  
LINDA D. WHITE, ESQ.  
SONNENSHEIN NATH & ROSENTHAL  
BOX 179

95012641

DEPT-01 RECORDING \$43.00  
T#6666 TRAN 3676 01/06/95 15:48:00  
19901 LC \*-95-012641  
COOK COUNTY RECORDER

## FOURTH AMENDMENT TO LEASE

This instrument is dated as of the 1st day of December, 1994, and constitutes the Fourth Amendment to that certain Lease dated as of April 8, 1980 (as amended as hereinafter described, the "Lease"), between CHICAGO UNION STATION COMPANY, an Illinois corporation ("Lessor"), and TJC ASSOCIATES, INC. COLE TAYLOR BANK, as successor trustee to Harris Trust and Savings Bank, not personally, but solely as trustee under trust agreement dated September 14, 1992, and known as trust number 95044 ("Lessee") is the successor to the interest of TJC ASSOCIATES, INC., in and to the Lease.

## RECITALS

The Lease consists of the following:

- A. Instrument dated as of April 8, 1980, a true, correct and complete copy of which is attached to Assignment of Lease dated as of July 1, 1980, and recorded October 2, 1980, as document number 25607453 in the Office of the Recorder of Deeds of Cook County, Illinois ("Recorder's Office");

4/3/95

UNOFFICIAL COPY

10/10/10

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

- B. Amendment of Lease, dated as of December 24, 1980, and recorded February 9, 1981, as document number 25767019 in the Recorder's Office;
- C. Second Amendment to Lease, dated as of April 7, 1988, and recorded May 11, 1988, as document number 88200211 in the Recorder's Office; and
- D. Third Amendment to Lease, dated as of September 14, 1990, and recorded October 3, 1990, as document number 90483165 in the Recorder's Office.

## AGREEMENT

1. The Recitals hereto are incorporated herein as part of this Agreement.

2. The parties have agreed that "the first day of the calendar month next succeeding the month in which the first tenant of Lessee takes [took] possession of a portion of the improvement constructed by Lessee in the demised area" shall conclusively be deemed to be January 1, 1984, for all relevant purposes under the Lease. The parties have further agreed that, pursuant to the last grammatical paragraph of paragraph 2(a) of the Lease, the minimum rental for each of the 44 years following July 1, 1982, shall be the amount stipulated in the third and fifth sentences of said paragraph 2(a).

3. The parties have agreed that the number of rentable square feet in the existing building above the excepted space (as

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

defined in the Lease), shall conclusively be deemed to be 1,035,809.

4. The second grammatical paragraph of paragraph 2(c) of the Lease is amended by: (i) inserting the following after the second sentence thereof:

"Such statement shall present in reasonable detail information from which Lessor can determine the basis for Lessee's computation of gross income and such detail shall be no less than the detail pertaining to such computation supplied to each Leasehold Mortgagee of Lessee. Such statement shall be final and conclusive, and binding upon both Lessor and Lessee and their successors and assigns, unless Lessor submits to Lessee, not later than 36 months after submission of such statement, a written objection to such statement, setting forth in reasonable detail the errors therein or other objections of Lessor thereto."

(ii) changing the words "gross receipts" to "gross income" in the third (without regard to the preceding insertion) sentence thereof; and (iii) inserting the following after the third (without regard to the preceding insertions) sentence thereof:

"If Lessor retains a firm of public accountants to audit Lessee's computation of gross income and gross income is in fact more than 105% of the amount set forth in the statement submitted by Lessee, then Lessee shall bear the reasonable fees of such firm and other reasonable costs of such audit."

5. That portion of paragraph 2(c) of the Lease beginning with the third grammatical paragraph thereof is amended to read, as amended, in its entirety as follows:

"Gross income from the demised area wherever referred to herein and for the purposes of determining additional rent shall mean:

(aa) The aggregate amount of all income (determined on a cash basis) in the form of rentals or

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

other payments from any and all tenants, licensees, concessionaires of Lessee occupying space in the demised area, or any improvements thereon, except that:

(i) In computing gross income, there shall be deducted from the rentals and other payments received from any tenant, licensee, or concessionaire: (x) the amount by which the taxes, labor costs and other customary operating expenses (computed on a cash basis from time to time and excluding principal and interest on loans, depreciation of building and improvements, amortization, leasing commissions, capital expenditures [except to the extent a capital expenditure is incurred by Lessee or Lessee's beneficiary after the date hereof and is paid after the date hereof by an individual tenant, licensee or concessionaire pursuant to the terms of its lease, license or agreement] and other items not normally considered operating expenses) of the demised area per square foot of rentable area in the building exceeds \$5.38, multiplied by (y) the rentable area of the premises leased to such tenant, licensee or concessionaire (prorated for partial lease years of such tenant, licensee or concessionaire), provided that "operating expenses" shall in no event include fees or other charges paid to Lessee, Lessee's beneficiary or any Leasehold Mortgagee or any corporation, other entity or person controlling, controlled by, under common control with, or affiliated with, Lessee, Lessee's beneficiary or any Leasehold Mortgagee, or any officer, employee, director, principal stockholder or owner of such corporation, other entity or person or of Lessee, Lessee's beneficiary or any Leasehold Mortgagee, to the extent such fees or other charges exceed market rate fees or charges which would be paid to a person not so affiliated or controlled for similar goods or services;

(ii) If tenants, licensees or concessionaires of the building are supplied with electricity by Lessee or Lessee's beneficiary and no separate charge therefor is made to the tenant, licensee or concessionaire, there shall be deducted from the amount received from such tenant, licensee or concessionaire for purposes of determining gross income, the cost of furnishing such electricity and only the profit, if any, from such service

95010541

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

shall be included in gross income. If such tenants, licensees or concessionaires are charged for heat and air conditioning supplied during or after normal business hours, only the profit, if any, from such service shall be included in gross income;

(iii) The amount by which the cost of tenant improvements (including the hard and soft costs associated therewith, but specifically excluding any allowance or payment for a tenant's furniture or fully movable equipment) paid or borne by Lessee or Lessee's beneficiary under any tenant's lease exceeds \$8.60 per rentable square foot of such tenant's space, including interest from the date of delivery to such tenant of possession of such space at a rate equal to 8-1/2% per annum, shall be amortized (including such interest) in equal installments over the term of such lease, and the amount thereof allocable to any calendar year shall be deducted from the rentals or other payments received from such tenant in computing gross income from the demised area for such calendar year;

provided that there shall be no duplication of any deduction or exception;

plus

(bb) The fair rental value (computed at the rate for comparable space then being leased to or occupied by others), to the extent higher than the actual rental included in (aa) above, of any space in the demised area or improvements on the demised area which is occupied by Lessee, except to the extent such occupancy is necessary for the efficient management of such improvement;

plus

(cc) The fair market rental value (computed at the rate for comparable space then being leased to or occupied by others), to the extent higher than the actual rental included in (aa) above, of any space in the demised area or improvements on the demised area which are leased or used by any corporation, other entity or person controlling, controlled by, under common control with or affiliated with Lessee, Lessee's beneficiary or Leasehold Mortgagee or any officer,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

employee, director, principal stockholder or owner of such corporation, other entity or person or of Lessee, Lessee's beneficiary or Leasehold Mortgagee."

Lessee and Lessor acknowledge that for certain calendar years prior to the date hereof, Lessee has not calculated additional rent or minimum rent in accordance with the provisions of the Lease, and, in particular, in accordance with the definition of "gross income from the demised area" set forth in paragraph 2(c) thereof or the correct number of rentable square feet in the building above the excepted space. Lessor and Lessee acknowledge that, to the extent such calculations were thus in error, Lessee (for itself and its predecessors) and Lessor each waive all claims against the other arising out of such erroneous calculations of additional rent and minimum rent.

6. The last sentence of paragraph 41(c) of the Lease is amended by changing the period at the end thereof to a comma and adding thereafter the following: "except as such Leasehold Mortgagees shall have otherwise agreed in writing and notified Lessor thereof."

7. The second sentence of paragraph 42 of the Lease is amended to read, as amended, as follows:

"Thereafter, this Lease may be assigned or transferred, from time to time, without the prior written approval of the Lessor, unless Lessor shall have given Lessee a written notice of default and such default shall remain uncured at the time of such assignment."

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

8. Paragraph 57 of the Lease is amended by:

(a) Inserting after the words "hereby created, but" the following: "(except as to the date to which minimum rent has been paid and as to whether Lessor has given Lessee any written notice of default, which default remains uncured)";

(b) Adding at the end thereof the following:

"The signer of such certificate shall be the Managing Director - Real Estate of Lessor (or person holding similar office) having principal responsibility for administration of the Lease on behalf of Lessor."

9. As amended hereby, the Lease shall be and remain in full force and effect.

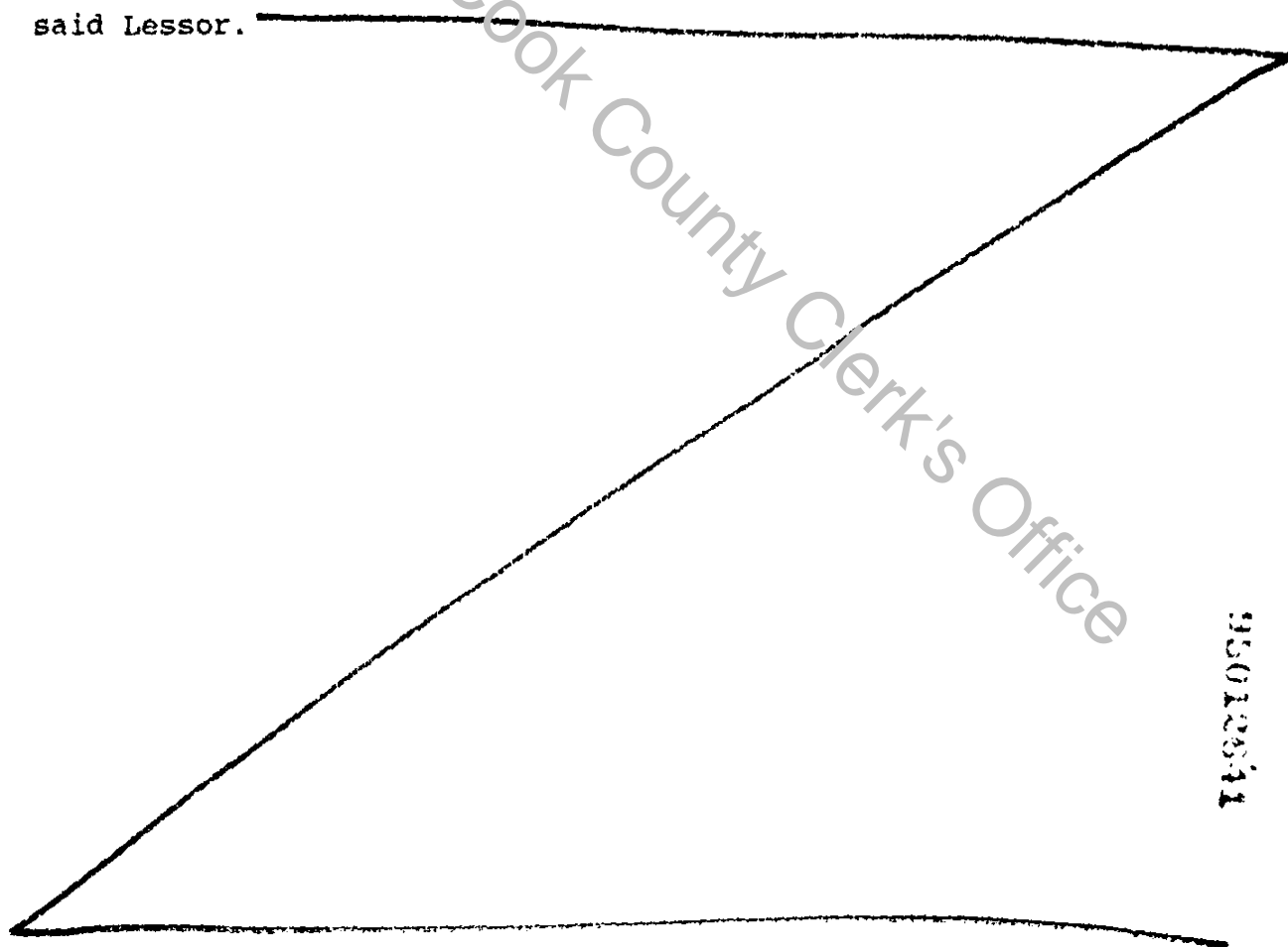
10. It is expressly understood and agreed by Lessor that, anything herein to the contrary notwithstanding, each and all of the representations, covenants, undertakings and agreements herein made on the part of the Lessee while in form purporting (except as herein otherwise expressed) to be the representations, covenants, undertakings and agreements of Cole Taylor Bank, as Trustee, are nevertheless, each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by Cole Taylor Bank or for the purpose or with the intention of binding Cole Taylor Bank personally, but are made and intended for the purpose of binding only the demised area specifically leased hereunder, and this Amendment is executed and delivered by Cole Taylor Bank not in its own right, but solely in

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

the exercise of the powers conferred upon it as such Trustee, and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against Cole Taylor Bank, personally, or any of the beneficiaries under any such trust agreement (or any substituted trustee under a similar trust agreement) on account of the Lease, as amended hereby, or on account of any representation, covenant, undertaking or agreement of the said Lessee in the Lease, as amended hereby, contained, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessor herein and by all persons claiming by, through or under said Lessor.



1151946.2

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

IN WITNESS WHEREOF, Lessor and Lessee have caused this  
Amendment to be executed as of the date first written above.

LESSOR:

CHICAGO UNION STATION COMPANY, an  
Illinois corporation

Attest:

By:

W. B. Duggan  
Its: Vice President

Michael Nisbeter  
Its Secretary

LESSEE:

COLE TAYLOR BANK, as successor  
trustee to Harris Trust and Savings  
Bank, not personally but as Trustee  
as aforesaid

Attest:

By:

[Signature]  
Its: ASSISTANT VICE PRESIDENT

John J. Ruane  
TRUST OFFICER

UNOFFICIAL COPY

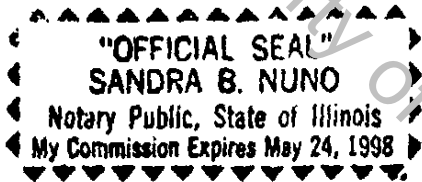
Property of Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF ILLINOIS     )  
                                  )     SS  
COUNTY OF COOK     )

I, Sandra B. Nuno, a Notary Public in and for said County, in the State aforesaid, do hereby certify that William B. Duggan, the Vice President of CHICAGO UNION STATION COMPANY, an Illinois corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such officer of said corporation as his 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 this 16th day of December, 1994.



Sandra B. Nuno  
Notary Public

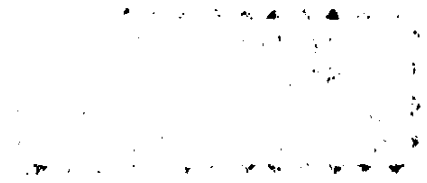
My Commission expires:  
May 24, 1998

Property of Cook County Clerk's Office

90010611

UNOFFICIAL COPY

Property of Cook County Clerk's Office



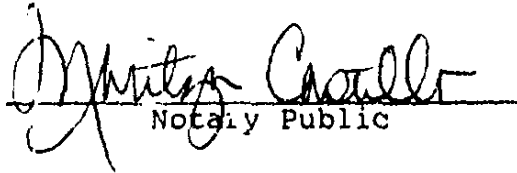
# UNOFFICIAL COPY

STATE OF ILLINOIS     )  
  )     SS  
COUNTY OF COOK        )

I, MARITZA CASTILLO, a Notary Public in and for said County, in the State aforesaid, do hereby certify that KENNETH E. PIEKINT, the ASSISTANT VICE PRESIDENT of COLE TAYLOR BANK, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such officer of said Bank as his free and voluntary act and as the free and voluntary act of said Bank, not personally but solely as Trustee, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 17th day of December, 1994.

JANUARY

  
Notary Public

My Commission expires:

\_\_\_\_\_



Property of Cook County Clerk's Office

95012611

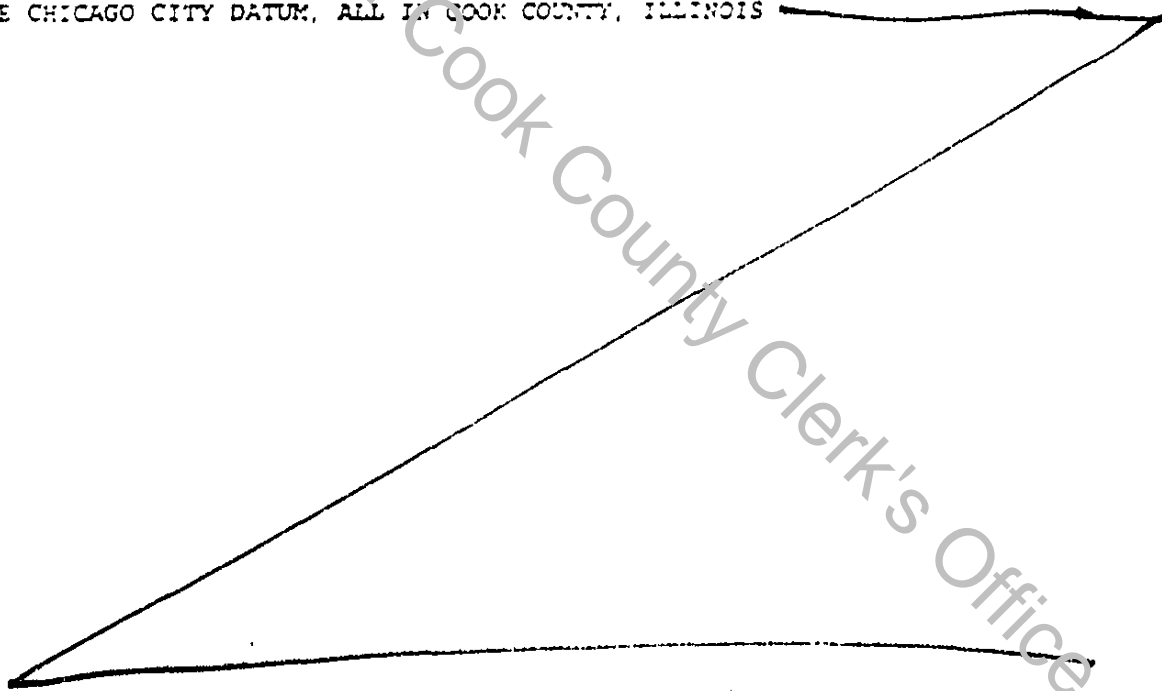
UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT A

LOT 7, EXCEPT THE WEST 122.53 FEET, OF RAILROAD COMPANIES RESUBDIVISION OF BLOCKS 62 TO 76, 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 THEREOF RECORDED MARCH 29, 1924 IN BOOK 188 ON PAGES 11 TO 28, INCLUSIVE, AS DOCUMENT NUMBER 8339751, EXCEPTING THEREFROM THAT PART THEREOF LYING BELOW OR BENEATH THE AIR RIGHTS LIMITING PLANE OR ELEVATION SET FORTH IN APPENDIX "B" TO LEASE DATED APRIL 8, 1980 WHICH APPEARS OF RECORD AS AN ATTACHMENT TO ASSIGNMENT OF LEASE RECORDED OCTOBER 2, 1980 AS DOCUMENT NUMBER 25607453, AND WHICH IS INDICATED IN SAID APPENDIX "B" TO BE 32 FEET 10 INCHES ABOVE CHICAGO CITY DATUM, ALL IN COOK COUNTY, ILLINOIS



Common Address of Property:

300 South Riverside Plaza  
Chicago, Illinois

PIN#: 17-16-121-003-6002  
17-16-121-003-6001

45012611

UNOFFICIAL COPY

Property of Cook County Clerk's Office