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THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING RETURN  
TO:

Lesley F. Kahlew, Esq.  
Goldberg, Kohn, Bell, Black,  
Rosenbloom & Moritz, Ltd.  
55 East Monroe Street  
Suite 3700  
Chicago, Illinois 60603

DEPT-01 RECORDING \$41.00  
T#0012 TRAN 9914 04/02/96 10:26:00  
#1876 ER \*-96-249240  
COOK COUNTY RECORDER

96249240

2 of 4

4/1

## RESTRICTIVE COVENANT AGREEMENT

This Restrictive Covenant Agreement (this "Agreement") is dated as of the 24th day of March, 1996 and is made by and between The Board of Education of the City of Chicago ("Seller") and The Associated Talmud Torahs of Chicago, an Illinois not-for-profit corporation ("Purchaser").

### WITNESSETH:

A. WHEREAS, Seller is the current owner of fee simple title to a parcel of land which is legally described on Exhibit A attached hereto and which is sometimes commonly known as the former William H. Green School building site at 3021 West Devon Avenue, Chicago, Illinois (the "Land"). The Land, together with all improvements, buildings, structures or fixtures now or hereafter located thereon, all easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and appurtenances in any way belonging, relating or appertaining to and of the Land, is collectively referred to herein as the "Premises".

B. WHEREAS, Seller and Purchaser have entered into that certain Real Estate Sale Contract dated as of July 26, 1995 (the "Sale Contract"), pursuant to which Seller has agreed to sell the Premises to Purchaser, provided that Purchaser agrees that the Premises will be used only for educational and religious purposes. When used herein, the phrase "educational and religious purposes," or any variation thereof, shall mean purposes that are not-for-profit, considered by the local community as of the date hereof to be educational and/or religious in the traditional sense, and held by an individual or organization in which education and/or religion is the primary focus or use for the Premises.

C. WHEREAS, because Seller is concerned that, in the future, the Premises may be sold, leased or otherwise transferred and used thereafter for a purpose which is not educational or religious in nature, and Seller desires to ensure that the Premises will be used only for educational and/or religious purposes, Seller and Purchaser are hereby

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subjecting the Premises to the covenants, conditions and restrictions hereinafter set forth, to be binding upon and for the benefit of all parties hereafter acquiring any interest in the Premises or any part thereof (collectively, the "Future Owners" and individually, a "Future Owner").

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, it is mutually agreed that the Premises shall be held, transferred, sold, conveyed, leased and occupied subject to the conditions, covenants and restrictions hereinafter set forth.

## ARTICLE I - PURPOSES

Seller desires to provide that the Premises shall continue to be used only for educational and/or religious purposes during the term of this Agreement. In furtherance of this general purpose, Seller and Purchaser agree that the Premises, whether or not referred to in any deed of conveyance, at all times is and shall be held, transferred, sold, conveyed, leased and occupied subject to the conditions, covenants and restrictions established by this Agreement. This Agreement shall create a restrictive covenant binding upon and for the benefit of Seller, Purchaser, their respective grantees, successors and assigns, and all Future Owners (collectively, the "Parties" and individually a "Party"). Each Future Owner shall be deemed to accept and agree to be bound by the provisions of this Agreement by the recording or acceptance of a conveyance or other transfer of the Premises or any part thereof.

## ARTICLE II - RESTRICTIVE COVENANTS

A. The Premises, or any portion thereof, shall be used solely for educational and/or religious purposes and shall be held, transferred, sold, conveyed, leased and occupied subject to this restriction.

B. Purchaser and/or any Future Owner shall provide Seller written notice at the address set forth in Paragraph C of Article III of this Agreement of any agreement, contract, or other understanding for the sale, conveyance, lease, occupancy or other transfer or change in use of all or any portion of the Premises at least thirty (30) days prior to the consummation of any such agreement, understanding or change, which notice shall set forth the proposed use of the Premises after the sale, conveyance, lease or other transfer or change in use and shall include copies of all documents relating thereto. Purchaser and/or any Future Owner agree to cooperate with Seller so that Seller may make a timely determination of whether the provisions of this Agreement will be violated by any contemplated or proposed transfer or change in use of the Premises. Notwithstanding the foregoing, Seller hereby waives the thirty (30) day prior written notice requirement with respect to Purchaser's transfer of the Premises to Hanna Sacks Bais Yaakou High School of Chicago, an Illinois not-for-profit corporation, immediately following the closing under the Sale Contract, however this waiver shall not be deemed to be a waiver of any subsequent default by any Party in the performance of this or any other provision of the Agreement.

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## ARTICLE III - MISCELLANEOUS

A. This Agreement shall be effective as of the date hereof and may be recorded in the Office of the Recorder of Deeds of Cook County, Illinois.

B. At any time after September 1, 2001, upon request of Purchaser or any Future Owner, and provided Seller has determined that the terms of and obligations under this Agreement have been fully satisfied, Seller hereby agrees to furnish to Purchaser or any Future Owner, as soon as is practicable (which shall not exceed 30 days after request), a written termination of this Agreement or such other evidence that this Agreement has terminated as a title company might reasonably require.

C. Any notice, demand, request or communication required or permitted hereunder shall be given in writing, and shall be sent by (a) personal delivery, or (b) expedited delivery service with proof of delivery, or (c) United States mail, postage prepaid registered or certified mail, with return receipt requested or (d) by confirmed facsimile transmission, addressed as follows:

To Seller

The Board of Education of the City of  
Chicago  
1819 West Pershing  
Chicago, Illinois 60609  
Attention: Mr. R. Bruce Murray  
Facsimile No. (312) 535-8758

with a copy to:

Goldberg, Kohn, Bell, Black, Rosenbloom  
and Moritz, Ltd.  
55 East Monroe Street, Suite 3700  
Chicago, Illinois 60603  
Attention: Robert J. Goldberg, Esq.  
Facsimile No. (312) 372-3196

To Purchaser:

The Associated Talmud Torahs of  
Chicago  
228 West Pratt  
Chicago, Illinois 60659  
Attention: Rabbi Harvey Well  
Facsimile No. (312) 973-6666

with a copy to:

Stone, Pogrund & Korey  
221 North LaSalle, 32nd Floor  
Chicago, Illinois 60601  
Attention: David B. Pogrund, Esq.  
Facsimile No. (312) 782-1482

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C. If prior to September 1, 2001, the Premises is sold, leased or otherwise transferred or occupied (except to a school which is a part, and under the supervision, of Purchaser) and thereafter is used for a purpose that is not educational or religious in nature (a "Prohibited Transfer"), then Purchaser and the Future Owner involved in the Prohibited Transfer (the "Breaching Party") shall, immediately upon Seller's demand, pay to Seller as liquidated damages for said Breaching Party's breach of this Agreement either (i) in the event of a sale of the Premises, an amount equal to the "Applicable Percentage" (set forth below) of the amount by which the gross sales price paid for the Premises in connection with such sale exceeds the purchase price paid by Purchaser in accordance with the terms of the Sale Contract or (ii) in the event the Premises are leased or otherwise transferred or occupied, then the Applicable Percentage of all rental or other consideration received by the Breaching Party in connection therewith, as such rental or other consideration becomes due and payable, plus all attorneys' fees and costs incurred by Seller in connection therewith.

<u>Year in Which the Contract to Sell or Lease is Executed</u>	<u>Applicable Percentage</u>
9/1/95 - 8/30/96	90%
9/1/96 - 8/30/97	80%
9/1/97 - 8/30/98	70%
9/1/98 - 8/30/99	60%
9/1/99 - 8/30/2000	50%
9/1/2000 - 8/30/2001	40%

Seller and Purchaser acknowledge and agree that Seller's actual damages in the event of a Prohibited Transfer are uncertain in amount and difficult to ascertain and that said amount of liquidated damages was reasonably determined.

D. All payments required to be made to Seller pursuant to Paragraph C of Article II of this Agreement, including without limitation attorney's fees and court costs, shall be payable on demand, shall bear interest at the rate per annum equal to the announced prime commercial lending rate of Bank of America in effect on the date demand for payment is made plus three percent (3%), but, in no event, in excess of the maximum legal rate, if any, applicable to such Breaching Party, and shall be secured by a lien encumbering the Breaching Party's entire interest in the Premises, which lien shall be deemed to have attached automatically upon nonpayment of any amount due hereunder. Any lien under this Agreement shall be subordinate to any first mortgage or trust deed now or hereafter made, owned or held by any institutional lender.

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or to such other address or to the attention of such other person as hereafter shall be designated in writing by the applicable party sent in accordance herewith. Any such notice or communication shall be deemed to have been delivered at the time of personal delivery or, in the case of expedited delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of registered or certified mail with return receipt, within three (3) days after being sent first class, postage prepaid or by facsimile transmission upon confirmation thereof which may be via the sender's machine printout confirmation showing transmission to the facsimile number for the intended recipient.

D. The provisions of this Agreement shall be liberally construed to effectuate the general purposes as stated herein.

E. If any of the provisions of this Agreement shall be found to be invalid or unenforceable, such finding shall not be deemed to impair the enforceability of the other provisions of this Agreement, but such other provisions shall be enforced in accordance with their respective terms to the greatest possible extent.

F. Any Party to this Agreement may enforce this Agreement by appropriate action and the prevailing party in such litigation may recover as part of its costs reasonable attorneys' fees and all litigation costs.

G. The rights and remedies given to the Parties by this Agreement shall be deemed to be cumulative, and no one of such rights or remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which any Party might otherwise have by virtue of a default under this Agreement, and the exercise of one such right or remedy by a Party hereunder shall not impair such Party's standing to exercise any other right or remedy.

H. Any Party to this Agreement may bring an action for appropriate damages or, either in law or in equity, by suit, action, injunction or other proceedings, enforce and compel performance of this Agreement.

I. The provisions of this Agreement shall not be amended except in a written instrument setting forth the amendments and executed by (i) Seller, its successors or assigns and (ii) Purchaser, its successors or assigns or by any other party with an ownership interest in all or any portion of the Premises at the time of the desired amendment. Provided that this Agreement is recorded, no amendments shall become valid until a true and correct copy of same shall then have been recorded in the Office of the Recorder of Deeds of Cook County, Illinois.

J. Until termination as provided herein, this Agreement shall run with the land and shall be binding upon and inure to the benefit of Seller, Purchaser, their respective grantees, successors and assigns and any person claiming by, through or under any of the respective parties or their respective successors and assigns.

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K. This Agreement shall be construed in accordance with the laws of the State of Illinois.

L. With respect to the subject matter contained herein, this Agreement supersedes the Sale Contract.

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

**SELLER:**

BOARD OF EDUCATION OF THE CITY OF CHICAGO

By: *Henry J. Clavin*  
Name: \_\_\_\_\_  
Title: President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Secretary

Authority: Board Report No. 95-0726-0P19  
Dated: July 26, 1995

Approved as to Legal Form: *he*  
*[Signature]*  
Attorney for the Board of Education of the City of Chicago

Date: 3/26/96

**PURCHASER:**

THE ASSOCIATED TALMUD TORAHS OF CHICAGO, an  
Illinois not-for-profit corporation

By: *[Signature]*  
Name: *Barney M. [unclear]*  
Title: *Associate Treasurer*

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EXHIBIT A

Legal Description

Attached

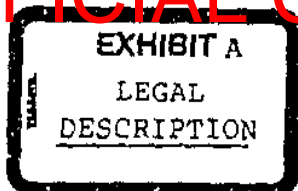
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LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 225, 226 AND 227 IN KREEN AND DATO'S DEVON KEDZIE ADDITION TO NORTH EDGEWATER, BEING A SUBDIVISION OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, AND THE VACATED EAST AND WEST 16 FOOT PUBLIC ALLEY LYING NORTH OF AND ADJOINING LOT 225 AFORESAID, IN COOK COUNTY, ILLINOIS.

13-01-103-041

13-01-103-049-8001, 8002, & 8003

Address: 3021 W. Devon  
Chicago, IL

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