

UNOFFICIAL COPY 0020861012

9862/0183 11 001 Page 1 of 12  
2002-08-06 15:11:40  
Cook County Recorder 43.50

This instrument prepared by  
and please return to:  
Jennifer L. Worstel, Esq.  
100 West Monroe Street #1500  
Chicago, Illinois 60603



P.I.N: 17-04-223-032-0000  
COMMONLY KNOWN AS: 1236 N. Dearborn, Chicago, Illinois

**THIRD LOAN MODIFICATION AGREEMENT**

This instrument is a Third Loan Modification Agreement ("Third Modification") among The PrivateBank and Trust Company, an Illinois banking corporation ("Lender") and Lubavitch Chabad of the Loop, Gold Coast & Lincoln Park, formerly known as Lubavitch Chabad of the Loop and Lincoln Park, an Illinois not-for-profit corporation ("Borrower").

**RECITALS:**

- A. Borrower holds fee simple title to the property commonly known as 1236 N. Dearborn, Chicago, Illinois ("Real Estate") which is legally described on Exhibit A attached hereto.
- B. On May 17, 2000, Borrower executed and delivered to Lender a Promissory Note in the amount of \$1,300,000 ("Note"). The Note evidences a loan in the amount of \$1,300,000 ("Loan") by Lender to Borrower. To secure the Note, Borrower executed and delivered to Lender the following documents (collectively "Security Documents"):

1. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement ("Mortgage"), which was recorded with the Cook County Recorder of Deeds on May 22, 2000 as Document No. 00364898;

2. a UCC-1 Financing Statement executed by Borrower and covering the personal property located on the Real Estate; and

3. a Pledge Agreement covering Borrower's interest in that certain account established with Lender and known as Account No. 435695 (the "Account").

C. On April 1, 2001, Borrower and Lender entered into a Loan Modification Agreement ("Modification"), pursuant to which Lender agreed to adjust the interest rate applicable to the Loan and the monthly payment stated in the Note. The Modification was recorded with the Cook County Recorder of Deeds on April 23, 2001 as Document No. 0010330559.

D. On December 13, 2001, Borrower and Lender entered into a Second Loan Modification ("Second Modification"), pursuant to which Lender agreed to adjust the interest rate applicable to the Loan and the monthly payment stated in the Note. Pursuant to the terms of the Second Modification, Borrower executed a Promissory Note in the amount of \$1,017,103.80 ("Revised Note"). The Second Modification was recorded with the Cook County Recorder of Deeds on December 24, 2001 as Document No. 0011224689.

E. The outstanding principal balance of the Revised Note is \$1,012,668.11. Borrower again has requested Lender to adjust the interest rate applicable to the Loan and the monthly payment stated in the Revised Note. Lender is agreeable to these requests subject to the covenants, conditions and restrictions contained herein.

# UNOFFICIAL COPY

20881012

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. The Note is hereby modified and amended in its entirety by a Promissory Note in the amount of \$1,012,668.11 ("Revised Note No. 2"), a copy of which is attached hereto as Exhibit B. The Security Documents are hereby modified and amended to secure Revised Note No. 2, and all references to the Note in the Security Documents are modified and amended to refer to Revised Note No. 2 in place of the Revised Note and Note.

2. Lender will continue to debit the Account for monthly payments of principal and interest and any other amounts due on the Loan.

3. This Third Modification shall be effective upon Lender's receipt of this Third Modification executed by the parties hereto and the following documents and items:

- (a) Revised Note No. 2 executed by Borrower;
- (b) a Certificate of Good Standing of Borrower;
- (c) a corporate borrowing resolution and Incumbency Certificate of Borrower;
- (d) updated certificates of insurance for the Real Estate as required by Section 6 of the Mortgage;
- (e) a title insurance endorsement which insures the Mortgage as modified by this Third Modification and extends the date of the policy to the date of recording of this Third Modification; and
- (f) payment of Lender's expenses as set forth in Section 8 hereof.

4. Borrower hereby affirms its obligations to pay Lender the outstanding indebtedness of the Loan evidenced by Revised Note No. 2, and to perform all covenants and conditions contained

in the Mortgage, the Pledge Agreement, the Modification, the Second Modification, the Third Modification and the other documents evidencing and securing the Loan as hereby revised. Borrower agrees to execute such documents as Lender deems necessary to secure Lender's lien on the Real Estate.

5. Lender shall record this Third Modification forthwith. This Third Modification shall constitute an amendment of the Note, Revised Note, Pledge Agreement, Mortgage, Modification, Second Modification and Third Modification and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Note, Revised Note or Revised Note No. 2 (collectively "Loan Documents") reference is made to the Loan Documents aforesaid, such reference shall be deemed a reference to such Loan Documents as hereby modified and amended. All other provisions of the Loan Documents remain unchanged. Nothing herein contained shall in any manner affect the lien or priority of the Mortgage, the Pledge Agreement, the Modification, the Second Modification or the Third Modification or the covenants, conditions and agreements therein contained or contained in the Loan Documents.

6. In the event of any conflict between any of the provisions of the Loan Documents and this instrument, the provisions of this instrument shall control.

7. Borrower hereby renews, remakes and affirms the representations and warranties contained in the Loan Documents as of the execution hereof.

8. Borrower hereby agrees to pay all of Lender's expenses arising out of and in connection with this Third Modification including, but not limited to, title insurance premiums, recording fees and attorneys' fees performed in the preparation of necessary documentation.

9. Borrower knowingly, voluntarily and intentionally waives irrevocably the right it may have to trial by jury with respect to any legal proceeding based hereon, or arising out of, under or in connection with the Note, the Revised Note, Revised Note No. 2, the Mortgage, the Pledge Agreement, the Modification, the Second Modification, the Third Modification or any of the other obligations, or the collateral secured by the Security Documents, or any agreement, executed or contemplated to be executed in conjunction herewith or any course of conduct or course of dealing, in which Lender and Borrower are adverse parties. This provision is a material inducement for Lender in granting any financial accommodation to Borrower.

10. Borrower hereby irrevocably submits to the jurisdiction of any state or federal court sitting in Chicago, Illinois over any action or proceeding based hereon and Borrower hereby irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined in such state or federal court. Borrower hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Borrower irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Borrower at its address as specified in the records of Lender. Borrower agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

Borrower agrees not to institute any legal action or proceeding against Lender or the directors, officers, employees, agents or property thereof, in any court other than the one herein above specified. Nothing in this Section shall affect the right of Lender to serve legal process in any

UNOFFICIAL COPY 20861012

other manner permitted by law or affect the right of Lender to bring any action or proceeding against Borrower or its property in the courts of any other jurisdictions.

IN WITNESS WHEREOF, the parties hereto have executed this Third Modification on

July 16, 2002.

**LENDER:**

The PrivateBank and Trust Company, an Illinois banking corporation

By: Allison M. Mandell  
Its Associate Managing Director

**BORROWER:**

Lubavitch Chabad of the Loop, Gold Coast & Lincoln Park, formerly known as Lubavitch Chabad of the Loop and Lincoln Park, an Illinois not-for-profit corporation

By: [Signature]  
Its PRESIDENT

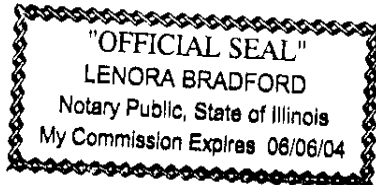
Attest: [Signature]  
Its Secretary

STATE OF ILLINOIS )  
                                  )     SS  
COUNTY OF COOK    )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Allison mandell, ASSOCIATE Managing Director of The PrivateBank and Trust Company, 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/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 16<sup>th</sup> July, 2002.

Lenora Bradford  
Notary Public



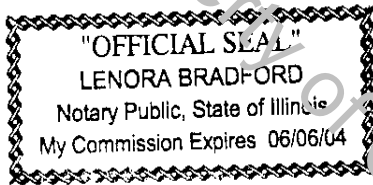
# UNOFFICIAL COPY

20881012

STATE OF ILLINOIS        )  
                                      )        SS  
COUNTY OF C O O K     )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Meir C. Benhayan and \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, respectively, of Lubavitch Chabad of the Loop, Gold Coast & Lincoln Park, formerly known as Lubavitch Chabad of the Loop and Lincoln Park, an Illinois not-for-profit corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said not-for-profit corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 16<sup>th</sup> July, 2002.



Lenora Bradford  
Notary Public

Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT A

20861012

### LEGAL DESCRIPTION:

THE SOUTH 25 FEET OF LOT 27 IN BRONSON'S ADDITION TO CHICAGO  
IN THE NORTHEAST ¼ OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14,  
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 1236 N. Dearborn, Chicago, Illinois  
P.I.N.: 17-04-223-032

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

20861012

**PROMISSORY NOTE**  
**("Revised Note No. 2")**

\$1,012,668.11

\_\_\_\_\_, 2002

**FOR VALUE RECEIVED** the undersigned, Lubavitch Chabad of the Loop, Gold Coast & Lincoln Park, formerly known as Lubavitch Chabad of the Loop and Lincoln Park, an Illinois not-for-profit corporation ("Borrower"), promises to pay to the order of The PrivateBank and Trust Company, an Illinois corporation (said Bank and each successive owner and holder of this Note being hereinafter called "Holder"), the principal sum of One Million Twelve Thousand Six Hundred Sixty-Eight and 11/100ths (\$1,012,668.11) Dollars, or so much thereof as may from time to time be outstanding hereunder, together with interest on the balance of principal from time to time remaining unpaid, in the amounts, at the rates and on the dates hereafter set forth.

The rate of interest payable on this Note will change from time to time as hereafter provided. Monthly payments on account of this Note shall be adjusted from time to time as the rate of interest changes. Payments on account of this Note shall be made as follows:

(a) On July 1, 2002, and continuing on the first day of each succeeding month to and including May 1, 2004, there shall be paid on account of this Note the amount of \$5,500.00, which amount shall be applied first to interest at the Prime Rate of interest in effect from time to time at The PrivateBank and Trust Company per annum, and the balance to principal. Notwithstanding the foregoing, in no event shall the interest rate applicable to this Note be less than five (5.0%) percent per annum ("Interest Rate Floor").

(b) On May 1, 2004, the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

The rate of interest shall change each time the Prime Rate is changed. Interest shall be calculated on the outstanding balance from time to time on the basis of a year having three hundred sixty (360) days and shall be paid for the actual days outstanding.

This Note may be prepaid, in whole or in part, at any time without premium or penalty. All accrued interest thereon shall be payable and shall be paid on the date of prepayment.

The Prime Rate of The PrivateBank and Trust Company is currently the highest prime rate of interest published in The Wall Street Journal. If this index is no longer available, the Bank will chose a new index in compliance with applicable law and will notify Borrower of its choice. Borrower acknowledges that it is advised that said rate is not Bank's lowest or most favorable lending rate.

# UNOFFICIAL COPY

20861012

The Prime Rate is four and three-quarters (4.75%) percent as of the date hereof. Without taking into effect the Interest Rate Floor of five (5.0%) percent, the rate applicable to this Note would be four and three-quarters (4.75%) percent. Notwithstanding the foregoing, Borrower acknowledges and agrees that the rate initially in effect shall be five (5.0%) percent per annum.

Payment upon this Note shall be made in lawful money of the United States at such place as the Holder of this Note may from time to time in writing appoint and in the absence of such appointment, shall be made at the offices of The PrivateBank and Trust Company, 10 North Dearborn Street, Chicago, Illinois 60602.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of interest or principal is not paid within fifteen (15) days after the date the same is due, the undersigned promises to pay a late charge ("Late Charge") of five (5.0%) percent of the amount so overdue to defray the expense incident to handling any such delinquent payment or payments.

This Note is executed pursuant to a Third Loan Modification Agreement executed concurrently herewith ("Third Modification"). This Note replaces that certain Promissory Note in the amount of \$1,300,000 ("Original Note") made by Borrower on May 17, 2000 and that certain Promissory Note in the amount of \$1,017,103.80 ("Revised Note") made by Borrower on December 13, 2001. The Original Note and Revised Note are secured by a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement ("Mortgage") executed on May 17, 2000 and recorded on May 22, 2000 with the Cook County Recorder of Deeds as Document No. 00364898. The Mortgage is modified by a Loan Modification Agreement ("Modification") executed by Borrower on April 23, 2001 and recorded with the Cook County Recorder of Deeds as Document No. 0010330559, and a Second Loan Modification Agreement ("Second Modification") executed by Borrower on December 13, 2001 and recorded with the Cook County Recorder of Deeds on December 24, 2001 as Document No. 0011224689. Amounts outstanding pursuant to the Original Note and Revised Note shall be outstanding under this Note. All interest rates applicable to and charged on the Original Note and Revised Note and all payments made on the Original Note and Revised Note are unchanged. Pursuant to the Third Modification, the Modification, the Second Modification, the Mortgage and other security documents ("Security Documents") are modified to secure this Note.

At the election of the Holder hereof, without notice, the principal sum remaining unpaid hereon, together with accrued interest, shall be and become at once due and payable in the case of default for five (5) days in the payment of principal or interest when due in accordance with the terms hereof or upon the occurrence of any event of default ("Event of Default") under the Mortgage and Security Documents.

Under the provisions of the Mortgage, the Modification, the Second Modification, the Third Modification and Security Documents, the unpaid balance hereunder may, at the option of the Holder, be accelerated and become due and payable forthwith upon the happening of certain events

as set forth therein. The Mortgage, Modification, Second Modification, Third Modification and Security Documents are, by this reference, incorporated herein in their entirety and notice is given of such possibility of acceleration.

If this Note is placed in the hands of an attorney for collection or is collected through any legal proceeding, the undersigned promises to pay all costs incurred by Bank in connection therewith including, but not limited to, court costs, litigation expenses and attorneys' fees.

The principal hereof, including each installment of principal, shall bear interest after the occurrence of an event of default, not cured within the applicable cure period, at the annual rate (herein called the "Default Rate") determined by adding four (4.0%) percentage points to the interest rate then required to be paid, as above provided, on the principal balance.

Borrower waives presentment, notice of dishonor, protest and notice of protest.

Funds representing the proceeds of the indebtedness evidenced herein which are disbursed by Holder by mail, wire transfer or other delivery to Borrower, escrowees or otherwise for the benefit of Borrower shall, for all purposes, be deemed outstanding hereunder and received by Borrower as of the date of such mailing, wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such mailing, wire transfer or other delivery until repaid to Holder, notwithstanding the fact that such funds may not at any time have been remitted by escrowees to Borrower.

Borrower knowingly, voluntarily and intentionally waives irrevocably the right it may have to trial by jury with respect to any legal proceeding based hereon, or arising out of, under or in connection with this Note, the Mortgage, Modification, Second Modification, Third Modification or any of the other obligations, or the collateral secured by the Security Documents, or any agreement, executed or contemplated to be executed in conjunction herewith or any course of conduct or course of dealing, in which Holder and Borrower are adverse parties. This provision is a material inducement for Holder in granting any financial accommodation to Borrower.

Borrower hereby irrevocably submits to the jurisdiction of any state or federal court sitting in Chicago, Illinois over any action or proceeding based hereon and Borrower hereby irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined in such state or federal court. Borrower hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Borrower irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Borrower by first-class mail, postage prepaid, certified, return receipt requested, at the addresses for service of notice as provided for in the Mortgage. Borrower agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

# UNOFFICIAL COPY

20861012

Borrower agrees not to institute any legal action or proceeding against Holder or the directors, officers, employees, agents or property thereof, in any court other than the one herein above specified. Nothing in this Section shall affect the right of Holder to serve legal process in any other manner permitted by law or affect the right of Holder to bring any action or proceeding against Borrower or its property in the courts of any other jurisdictions.

# COPY

Time is of the essence of this Note and each provision hereof.

Lubavitch Chabad of the Loop, Gold Coast & Lincoln Park, formerly known as Lubavitch Chabad of the Loop and Lincoln Park, an Illinois not-for-profit corporation

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

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

Property of Cook County Clerk's Office