

# UNOFFICIAL COPY



0410027047

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

Doc#: 0410027047  
Eugene "Gene" Moore Fee: \$68.50  
Cook County Recorder of Deeds  
Date: 04/09/2004 12:40 PM Pg: 1 of 23

COMMONLY KNOWN AS: 830 N. Clark St., Chicago, Illinois  
P.I.N.: 17-04-448-019-0000

## SECOND LOAN MODIFICATION AGREEMENT

This instrument is a Second Loan Modification Agreement ("Second 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, sometimes doing business as Center For Jewish Life, ("Borrower"), and Dr. Amos Madanes, Daniel Nack, Melvin L. Katten, The Chicago Sun-Times, Inc., an Illinois corporation, Nachshoon Draiman, Michael L. Silver, Gerald Kanter and John T. Hunter (collectively "Guarantors").

## RECITALS:

A. Borrower holds fee simple title to the property commonly known as 830 N. Clark Street, Chicago, Illinois ("Real Estate") which is legally described on Exhibit A attached hereto. Guarantors are affiliates of Borrower.

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B. On July 31, 2000, Borrower executed and delivered to Lender a Promissory Note in the amount of \$1,400,000 ("Note No. 1") and a Promissory Note in the amount of \$1,400,000 ("Note No. 2"). Note No. 1 evidences a loan in the amount of \$1,400,000 ("Loan No. 1") by Lender to Borrower. Note No. 2 also evidences a loan in the amount of \$1,400,000 ("Loan No. 2") by Lender to Borrower. To secure Note No. 1 and Note No. 2 (collectively "Notes"), Borrower, Guarantors Bernard Turek and Glenn Morris 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 No. 1"), which secures Note No. 1 and was recorded with the Cook County Recorder of Deeds on August 2, 2000 as Document No. 00585723;
2. a Junior Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement ("Mortgage No. 2"), which secures Note No. 2 and was recorded with the Cook County Recorder of Deeds on August 2, 2000 as Document No. 00585724 (Mortgage No. 1 and Mortgage No. 2 are collectively referred to herein as the "Mortgages");
3. a UCC-1 Financing Statement executed by Borrower and covering the personal property located on the Real Estate;
4. a Pledge Agreement covering Borrower's Account No. 32905 with Lender, which contained funds in the amount of \$161,016 ("Account #32905");
5. a Security Agreement ("Security Agreement") covering Borrower's interest in all of its charitable grants, grants-in-aid and other collateral described therein;

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6. Guaranties of Note, Mortgage and Other Undertakings (“Guaranties”) executed by Guarantors, Bernard Turek and Glenn Morris, which are limited guaranties of Note No.

2;

7. an Environmental, ADA and ERISA Indemnification Agreement executed by Borrower; and

8. certain other documents of a security, collateral and evidentiary nature.

C. Bernard Leviton was named in the Security Documents as one of the original Guarantors of Loan No. 1 and Loan No. 2 (collectively “Loans”). However, Bernard Leviton never remitted his Guaranty to Lender and Lender determined that his Guaranty was not required as a condition of the making of the Loans.

D. On May 16, 2001, Borrower filed Articles of Amendment to its Articles of Incorporation with the Secretary of State of Illinois, whereby Borrower changed its name from Lubavitch Chabad of the Loop & Lincoln Park to Lubavitch Chabad of the Loop, Gold Coast & Lincoln Park.

E. On March 27, 2002, to be effective as of February 1, 2002, Lender, Borrower and Guarantors entered into a Loan Modification Agreement (“Modification”) pursuant to which Lender agreed to extend the maturity dates of the Notes from February 1, 2002 to February 1, 2004 and to release Bernard Turek, Glenn Morris and Bernard Leviton as guarantors of the obligations of Loan No. 2. Guarantors did not execute the Modification, which is a default of the Mortgages and the Security Documents. Pursuant to the Modification, Borrower executed and delivered to Lender a Pledge Agreement covering the proceeds of Certificate of Deposit #5266 which is held with Lender (“CD No. 5266”).

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The Modification was recorded with the Cook County Recorder of Deeds on December 6, 2002 as Document No. 0021348702.

F. The outstanding principal balance of Note No. 1 is \$1,400,000 and the outstanding principal balance of Note No. 2 is \$963,463. Borrower has requested Lender to extend the maturity dates of the Notes from February 1, 2004 to August 30, 2004. Lender is agreeable to this request subject to the covenants, conditions and restrictions contained herein.

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

1. The Notes are hereby modified and amended in their entirety by a Promissory Note in the amount of \$1,400,000 ("Revised Note No. 1"), and a Promissory Note in the amount of \$963,463 ("Revised Note No. 2"), copies of which are attached hereto as Exhibits B and C, respectively. The Security Documents are hereby modified and amended to secure Revised Note No. 1 and Revised Note No. 2 (collectively "Revised Notes"), and all references to the Notes in the Security Documents are modified and amended to refer to the Revised Notes in place thereof.

2. This Second Modification shall be effective upon Lender's receipt of this Second Modification executed by all of the parties hereto, including Dr. Amos Madanes, Daniel Nack, Melvin L. Katten, The Chicago Sun-Times, Inc., Nachshoon Draiman, Michael L. Silver, Gerald Kanter and John T. Hunter, along with the following documents and items:

- (a) Revised Note No. 1 executed by Borrower;
- (b) Revised Note No. 2 executed by Borrower;
- (c) title insurance endorsements to Lenders' loan title insurance policies which insure Mortgage No. 1 and Mortgage No. 2 (collectively the "Mortgages") as modified by this

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Second Modification and extend the effective dates of the policies to the date of recording of this Second Modification;

- (d) updated certificates of commercial general liability insurance as required by the Mortgages;
- (e) certification of exempted real estate tax status issued by the Cook County Assessor;
- (f) organizational documents of Borrower as follows:
  - i) Certified copy of Articles of Amendment showing Borrower's name change from Lubavitch Chabad of the Loop and Lincoln Park to Lubavitch Chabad of the Loop, Gold Coast and Lincoln Park;
  - (ii) a Borrowing Resolution/Incumbency Certificate;
  - (iii) a Certificate of Good Standing; and
  - (iv) Borrower's Internal Revenue Code 501(c)(3) designation; and
- (g) a Loan Settlement Statement showing payment of Lender's expenses as set forth in Section 8 hereof.

3. Borrower hereby affirms its obligations to pay Lender the outstanding indebtedness of the Loans evidenced by the Revised Notes and to perform all covenants and conditions contained in the Mortgages, the Pledge Agreement covering Account No. 32905, the Pledge Agreement covering CD No. 5266 (collectively "Pledge Agreements"), the Security Agreement, the Security Documents and all other documents evidencing and securing the Loans and the Revised Notes.

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Borrower agrees to execute such documents as Lender deems necessary to secure Lender's lien on the Real Estate and on the collateral covered by the Pledge Agreements and the Security Agreement.

4. Lender shall record this Second Modification forthwith. Guarantors must execute this Second Modification prior to its recordation. The failure of Guarantors to execute this Second Modification shall be an Event of Default (as defined therein) of the Mortgages and Security Documents.

5. This Second Modification shall constitute an amendment of the Pledge Agreements, the Security Agreement, the Mortgages, and the Security Documents and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Revised Notes (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 Mortgages, the Pledge Agreements, the Security Agreement 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 and Guarantors hereby renew, remake and affirm 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 Second Modification including, but not limited to, title insurance premiums, recording fees and attorneys' fees performed in the preparation of necessary documentation.

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9. Guarantors hereby affirm their obligations under their Guaranties (as limited therein), and agree that the Guaranties are amended and extended to cover and guaranty Revised Note No. 1 and Revised Note No. 2. All references in the Guaranties to Note No. 1 and Note No. 2 shall mean Revised Note No. 1 and Revised Note No. 2. Guarantors hereby expressly acknowledge and confirm that by executing this Second Modification, Lender has not waived, altered or modified Lender's rights under any of the Loan Documents to amend, extend, renew or modify or otherwise deal with the obligations of the parties hereto or any of the security given to Lender in connection therewith without the consent of Guarantors and without such action releasing, modifying, or affecting the obligations of Guarantors or affecting the security heretofore granted to Lender.

10. Borrower and Guarantors knowingly, voluntarily and intentionally waive irrevocably the right they may have to trial by jury with respect to any legal proceeding based hereon, or arising out of, under or in connection with the Revised Notes, the Mortgages, the Modification, the Pledge Agreements, the Security Agreement, this Second Modification, the 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, Borrower and Guarantors are adverse parties. This provision is a material inducement for Lender in granting any financial accommodation to Borrower or Guarantors, or any of them.

11. Borrower and Guarantors hereby irrevocably submit to the jurisdiction of any state or federal court sitting in Chicago, Illinois over any action or proceeding based hereon and Borrower and Guarantors hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in such state or federal court. Borrower and Guarantors hereby irrevocably waive, to the fullest extent they may effectively do so, the defense of an inconvenient forum to the

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maintenance of such action or proceeding. Borrower and Guarantors irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Borrower and Guarantors at their addresses as specified in the records of Lender. Borrower and Guarantors agree 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 and Guarantors agree 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 other manner permitted by law or affect the right of Lender to bring any action or proceeding against Borrower and Guarantors or their property in the courts of any other jurisdictions.

12. Borrower and Guarantors warrant to Lender that neither Borrower nor Guarantors nor any affiliate is identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the "Blocked Persons Lists") including, without limitation: (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower and Guarantors covenant to Lender that if they become aware that they or any affiliate is identified on any Blocked Persons List, Borrower and/or Guarantors shall immediately notify Lender in writing of such information. Borrower and Guarantors further agree that in the event they or any affiliate are at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Lender to exercise any and all remedies provided in any Loan



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Document or otherwise permitted by law. In addition, Lender may immediately contact the Office of Foreign Assets Control and any other government agency Lender deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon the occurrence of such Event of Default, Lender will forbear enforcement of its rights and remedies during such time as: (1) the person ("Person") identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person's inclusion in a Blocked Persons List, and (2) Lender determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of Lender and encumbering, any part of the Premises (as defined in the Mortgages) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Loan Documents.

**THIS SPACE INTENTIONALLY BLANK**

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

March 30, 2004, to be effective as of February 1, 2004.

**LENDER:**

The PrivateBank and Trust Company, an Illinois banking corporation

By: Alison Mandell  
Its 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, sometimes doing business as Center For Jewish Life

By: [Signature]  
Its President

Attest: [Signature]  
Its Secretary

**GUARANTORS:**

Dr. Amos Madanes

Daniel Nack

Melvin L. Katten

The Chicago Sun-Times, Inc., an Illinois corporation

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

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

Nachshon Draiman

Michael L. Silver

Gerald Kanter

John T. Hunter

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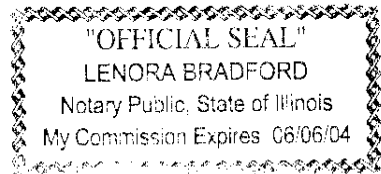
STATE OF ILLINOIS       )  
  )  
COUNTY OF C O O K     )       SS

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Allison Mandell, \_\_\_\_\_ 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 30<sup>th</sup> MARCH, 2004.

Lenora Bradford  
Notary Public

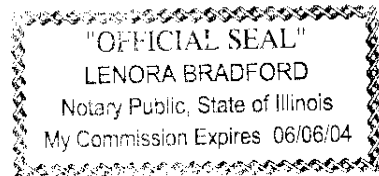
STATE OF ILLINOIS       )  
  )  
COUNTY OF C O O K     )       SS



The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Rabbi Meir Benhyoun and Rivka Benhyoun, \_\_\_\_\_ 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, sometimes doing business as Center For Jewish Life, 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 30<sup>th</sup> MARCH, 2004.

Lenora Bradford  
Notary Public



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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 Dr. Amos Madanes, 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 his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

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 Daniel Nack, 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 his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

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 Melvin L. Katten, 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 his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

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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 \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, respectively, of The Chicago Sun-Times, Inc., an Illinois 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 corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 2004.

\_\_\_\_\_  
 Notary Public

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 Nachshoon Draiman, 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 his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 2004.

\_\_\_\_\_  
 Notary Public

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 Michael L. Silver, 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 his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 2004.

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Notary Public

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 Gerald Kanter, 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 his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

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 John T. Hunter, 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 his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

Property of Cook County Clerk's Office

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## EXHIBIT A

### LEGAL DESCRIPTION:

Lot 1 in Underwood and Others Subdivision of the East ½ of Block 3 in Bushnell's Addition to Chicago in the East ½ of the South East ¼ of Section 4, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

COMMONLY KNOWN AS: 830 N. Clark St., Chicago, Illinois  
P.I.N.: 17-04-448-019-0000

Property of Cook County Clerk's Office

**UNOFFICIAL COPY****PROMISSORY NOTE****("Revised Note No. 1")**

\$1,400,000.00

\_\_\_\_\_, 2004

**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, sometimes doing business as Center For Jewish Life ("Borrower"), promises to pay to the order of The PrivateBank and Trust Company, an Illinois banking corporation (said Bank and each successive owner and holder of this Note being hereinafter called "Holder"), the principal sum of One Million Four Hundred Thousand and no/100 (\$1,400,000) 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.

(a) On May 1, 2004 and August 1, 2004 there shall be paid on account of the outstanding balance of this Note interest only at a rate equal to the prime rate of interest in effect from time to time at The PrivateBank and Trust Company per annum. 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 August 30, 2004, the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

The prime rate of interest charged by The PrivateBank and Trust Company is the highest prime rate of interest published in The Wall Street Journal. In the event a prime rate of interest is no longer published in The Wall Street Journal, Holder shall base its prime rate on such prime rates as shall be, in the reasonable judgment of Holder, comparable to the highest prime rate of interest published in The Wall Street Journal. Borrower acknowledges that it is advised that said rate is not Bank's lowest or most favorable lending rate.

Interest shall be calculated on the basis of a calendar 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, without premium or penalty and all accrued interest hereon and all other charges shall be paid on date of prepayment.

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, Chicago, Illinois 60602.



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The Prime Rate is four (4.0%) 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 (4.0%) percent. Notwithstanding the foregoing, Borrower acknowledges and agrees that the rate initially in effect shall be five (5.0%) percent per annum, the Interest Rate Floor.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of interest is not paid within ten (10) 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 Second Loan Modification Agreement executed concurrently here with ("Second Modification"). This Note replaces that certain Promissory Note in the amount of \$1,400,000 ("Original Note") made by Borrower on July 31, 2000. The Original Note is secured by two (2) Real Estate Mortgages, Assignments of Rents, Security Agreements and UCC-2 Financing Statements (collectively "Mortgages"), both executed on July 31, 2000 and recorded on August 2, 2000 with the Cook County Recorder of Deeds as Document Nos. 00585723 and 00585724, respectively. The Mortgages are revised by a Loan Modification Agreement ("Modification") executed by Borrower and certain other parties on March 27, 2002, to be effective as of February 1, 2002, and recorded with the Cook County Recorder of Deeds on December 6, 2002 as Document No. 0021348702. Amounts outstanding pursuant to the Original Note shall be outstanding under this Note. All interest rates applicable to and charged on the Original Note and all payments made on the Original Note are unchanged. Pursuant to the Second Modification, the Mortgages, Modification and other security documents (collectively "Security Documents") are modified to secure this Note.

At the election of the Holder hereof, five (5) days after 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 in the payment of principal or interest when due in accordance with the terms hereof or upon the occurrence of any "Event of Default" under the Mortgages and Security Documents.

Under the provisions of the Mortgages 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 Events of Default as set forth in the Mortgages and Security Documents. The Mortgages and Security Documents are, by this reference, incorporated herein in their entirety and notice is given of such possibility of acceleration.

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.

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Borrower waives notice of default except as set forth in the Mortgages, presentment, notice of dishonor, protest and notice of protest.

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

Payments received on account of this Note shall be applied first to tax and insurance deposits as provided in the Mortgages, second to the payment of any amounts due pursuant to the next preceding paragraph and any amounts due on the Mortgages other than principal and interest on this Note, third to interest and Late Charges and the balance to principal.

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 Mortgages, the Second Modification, the 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 at its address as specified in the records of the Holder. 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 Holder or the directors, officers, employees, agents or property thereof, in any court other than the one hereinabove 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.

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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, sometimes doing business as Center For Jewish Life

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

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

COPY

Property of Cook County Clerk's Office

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

\$963,463

\_\_\_\_\_, 2004

**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, sometimes doing business as Center For Jewish Life ("Borrower"), promises to pay to the order of The PrivateBank and Trust Company, an Illinois banking corporation (said Bank and each successive owner and holder of this Note being hereinafter called "Holder"), the principal sum of Nine Hundred Sixty-Three Thousand Four Hundred Sixty-Three and no/100 (\$963,463) 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.

(a) On May 1, 2004 and August 1, 2004 there shall be paid on account of the outstanding balance of this Note interest only at a rate equal to the prime rate of interest in effect from time to time at The PrivateBank and Trust Company per annum. 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 August 30, 2004, the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

The prime rate of interest charged by The PrivateBank and Trust Company is the highest prime rate of interest published in The Wall Street Journal. In the event a prime rate of interest is no longer published in The Wall Street Journal, Holder shall base its prime rate on such prime rates as shall be, in the reasonable judgment of Holder, comparable to the highest prime rate of interest published in The Wall Street Journal. Borrower acknowledges that it is advised that said rate is not Bank's lowest or most favorable lending rate.

Interest shall be calculated on the basis of a calendar 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, without premium or penalty and all accrued interest hereon and all other charges shall be paid on date of prepayment.

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, Chicago, Illinois 60602.

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The Prime Rate is four (4.0%) 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 (4.0%) percent. Notwithstanding the foregoing, Borrower acknowledges and agrees that the rate initially in effect shall be five (5.0%) percent per annum, the Interest Rate Floor.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of interest is not paid within ten (10) 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 Second Loan Modification Agreement executed concurrently herewith ("Second Modification"). This Note replaces that certain Promissory Note in the amount of \$1,400,000 ("Original Note") made by Borrower on July 31, 2000. The Original Note is secured by two (2) Real Estate Mortgages, Assignments of Rents, Security Agreements and UCC-2 Financing Statements (collectively "Mortgages"), both executed on July 31, 2000 and recorded on August 2, 2000 with the Cook County Recorder of Deeds as Document Nos. 00585723 and 00585724, respectively. The Mortgages are revised by a Loan Modification Agreement ("Modification") executed by Borrower and certain other parties on March 27, 2002, to be effective as of February 1, 2002, and recorded with the Cook County Recorder of Deeds on December 6, 2002 as Document No. 0021348702. Amounts outstanding pursuant to the Original Note shall be outstanding under this Note. All interest rates applicable to and charged on the Original Note and all payments made on the Original Note are unchanged. Pursuant to the Second Modification, the Mortgages, Modification and other security documents (collectively "Security Documents") are modified to secure this Note.

At the election of the Holder hereof, five (5) days after 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 in the payment of principal or interest when due in accordance with the terms hereof or upon the occurrence of any "Event of Default" under the Mortgages and Security Documents.

Under the provisions of the Mortgages 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 Events of Default as set forth in the Mortgages and Security Documents. The Mortgages and Security Documents are, by this reference, incorporated herein in their entirety and notice is given of such possibility of acceleration.

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.

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Borrower waives notice of default except as set forth in the Mortgages, presentment, notice of dishonor, protest and notice of protest.

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

Payments received on account of this Note shall be applied first to tax and insurance deposits as provided in the Mortgages, second to the payment of any amounts due pursuant to the next preceding paragraph and any amounts due on the Mortgages other than principal and interest on this Note, third to interest and Late Charges and the balance to principal.

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 Mortgages, the Second Modification, the 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 at its address as specified in the records of the Holder. 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 Holder or the directors, officers, employees, agents or property thereof, in any court other than the one hereinabove 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.

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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, sometimes doing business as Center For Jewish Life

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

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

COPY

Property of Cook County Clerk's Office