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



Doc#: 0521439066
Eugene "Gene" Moore Fee: \$50.50
Cook County Recorder of Deeds
Date: 08/02/2005 02:11 PM Pg: 1 of 14

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

FIFTH LOAN MODIFICATION AGREEMENT

This instrument is a Fifth Modification Agreement ("Fifth 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"):

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2. 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;

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

4. 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 Agreement ("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. On July 16, 2002, Borrower and Lender entered into a Third Loan Modification Agreement ("Third Modification") pursuant to which Lender agreed to adjust the interest rate and monthly payment applicable to the Loan. Pursuant to the terms of the Third Modification, Borrower executed and delivered to Lender a Promissory Note in the amount of \$1,012,668.11 ("Second

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Revised Note”). The Third Modification was recorded with the Cook County Recorder of Deeds on August 6, 2002 as Document No. 0020861012.

F. On May 1, 2004, Borrower and Lender entered into a Fourth Loan Modification Agreement (“Fourth Modification”), pursuant to which Lender agreed to extend the maturity date of the Second Revised Note from May 1, 2004 to May 1, 2006. The Fourth Modification was recorded with the Cook County Recorder of Deeds on July 19, 2004 as Document No. 0420139077.

G. The outstanding principal balance of the Second Revised Note is \$967,196.00. Borrower has requested Lender to extend the maturity date of the Second Revised Note from May 1, 2005 to May 1, 2008 and to adjust the interest rate applicable to the Second Revised Note to five and one-quarter (5.25%) percent. Lender is agreeable to these requests 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 Second Revised Note is hereby modified and amended in its entirety by a Promissory Note in the amount of \$967,176 (“Third Revised Note”), a copy of which is attached hereto as Exhibit B. The Security Documents are hereby modified and amended to secure the Third Revised Note, and all references to the Note, the Revised Note or the Second Revised Note in the Security Documents are modified and amended to refer to the Third Revised Note in place thereof.

2. Lender hereby agrees to release the Pledge Agreement regarding the Account. Lender will no longer debit the Account for monthly payments of principal and interest and any other amounts due on the Loan. Borrower acknowledges that it is to pay such funds from its own funds each month in accordance with the terms of the Third Revised Note.

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

- (a) the Third Revised Note 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 Fifth Modification and extends the date of the policy to the date of recording of this Fifth Modification; and
- (f) payment of Lender's expenses as set forth in Section 9 hereof.

4. Borrower acknowledges and agrees that a building code violation case number 04 M1-401256 has been filed against the Real Estate alleging that certain improvements thereon, including but not limited to the porch, deck, and an addition to the garage, are inadequate, defective and/or improper. Lender has filed an appearance in the matter. Borrower has used or is using its best efforts to bring these violations fully within the requirements of the City of Chicago Building Code.

5. Borrower hereby affirms its obligations to pay Lender the outstanding indebtedness of the Loan evidenced by the Third Revised Note as hereby modified, and to perform all covenants and conditions contained in the Mortgage, the Modification, the Second Modification, the Third Modification, the Fourth Modification, this Fifth Modification and the other documents evidencing

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and securing the Loan and the Third Revised Note. Borrower agrees to continue to execute such documents as Lender deems necessary to secure Lender's lien on the Real Estate.

6. Lender shall record this Fifth Modification forthwith. This Fifth Modification shall constitute an amendment of the Note, Revised Note, Second Revised Note, Mortgage, Modification, Second Modification, Third Modification and Fourth Modification and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Note, Revised Note, Second Revised Note or Third Revised Note (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 as modified by any modification, or the covenants, conditions and agreements therein contained or otherwise contained in the Loan Documents.

7. 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.

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

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

10. 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

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CONNECTION WITH THE NOTE, THE REVISED NOTE, THE SECOND REVISED NOTE, THE THIRD REVISED NOTE, THE MORTGAGE, THE MODIFICATION, THE SECOND MODIFICATION, THE THIRD MODIFICATION, THE FOURTH MODIFICATION, THIS FIFTH MODIFICATION OR ANY OF THE OTHER OBLIGATIONS, OR THE COLLATERAL SECURED BY THE LOAN 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.

11. 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

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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.

12. Borrower warrants to Lender that neither Borrower 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 covenants to Lender that if it becomes aware that it or any affiliate is identified on any Blocked Persons List, Borrower shall immediately notify Lender in writing of such information. Borrower further agrees that in the event it or any affiliate is 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 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

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of Lender and encumbering, any part of the Real Estate or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to the Loan Documents.

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Modification on 7-26, 2005, to be effective as of July 1, 2005.

LENDER:

The Private Bank and Trust Company, an Illinois banking corporation

By: Allison Mandell
Allison Mandell, 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

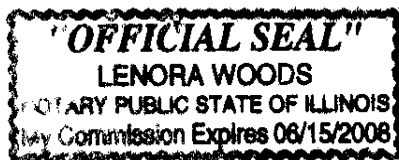
By: [Signature]
Its PRESIDENT

Attest: [Signature]
Its SECRETARY

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

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Allison Mandell, Managing Director of The Private Bank 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 she signed and delivered the said instrument as 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 July 26 2005.



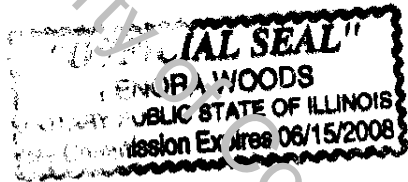
Lenora Woods
Notary Public

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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 Rabbi Meir Benhayan and Rivka Benhayan, _____ 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 July 26, 2005.



Lenora Woods
 Notary Public

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EXHIBIT A

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**PROMISSORY NOTE**
("Third Revised Note")

\$967,176.00

_____, 2005

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 banking corporation (said Bank and each successive owner and holder of this Note being hereinafter called "Holder"), the principal sum of Nine Hundred Sixty-Seven Thousand One Hundred Seventy-Six and 00/100ths (\$967,176.00) 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 August 1, 2005, and continuing on the first day of each succeeding month to and including May 1, 2008, there shall be paid on account of this Note the amount of \$5,350.00, which amount shall be applied first to interest at the rate of five and one-quarter (5.25%) percent per annum, and the balance to principal.

(b) On May 1, 2008, the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

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.

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 Fifth Loan Modification Agreement executed concurrently herewith ("Fifth Modification"). This Note replaces that certain Promissory Note in the amount of \$1,012,668.11 ("Second Revised Note") made by Borrower on July 16, 2002 and that certain Promissory Note in the amount of \$1,017,103.80 ("Revised Note") made by Borrower on December 13, 2001, and that certain Promissory Note in the amount of \$1,300,000 made by Borrower on May 17, 2000 ("Original Note"). The Original Note, Revised Note and Second Revised Note are secured by a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2

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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, 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, a Third Loan Modification Agreement ("Third Modification") executed by Borrower on July 16, 2002 and recorded with the Cook County Recorder of Deeds on August 6, 2002 as Document No. 0020861012, and a Fourth Loan Modification Agreement ("Fourth Modification") executed by Borrower on May 1, 2004 and recorded with the Cook County Recorder of Deeds on July 19, 2004 as Document No. 0420139077. Amounts outstanding pursuant to the Original Note, Revised Note and Second Revised Note shall be outstanding under this Note. All interest rates applicable to and charged on the Original Note, Revised Note and Second Revised Note and all payments made on the Original Note, Revised Note and Second Revised Note are unchanged. Pursuant to the Fifth Modification, the Fourth Modification, the Third Modification, the Modification, the Second Modification, the Modification, the Mortgage and all 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 and the 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 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.

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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 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.

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.

Borrower warrants to Holder that neither the Borrower 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.

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Borrower covenants to Holder that if it becomes aware that it or any affiliate is identified on any Blocked Persons List, the Borrower shall immediately notify the Holder in writing of such information. Borrower further agrees that in the event it or any Affiliate is at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Holder to exercise any and all remedies provided in any Loan Document or otherwise permitted by law. In addition, the Holder may immediately contact the Office of Foreign Assets Control and any other government agency the Holder 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, Holder 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) the Holder 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 the Holder 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.

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 _____