

**UNOFFICIAL COPY** 0020535321

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Cook County Recorder 39.50



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**SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMENT AGREEMENT**

By and between

**THE PRIVATEBANK AND TRUST COMPANY**  
An Illinois Banking Company

**JDI TOWER ROAD, LLC**  
An Illinois limited liability company

**COMPAQ COMPUTER CORPORATION**  
A corporation

Document prepared by and  
Return to:

John D. Purdy, Jr.  
3051 Oak Grove Drive, Suite 220  
Downers Grove, IL 60515



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P-10  
M-Y  
\$39.50 gmc

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## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT

THIS AGREEMENT, made and entered into as of the 7<sup>th</sup> day of Dec, 2002, by and between THE PRIVATEBANK AND TRUST COMPANY, an Illinois Banking Company with its principal office at 1603 West 16<sup>th</sup> Street, Oakbrook, Illinois 60523 (hereinafter called "Mortgagee"), JDI TOWER ROAD, LLC, an Illinois limited liability company with its principal office at 150 South South Wacker Drive, Suite 2660, Chicago, Illinois 60606 (hereinafter called "Lessor") and COMPAQ COMPUTER CORPORATION, a corporation with its principal office at 305 Rockrimmon Boulevard South, Lakeside Springs, Colorado 80919 (hereinafter called "Lessee");

WITNESSETH:

WHEREAS, Lessee has by a written lease dated March, 1996, as amended by the First Amendment to Lease dated May 21, 1996 and the Second Amendment to Lease dated October 31, 2000, and all future amendments and extensions approved by Mortgagee (hereinafter called "Lease") leased from Lessor all or part of certain real estate and improvements and thereon located at 1124 Tower Road, Schaumburg, Illinois, as more particular described in Exhibit A attached hereto (the "Demised Premises"); and

WHEREAS, Lessee, Lessor and Mortgagee have agreed to the following with respect to their mutual rights and obligations pursuant to the Lease and the Mortgage;

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) paid by each party to the other and the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto do hereby covenant and agrees as follows:

1. Lessee's interest in the Lease and all rights of Lessee thereunder, including any purchase option, if any, shall be and are hereby declared subject and subordinate to the Mortgage upon the Demised Premises and its terms, and the term "Mortgage" as used herein shall also include any amendment, supplement, modification, renewal or replacement thereof.

2. In the event of any foreclosure of the Mortgage or any conveyance in lieu of foreclosure, provided that the Lessee shall not then be in default beyond any grace period under the Lease and that the Lease shall be in full force and effect, then Mortgagee shall neither terminate the Lease nor join Lessee in foreclosure proceedings, nor disturb Lessee's possession, and the Lease shall continue in full force and effect as a direct lease between Lessee and Mortgagee.

3. After the receipt by Lessee of notice from Mortgagee of any foreclosure of the Mortgage or any conveyance of the Demised Premises in lieu of foreclosure, Lessee will thereafter attorn to and recognize Mortgagee or any purchaser from Mortgagee at any foreclosure sale or otherwise as its substitute lessor on the terms and conditions set forth in the Lease.

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4. Lessee shall not repay any of the rents under the Lease more than one month in advance except with the prior written consent of Mortgagee.

5. In no event shall Mortgagee be liable for the return of any security deposit, any act or omission of the Lessor, nor shall Mortgagee be subject to any offsets or deficiencies which Lessee may be entitled to assert against the Lessor as a result of any act or omission of Lessor occurring prior to Mortgagee's obtaining possession of the Premises.

6. The Lease may not be amended, altered, or terminated without the prior written consent of Mortgagee.

7. This Agreement and its terms shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including without limitation, any purchaser at any foreclosure sale.

8. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts when taken together shall constitute but one agreement.

**MORTGAGEE:**

THE PRIVATEBANK AND TRUST COMPANY,  
an Illinois Banking Company

By: [Signature]  
Its: Managing Director

**LESSOR:**

JDI TOWER ROAD, LLC,  
an Illinois limited liability company

By: [Signature]  
Its: Manager

**LESSEE:**

COMPAQ COMPUTER CORPORATION,  
a corporation

By: [Signature]  
Its: Paul W. Morgan  
Manager, North America & Latin America  
Real Estate

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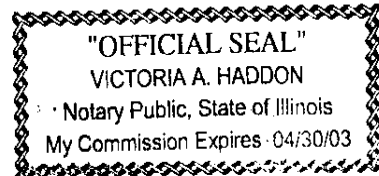
STATE OF Illinois )  
 ) SS.  
COUNTY OF DePue )

The undersigned, VICTORIA A. HADDON, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Hugh H. McLEAW, personally known to me to be the MANAGING DIRECTOR of THE PRIVATEBANK AND TRUST COMPANY, an Illinois banking corporation, and personally known to me to be the same person whose name is subscribed to the attached Subordination Attornment and Non-Disturbance Agreement, appeared before me this day in person and acknowledged that he signed and delivered the said instrument pursuant to authority, as his free and voluntary act and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

Given under my hand and seal this 13 day of FEBRUARY, 2002.

Victoria A. Haddon  
Notary Public

My Commission Expires: 04-30-03



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STATE OF ILLINOIS)

) SS.

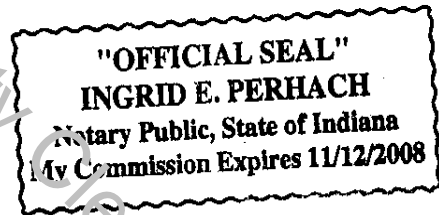
COUNTY OF COOK )

I, Ingrid E. Perhach, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Kevin Connor, Manager of JDI TOWER ROAD, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing attached Subordination Attornment and Non-Disturbance Agreement has appeared before me this day in person and acknowledged that he signed and delivered the attached Subordination Attornment and Non-Disturbance Agreement pursuant to authority, as his free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and seal this 7 day of February, 2002.

Ingrid E. Perhach  
Notary Public

My Commission Expires:



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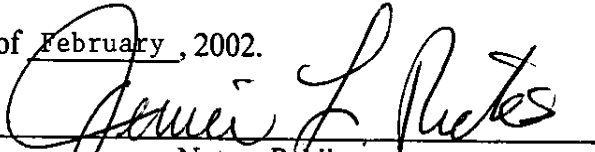
STATE OF TEXAS )  
 )  
COUNTY OF HARRIS )

SS.

20535321

I, Janice Ricks, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Paul Morgan, the Manager, RE of COMPAQ COMPUTER CORPORATION, a Delaware corporation, 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 free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

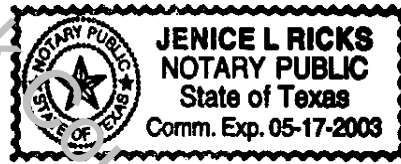
Witness my hand and seal this 5th day of February, 2002.

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

My Commission Expires:

5/17/2003

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EXHIBIT "A"

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## Legal Description of the Property

### PARCEL 1:

LOT 1 IN SCHAUMBURG CENTER FOR COMMERCE, UNIT 1, ACCORDING TO THE PLAT THEREOF REGISTERED WITH REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON JULY 23, 1981 AS DOCUMENT LR3224845 AND RECORDED AS DOCUMENT 25892123 OF THE SOUTHEAST 1/4 OF SECTION 11, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DEED FROM LA SALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST NUMBER 102677 TO LA SALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST NUMBER 103946 DATED NOVEMBER 6, 1981 AND RECORDED FEBRUARY 5, 1982 AS DOCUMENT LR3249412 FOR INGRESS AND EGRESS AND ALSO FOR PARKING PURPOSES, OVER, UNDER, ACROSS AND THROUGH THE FOLLOWING DESCRIBED LAND: THAT PART OF OUTLOT B IN SCHAUMBURG INDUSTRIAL PARK BEING A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 11, PART OF THE NORTHEAST 1/4 OF SECTION 11, PART OF THE SOUTHWEST 1/4 OF SECTION 12, AND PART OF THE NORTHWEST 1/4 OF SECTION 12, PART OF THE NORTHWEST 1/4 OF SECTION 13, AND PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED BY A LINE DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID OUTLOT B, BEING THE INTERSECTION OF THE NORTHWESTERLY LINE OF TOWER ROAD AND THE MOST EASTERLY LINE OF SAID OUTLOT B, RUNNING NORTH 00 DEGREES 01 MINUTES 10 SECONDS EAST ALONG SAID EASTERLY LINE A DISTANCE OF 90.00 FEET; THENCE RUNNING NORTH 89 DEGREES 58 MINUTES 50 SECONDS WEST, 194.13 FEET TO THE PLACE OF BEGINNING; THENCE RUNNING NORTH 00 DEGREES 01 MINUTES 10 SECONDS EAST 160.00 FEET; THENCE RUNNING NORTH 89 DEGREES 59 MINUTES 50 SECONDS WEST A DISTANCE OF 50.00 FEET; THENCE RUNNING SOUTH 0 DEGREES 1 MINUTE 10 SECONDS WEST A DISTANCE OF 43.00 FEET; THENCE RUNNING SOUTH 89 DEGREES 58 MINUTES 50 SECONDS EAST A DISTANCE OF 15.00 FEET; THENCE RUNNING SOUTH 12 DEGREES 30 MINUTES 33 SECONDS EAST A DISTANCE OF 101.41 FEET; THENCE RUNNING SOUTH 35 DEGREES 49 MINUTES 05 SECONDS EAST A DISTANCE OF 22.20 FEET TO THE PLACE OF BEGINNING.

### PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT FROM THE VILLAGE OF SCHAUMBURG TO LA SALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST AGREEMENT SATED MAY 1, 1981 AND KNOWN AS TRUST NUMBER 103946, DATED AUGUST 31, 1981 AND FILED NOVEMBER 3, 1981 AS DOCUMENT LR3238733

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FOR INGRESS AND MAINTENANCE OF WATER MAIN AND SANITARY SEWER LINE OVER, UNDER, ACROSS AND THROUGH THE FOLLOWING DESCRIBED PREMISES:

THAT PART OF PUT LOT B IN SCHAUMBURG INDUSTRIAL PARK BEING A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 11, PART OF THE NORTHEAST 1/4 OF SECTION 11, PART OF THE SOUTHWEST 1/4 OF SECTION 12, PART OF THE NORTHWEST 1/4 OF SECTION 13, AND PART OF THE NORTHEAST 1/4 OF SECTION 14, ALL IN TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED BY A LINE DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID OUTLOT B, BEING THE INTERSECTION OF THE NORTHWESTERLY LINE OF TOWER ROAD AND THE MOST EASTERLY LINE OF SAID OUT LOT B, RUN NORTH 00 DEGREES 01 MINUTES 10 SECONDS EAST ALONG SAID EASTERLY LINE A DISTANCE OF 90.00 FEET; THENCE RUN NORTH 89 DEGREES 58 MINUTES 50 SECONDS WEST 193.00 FEET TO A POINT; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CIRCLE TANGENT TO A LINE AT THAT POINT HAVING A BEARING OF SOUTH 42 DEGREES 49 MINUTES 27 SECONDS EAST HAVING A RADIUS OF 75.00 FEET WHOSE CENTER LIES TO THE NORTHEAST, SOUTHEASTERLY 61.77 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTH 89 DEGREES 58 MINUTES 50 SECONDS EAST A DISTANCE OF 64.01 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CIRCLE WHOSE CENTER LIES TO THE SOUTHWEST, AND WHOSE RADIUS IS 30.00 FEET, SOUTHEASTERLY A DISTANCE OF 14.56 FEET TO ITS INTERSECTION WITH A LINE LYING 60.00 FEET WESTERLY OF AND PARALLEL WITH THE SAID EASTERLY LINE OF OUTLOT B; THENCE RUN SOUTHERLY ALONG SAID LINE 60.00 FEET WESTERLY OF AND PARALLEL WITH THE SAID EASTERLY LINE OF OUTLOT B TO ITS INTERSECTION WITH THE NORTHWESTERLY LINE OF TOWER ROAD; THENCE RUN NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE OF TOWER ROAD TO THE PLACE OF BEGINNING.

PARCEL 4:

LOT 2 IN RICE'S SUBDIVISION OF OUTLOT "A" IN SCHAUMBURG INDUSTRIAL PARK, BEING A SUBDIVISION OF THE SOUTHEAST 1/4 OF SECTION 11, PART OF THE NORTHEAST 1/4 OF SECTION 11, PART OF THE SOUTHWEST 1/4 OF SECTION 12, PART OF THE NORTHWEST 1/4 OF SECTION 13, PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS, ON NOVEMBER 3, 1982 AS DOCUMENT NUMBER LR3280842, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

EASEMENT FOR THE BENEFIT OF PARCEL 4, AS CREATED BY GRANT MADE BY AND BETWEEN LAWRENCE RICE AND MAXINE RICE, HIS WIFE AND SUNRISE REALTY COMPANY, DATES JUNE 30, 1982 AND FILED JULY 2, 1982 AS DOCUMENT LR3265546, FOR PERPETUAL VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS, INCLUDING INCIDENTAL RIGHTS OF MAINTENANCE, REPAIR AND REPLACEMENT, OVER AND UPON THE WESTERLY FIFTEEN FEET OF LOT 1 IN

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FOR INGRESS AND MAINTENANCE OF WATER MAIN AND SANITARY SEWER LINE OVER, UNDER, ACROSS AND THROUGH THE FOLLOWING DESCRIBED PREMISES:

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Street Address: 1124 Tower Road, Schaumburg, Illinois  
Real Estate Tax Index No.: 07-11-400-064, 07-11-400-070

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