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INSTRUMENT PREPARED BY:  
ALLEN C. WESOLOWSKI  
MARTIN & KARCAZES, LTD.  
161 N. Clark St. - Suite 550  
Chicago, IL 60601

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2002-10-07 10:34:19  
Cook County Recorder 34.00



PLEASE MAIL TO:  
THE FIRST COMMERCIAL BANK  
6945 N. Clark Street  
Chicago, IL 60626

## SUBORDINATION, NON-DISTURBANCE AND ATTORNEYMENT AGREEMENT

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This Agreement, made and entered into as of this \_\_\_ day of September, 2002, by and between THE FIRST COMMERCIAL BANK ("Lender"); DB 2000, INC., an Illinois corporation (hereinafter referred to as "Borrower") and KWJ, INC., an Illinois corporation (hereinafter referred to as "Tenant");

### RECITALS

WHEREAS, Borrower wishes to borrow \$700,000.00 from Lender and Lender is willing to lend said sum (the "loan"); and

WHEREAS, Borrower holds title to the real estate located at the northeast corner of Garfield Boulevard and Wentworth Avenue, in Chicago, Illinois (hereinafter called the "Property") and legally described on Exhibit A attached hereto and incorporated herein by reference. and

WHEREAS, in order to induce Lender to make said loan, Borrower wishes to secure this loan with a first mortgage in favor of the Lender upon the Property; and

WHEREAS, Tenant holds a leasehold interest upon a portion of the Property and by virtue of a lease dated \_\_\_\_\_ (hereinafter called "Lease") between Tenant and Borrower; and

WHEREAS Lender wishes Tenant to subordinate its leasehold interest in the Property in favor of the Lender's Mortgage which secures a note dated September 26, 2002 in the original principal amount of \$700,000.00 (the "Mortgage"); and

WHEREAS Tenant is willing to subordinate its leasehold interest in the Property to the Mortgage.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein,

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the making of the loan, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Tenant acknowledges and agrees that its leasehold interest in the Property is hereby declared to be subject and subordinate to the mortgage, and any other obligations secured thereby, present or future, and any and all amendments, modifications, renewals, or replacements thereof, and shall remain subordinate to the mortgage interest of the Lender as long as any sums advanced by lender and secured by the Mortgage remain unpaid.
2. Lender does hereby agree that (a) Tenant's leasehold estate under the Lease shall not be terminated or disturbed during the term of the Lease, and during any renewal or extension thereof in accordance with its terms, by reason of any default under the Mortgage, (b) Tenant shall not be joined as an adverse party defendant in any action or proceeding which may be instituted or commenced by Lender to foreclose or enforce the Mortgage, and (c) Tenant shall not be evicted from the Property, nor shall any of Tenant's rights to use and possession under the Lease be affected in any way by reason of the subordination or any modification or default under the Mortgage; provided Tenant shall have performed and shall continue to perform all of the covenants and conditions of the lease to be by it performed and shall not be in default thereunder, after expiration of any applicable cure periods provided in the Lease. However, Lender shall not be liable for any default by Borrower under the lease.
3. In the event Lender shall obtain title to the property through foreclosure proceeding or deed in lieu of foreclosure, Tenant shall attorn to and recognize Lender, its successors and assigns, or any other purchaser at the foreclosure sale, as its substitute Landlord, and, having thus attorned, Tenant's leasehold interest in the property shall not thereafter be disturbed during the term of said leasehold, provided and so long as Tenant is not in default under the terms of the lease. The parties shall execute and deliver, upon request, appropriate agreements of attornment and recognition, but this agreement shall be deemed to be self-operative, and no such separate agreements shall be required to effectuate the foregoing attornment and recognition. Any such attornment and recognition of a substitute Landlord shall be upon the terms, covenants, conditions and agreements as set forth in the lease.
4. In the event Lender or any other person, party, or entity becomes the owner of the property as a result of a foreclosure sale or deed in lieu of foreclosure, Tenant shall have no claim against Lender or any such other person, party or entity resulting from any act or omission of, and/or breach of the lease by any prior landlord under the lease, including but not limited to Borrower; and the rights of Lender or any such other person, party or entity in the property and the lease shall not be subject to any right of set-off or defense which Tenant may have against any prior Landlord under the lease, including but not limited to the Borrower, for any matter whatsoever, including but not limited the payment of any security deposit.
5. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto, and their respective heirs, executors, administrators, successors and assigns.

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6. Tenant acknowledges that it has not prepaid rent and agrees that it shall not prepay rent to Borrower more than one month in advance without the written consent of Lender.

7. Tenant and Borrower acknowledge that Tenant has paid a \$ 2M. security deposit under the terms of the lease, and Tenant acknowledges and agrees that Lender shall not be liable to Tenant for said security deposit unless the security deposit amount has been tendered to Lender by Borrower.

8. Tenant acknowledges and agrees that as of the date of this Agreement it has performed no leasehold improvements to which it is entitled to a credit pursuant to the terms of the lease and that it will not perform any leasehold improvements for which it will seek a credit under the terms of the lease without the prior written consent of Lender. Tenant acknowledges and agrees that its failure to submit a written request for prior consent to Lender and to obtain that prior written consent from Lender before making any future leasehold improvements shall constitute a waiver of its right to seek a credit from Lender as successor in interest to Borrower, as Landlord under the Lease.

9. Lender acknowledges that it shall agree to apply any insurance proceeds to the restoration of the Property in the event of a casualty.

9. This Agreement shall be construed according to the laws of the State of Illinois.

11. This Agreement may be signed in counter part.

IN WITNESS WHEREOF the undersigned has hereunto set its hand, as of the day first written above.

Attest:

Kenny Winters, Secy.  
Its Secretary

KWJ, INC

By: [Signature]  
Its President

THE FIRST COMMERCIAL BANK

By: [Signature]  
Its Simon Verflund

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DB 2000, INC.

By: [Signature]  
Robert Burnes, Its President

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, Kathy Grace Malony, a Notary Public in and for said County, in the State aforesaid, do hereby certify that on this day personally appeared before me, John Nastav and \_\_\_\_\_, personally known to me to be the same persons whose names are subscribed to the foregoing instrument and personally known to me to be the President and Secretary of KWJ, Inc., and acknowledged that they signed and delivered the said instrument as their free and voluntary act and deed, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Dated: September 26, 2002

Kathy Grace Malony  
Notary Public

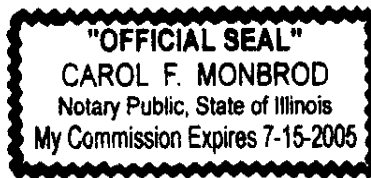
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )



I, CAROL F. MONBROD, a Notary Public in and for said County, in the State aforesaid, do hereby certify that on this day personally appeared before me, ALAN M. SHARE, personally known to me to be the same person whose name is subscribed to the foregoing instrument and personally known to me to be SENIOR VICE President, and an authorized agent of, THE FIRST COMMERCIAL BANK, and acknowledged that he signed and delivered the said instrument as his free and voluntary act and deed, and as the free and voluntary act of THE FIRST COMMERCIAL BANK, for the uses and purposes therein set forth.

Dated: September 27, 2002

Carol F. Monbrod  
Notary Public



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STATE OF ILLINOIS     )  
   ) SS.  
 COUNTY OF COOK        )

I, Kathy Grace Malony a Notary Public in and for said County, in the State aforesaid, do hereby certify that on this day personally appeared before me, ROBERT BURNES, personally known to me to be the same person whose name is subscribed to the foregoing instrument and personally known to me to be the President, and an authorized agent of, DB 2000, INC., and acknowledged that he signed and delivered the said instrument as his free and voluntary act and deed, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Dated: September 21, 2002

Kathy Grace Malony  
 Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION

PARCEL 1: (LEGAL DESCRIPTION OF OUTLOT 1, EXCEPT THE WEST 20 FEET THEREOF)

THAT PART OF BLOCKS 3, 4, 5, 6, 7 AND 8 IN PETER SHIMP'S SUBDIVISION OF THAT PART OF SOUTHEAST QUARTER OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING WEST OF THE R.I.R.R. TOGETHER WITH THE VACATED ALLEYS AND VACATED STREETS AND STREETS TO BE VACATED (EXCEPTING THE WEST 7 FEET OF SAID BLOCKS 3, 6 AND 7 TAKEN FOR WIDENING SOUTH WENTWORTH AVENUE) IN COOK COUNTY, ILLINOIS, TAKEN AS A TRACT, DESCRIBED AS FOLLOWS:

(NOTE: THE WEST LINE OF SAID TRACT IS DUE NORTH SOUTH FOR THE FOLLOWING COURSES)

BEGINNING AT THE SOUTH WEST CORNER OF SAID TRACT: THENCE DUE NORTH ON THE WEST LINE OF SAID TRACT 203 FEET; THENCE NORTH 89 DEGREES 45 MINUTES EAST, PARALLEL WITH THE SOUTH LINE OF SAID TRACT, 158 FEET; THENCE SOUTH 60 DEGREES 56 MINUTES EAST 45.39 FEET; THENCE SOUTH 19 DEGREES 27 MINUTES 30 SECONDS EAST, 22.0 FEET TO A POINT IN A LINE THAT IS 206 FEET EAST OF SAID WEST LINE; THENCE DUE SOUTH ON SAID LINE, 7 FEET TO A POINT IN A LINE THAT IS 153 FEET NORTH OF THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89 DEGREES 45 MINUTES WEST ON SAID LINE 6.0 FEET TO A POINT IN A LINE THAT IS 199 FEET EAST OF SAID WEST LINE; THENCE DUE SOUTH ON SAID LINE, 153 FEET TO THE SAID SOUTH LINE OF SAID TRACT; THENCE SOUTH 89 DEGREES 45 MINUTES WEST ON SAID LINE, 199.0 FEET TO THE PLACE OF BEGINNING, EXCEPT THE WEST 20 FEET THEREOF.

PARCEL 2: (WEST 20 FEET OF OUTLOT 1)

AN UNDIVIDED ONE-HALF (1/2) INTEREST AS A TENANT IN COMMON WITH THE GRANTOR IN THAT PART OF BLOCKS 3, 4, 5, 6, 7 AND 8 IN PETER SHIMP'S SUBDIVISION OF THAT PART OF SOUTHEAST QUARTER OF THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING WEST OF THE R.I.R.R. TOGETHER WITH THE VACATED ALLEYS AND VACATED STREETS AND STREETS TO BE VACATED (EXCEPTING THE WEST 7 FEET OF SAID BLOCKS 3, 6, AND 7 TAKEN FOR WIDENING SOUTH WENTWORTH AVENUE) IN COOK COUNTY, ILLINOIS, TAKEN AS A TRACT, DESCRIBED AS FOLLOWS:

(NOTE: THE WEST LINE OF SAID TRACT IS DUE NORTH-SOUTH FOR THE FOLLOWING COURSES)

BEGINNING AT THE SOUTHWEST CORNER OF SAID TRACT; THENCE DUE NORTH ON THE WEST LINE OF SAID TRACT 203 FEET; THENCE NORTH 89 DEGREES 45 MINUTES EAST, PARALLEL WITH THE SOUTH LINE OF SAID TRACT 20 FEET; THENCE DUE SOUTH 203 FEET TO THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89 DEGREES 45 MINUTES WEST ON SAID LINE 20 FEET TO THE POINT OF BEGINNING.

PIN: 20-09-420-038-0000 and 20-09-420-039-0000

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