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SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

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FEB 11 1997
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CLERK OF COURT
*97-065833
COOK COUNTY RECORDER

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made as of January 1997 by and among DAVID E. BABIARZ ("Landlord"), with offices at _____, D.J. ACQUISITION CORP., an Illinois corporation ("Tenant"), with offices at 75 Tri-State International, Suite 222, Lincolnshire, Illinois 60069, and PARK NATIONAL BANK AND TRUST OF CHICAGO ("Lender"), with offices at 2958 North Milwaukee Avenue, Chicago, Illinois 60618.

RECITALS:

- A. Landlord is the owner of the property commonly known as 1665 East Birchwood, Des Plaines, Illinois 60018, and legally described on Exhibit A (the "Property"); and
- B. Landlord and Tenant are about to enter into a certain Lease Agreement dated as of December 23, 1996 (the "Lease") concerning the Property for the period of time and upon the terms stated in the Lease.
- C. Lender has made, or is about to make, a loan to Landlord secured by the mortgage described on Exhibit B (the "Mortgage").
- D. The parties hereto desire to establish rights of quiet and peaceful possession for the benefit of Tenant, and to define the terms and conditions precedent to such rights.

NOW, THEREFORE, for and in consideration of the mutual promises set forth in this Agreement, Landlord, Tenant and Lender agree as follows:

1. **Subordination.** The parties agree that the Lease (which term shall include any subsequent amendments) and all rights and options of Tenant created thereby are and shall continue to be subject and subordinate to the rights and liens of Lender granted by Landlord in connection with the Mortgage, subject to the terms of this Agreement.
2. **Non-Disturbance.** So long as no Event of Default has occurred under the Lease, Lender agrees that if it obtains title to the Property, either by foreclosure, deed in lieu of foreclosure or otherwise, and thereafter obtains the right of possession of the Property: (a) the Lease will continue in full force and effect; (b) Lender or any Transferee (as defined below) shall recognize the Lease and Tenant's rights thereunder so as to establish direct privity of estate and contract between Lender and Tenant; and (c) Lender will not disturb Tenant's continued occupancy of the Property in accordance with the Lease or otherwise impair Tenant's rights under the Lease.
3. **Attornment.** If the interests of Landlord under the Lease are transferred to Lender by reason of foreclosure, deed in lieu of foreclosure or otherwise, Tenant agrees to attorn to Lender as substitute Landlord upon the same terms and conditions as provided in the Lease, so as to establish direct privity of estate and contract between Lender and Tenant. Tenant acknowledges that Landlord's interest in the Lease and all rents thereunder have been collaterally assigned to Lender. It shall not be necessary, except as required by law, for Lender to name Tenant as a party to enforce its rights with respect to the Mortgage or to prosecute any action at law to gain possession of the Property and, unless required by law, Lender agrees not to name Tenant in any such proceeding. If the interests of

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Landlord under the Lease shall be transferred by reason of foreclosure, deed in lieu of foreclosure or otherwise to any party other than Lender (a "Transferee"), then Tenant agrees to attorn to the Transferee as substitute Landlord, upon the same terms and conditions as provided for herein in the case of attornment to Lender. Such attornment shall be self-operative and shall not require Landlord or Lender to execute any further documentation.

4. **Notices.** Any notice, demand or other communication which any party may desire or may be required to give to any other party shall be in writing, and shall be deemed given (a) if and when personally delivered, (b) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth above, or (c) on the second (2nd) business day after being deposited in United States registered or certified mail, postage prepaid and return receipt requested, addressed to a party at its address set forth above. Any party hereto may change the address at which notices hereunder are required to be given to such party by notice to the other parties in accordance herewith.

5. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Every provision is intended to be severable. Wherever possible each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

6. **Entire Agreement Amendment; Counterparts.** This Agreement constitutes the entire understanding of the parties hereto. This Agreement may be amended only by a writing signed by the parties hereto. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one instrument with the same effect as if all parties had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart and be reattached to any other counterpart identical in form hereto but having attached to it one or more additional signature pages.

7. **Successors and Assigns.** The provisions of this Agreement shall be real covenants running with the Property and shall be binding upon and inure to the benefit of the parties and their respective successors and assigns including, without limitation, any person who shall obtain, directly or by assignment or conveyance, any interest in the Mortgage or the Property, whether through foreclosure, deed in lieu of foreclosure or otherwise.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first written above.

LANDLORD:

David E. Babiarz
David E. Babiarz

LENDER:

Park National Bank and Trust of Chicago

By: _____
Its _____ President

Attest: _____
Its _____ Secretary

TENANT:

D.J. Acquisition Corp., an Illinois corporation

By: M. P. [Signature]
Its _____ President

Attest: [Signature]
Its _____ Secretary

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IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first written above.

LANDLORD:

David E. Babiarz

LENDER

Park National Bank and Trust of Chicago

By: Alfonso Tencioni
Its _____ President

Attest: Barbara Boyja
Its Assistant Vice President

TENANT:

D.J. Acquisition Corp., an Illinois corporation

By: _____

Its _____ President

Attest: _____

Its _____ Secretary

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STATE OF ILLINOIS

COUNTY OF _____

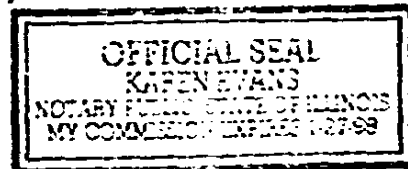
)
) SS.
)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Allen S. Lencioni is personally known to me to be the _____ President of PARK NATIONAL BANK AND TRUST OF CHICAGO, a bank organized under federal law, and Rosemarie Bryja is personally known to me to be the Asst Vice President of said corporation, and 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 severally acknowledged that as such _____ President and Asst Vice President they signed sealed and delivered said instrument as _____ President and Asst Vice President of said corporation and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their 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 official seal, this 1st day of January, 1997

My Commission Expires: 1/31/98

Allen S. Lencioni
Notary Public



Property of Cook County Clerk's Office

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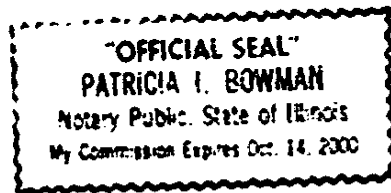
STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DAVID E. BABIARZ 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, sealed and delivered said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this _____ day of January, 1997.

Patricia I. Bowman
Notary Public

My Commission Expires: _____



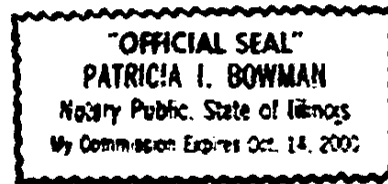
STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____ personally known to me to be the _____ President of D.J. ACQUISITION CORP., an Illinois corporation, and _____ personally known to me to be the Secretary of said corporation, and _____ 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 severally acknowledged that as such _____ President and _____ Secretary, they signed, sealed and delivered said instrument as _____ President and _____ Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of Directors of said corporation as their 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 official seal, this _____ day of January, 1997.

Patricia I. Bowman
Notary Public

My Commission Expires: _____



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Exhibit A

LEGAL DESCRIPTION OF PROPERTY

That part of the West Half of the Southwest Quarter of Section 28, Township 41 North, Range 12, East of the Third Principal Meridian, described as follows: Commencing at the Northeast corner of said West Half, thence South 1,196.048 feet along the East line of said West Half, thence West along a line parallel with the North line of said West Half 723.98 feet to the point of beginning of the following tract of land; thence continuing West along said parallel line 450.0 feet, thence North perpendicularly to said parallel line to a point on a line 756.066 feet South of (as measured along the East line of said West Half) and parallel with the North line of said West Half, thence East along the last described parallel line 450.0 feet; thence South to the herein described point of beginning, all in Cook County, Illinois.

Address of Property: 1665 East Birchwood
Des Plaines, Illinois 60018

PIN: 0500-300-021

This Instrument Prepared In Chicago, Illinois By
~~and After Recording Return To:~~

Ann Duker
McDermott, Will & Emery
227 West Monroe Street
Chicago, Illinois 60606

MAIL TO
COMMONWEALTH LAND
TITLE INSURANCE COMPANY
30 N. LA SALLE ST. CHICAGO
CHICAGO, ILL. 60602
ATTN: McCALL

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Exhibit B

DESCRIPTION OF MORTGAGE

- 1 Mortgage dated February 26, 1993 and recorded March 4, 1993 as Document Number 93164994, made by David Babiarz to Park National Bank & Trust of Chicago, to secure an indebtedness of \$2,000,000.00.
- 2 Assignment of Rents dated February 26, 1993 and recorded March 4, 1993 as Document Number 93164995, made by David Babiarz to Park National Bank & Trust of Chicago.
- 3 Mortgage dated August 2, 1995 and recorded August 18, 1995 as Document Number 95548349, made by David Babiarz to Park National Bank & Trust Company, to secure an indebtedness of \$500,000.00.
- 4 Assignment of Rents dated August 2, 1995 and recorded August 18, 1995 as Document Number 95548350, made by David Babiarz to Park National Bank & Trust of Chicago.

Property of Cook County Clerk's Office