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Eugene "Gene" Moore Fee: \$40.50
Cook County Recorder of Deeds
Date: 07/22/2003 03:27 PM Pg: 1 of 9

Property of Cook County Clerk's Office

**PREPARED BY AND AFTER RECORDING
RETURN TO:**

David J. Kayner, Esq.
Inland Real Estate Corporation
2901 Butterfield Road
Oak Brook, Illinois 60523
(630) 218-7366

Handwritten initials and scribbles in the bottom right corner.

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SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made to be effective as of the 8th day of April, 2003, by and among **Allstate Investments, LLC**, a Delaware limited liability company, having its principal office at c/o Commercial Mortgage Division, 3075 Sanders Road, Suite G5C, Northbrook, Illinois 60062-7127 ("Mortgagee"), **Inland Shops at Orchard Place, L.L.C.**, a Delaware limited liability company ("Landlord"), and **Pier 1 Imports (U.S.), Inc.**, a Delaware corporation, having its principal office at 301 Commerce Street, Suite 600, Fort Worth, Texas 76102 ("Tenant").

RECITALS

A. Landlord's predecessor in interest, **ORIX Orchard Place, LLC**, a Delaware limited liability company, successor in interest to **ORIX TMK Old Orchard Venture**, an Illinois general partnership, and Tenant entered into a Lease Agreement dated April 21, 2000 (the "Lease") covering certain premises (the "Premises") located at 9701 North Skokie Blvd., Skokie, Illinois 60077, Pier 1 Imports Store #103, together with all improvements thereon. The Premises is constructed on the real property described in **Exhibit A** attached hereto.

B. Mortgagee is the owner and holder of a Mortgage or Deed of Trust dated Dec. 15, 2002 (the "Mortgage") and recorded in the Office of the Recorder of Deeds County of Cook, State of Illinois, which secures a note now payable to Mortgagee and the lien of which encumbers all or part of the Premises.

C. The parties desire to enter into this Agreement to define their obligations to one another under the terms of the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereby agree as follows:

1. The Lease shall be subject and subordinate to the lien of the Mortgage insofar as such lien affects the real property of which the Premises forms a part, and to all renewals, modifications, consolidations, replacements and extensions of the Mortgage to the full extent of the principal sum secured thereby and any interest thereon.

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2. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the Premises and Tenant's rights and privileges under the Lease, or any extensions or renewals thereof which may be effected in accordance with any option granted in the Lease, shall not be diminished or interfered with by Mortgagee, and Tenant's occupancy of the Premises shall not be disturbed by Mortgagee during the term of the Lease or any such extensions or renewals thereof.

3. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Mortgagee will not join Tenant as a party defendant for the purpose of terminating or otherwise affecting Tenant's interest and estate under the Lease in any action of foreclosure or other proceeding brought by Mortgagee for the purpose of enforcing any of its rights in event of any default under the Mortgage; provided however, Mortgagee may join Tenant as a party in any such action or proceeding if such joinder is necessary under any statute or law for the purpose of effecting the remedies available to Mortgagee under the Mortgage but only for such purpose and not for the purpose of terminating the Lease, or affecting Tenant's right to possession.

4. If the interest of Landlord in the Premises shall be transferred to and owned by Mortgagee by reason of foreclosure, sale under a private power contained in a deed of trust, or other similar proceedings brought by it, and Mortgagee succeeds to the interest of Landlord under the Lease, Tenant shall be bound to Mortgagee, and Mortgagee shall be bound to Tenant, under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option granted in the Lease, with the same force and effect as if Mortgagee were Landlord under the Lease, and Tenant does hereby attorn to Mortgagee as its landlord, said attornment to be effective and self-operable without the execution of any further instruments on the part of any of the parties hereto immediately upon Mortgagee succeeding to the interest of Landlord under the Lease. However, Tenant shall be under no obligation to pay rent to Mortgagee until Tenant receives written notice from Mortgagee directing where such rent should be mailed. The respective rights and obligations of Tenant and Mortgagee upon such attornment, to the extent of the then remaining balance of the term of the Lease shall be and are the same as set forth therein, it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length herein. If Mortgagee shall succeed to Landlord's interest in the Premises and the Lease, then Mortgagee shall be bound to Tenant under all the terms, covenants and conditions of the Lease (including, without limitation, **Article 33** of the Lease regarding Landlord's limitation of liability), and Tenant shall, from and after Mortgagee's succession to the interest of Landlord under the Lease, have the same remedies against Mortgagee for the breach of any agreement contained in the Lease that Tenant might have had under the Lease against Landlord if Mortgagee had not succeeded to the interest of Landlord.

In the event that Mortgagee notifies Tenant in writing of a default under the Mortgage or that Mortgagee has invoked its rights under the assignment of leases and rents and demands in writing that Tenant pay to Mortgagee Tenant's rent and all other sums due under the Lease

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(and directs where such monies shall be mailed), Tenant agrees that it will, and Landlord hereby expressly authorizes and directs Tenant to, honor such demand and pay Tenant's rent and all other sums due under the Lease directly to Mortgagee, and hereby releases and discharges Tenant of and from any liability to Landlord on account of such payments. Tenant shall not be in default under the Lease for any payments made to Landlord after the occurrence of a default under the Mortgage until such time as Tenant receives written notice from Mortgagee that Mortgagee has succeeded to the interest of Landlord under the Lease or that Mortgagee has invoked its rights under the assignment of leases and rents.

5. Notwithstanding the foregoing, if Mortgagee succeeds to the interest of Landlord under the Lease, Mortgagee shall not be:

- a. liable for any act or omission of any prior landlord (including Landlord) except to the extent such act or omission constitutes a default under the Lease that is continuing after Mortgagee takes title to and possession of the Premises; or
- b. subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord) except as may be set forth in the Lease; or
- c. bound by any rent or additional rent which Tenant might have paid for more than one (1) month in advance of the date such rent is due under the Lease to any prior landlord (including Landlord); or
- d. bound by any amendment or modification of the Lease that is hereafter made without Mortgagee's written consent that (i) revises Tenant's or Landlord's monetary obligations under the Lease, and/or (ii) modifies the term of the Lease; provided, that if said consent or denial of such consent is not given within thirty (30) days from the date Landlord and Tenant executed any amendment or modification, then said consent is deemed given.

6. Tenant may provide Mortgagee, at the following address, with a copy of any notice of default that is served upon Landlord:

Allstate Investments, LLC
 c/o Commercial Mortgage Division
 3075 Sanders Road, Suite G5C
 Northbrook, IL 60062-7127
 Attn: Servicing Manager
 Loan No.: _____

or to such other address for such Mortgagee for which Tenant has been notified in writing. Tenant agrees that no event of default on the part of Landlord shall be effective unless Mortgagee shall have been provided a copy of such notice of default, and Mortgagee agrees that the copy of such notice of default may be provided concurrently with the notice to Landlord or subsequent to such notice to Landlord. Upon Mortgagee's receipt of Tenant's notice, Mortgagee

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shall have the same applicable cure period as granted Landlord under the Lease to cure such default.

7. The terms "holder of a mortgage" and "Mortgagee" or any similar term either herein or in the Lease shall be deemed to include Mortgagee, the trustee under any deed of trust affecting the Premises, and any of their agents, heirs, successors or assigns, including anyone who shall have succeeded to Landlord's interest by, through or under foreclosure, sale under a private power contained in a deed of trust, or by, through or under any other similar proceeding. The term "Mortgage", or any similar term, either herein or in the Lease shall be deemed to include the Mortgage as defined herein, and any amendments or addenda thereto. The term "Landlord" shall include Landlord as defined herein and the successors and assigns of Landlord. The term "Tenant" shall include Tenant as defined herein and the successors, assigns and sublessees of Tenant; and this Agreement shall inure to the benefit of and be binding upon such successors, assigns and sublessees. The term "Lease" shall include the Lease and all amendments, addenda, extensions and renewals thereto.

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IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year indicated below to be effective the date of last signing.

WITNESS:



J. [Signature]

Date: 4/8/03

MORTGAGEE:

Allstate Investments, LLC,
a Delaware limited liability company

By: Ralph Bergholtz

Printed Name: Ralph Bergholtz

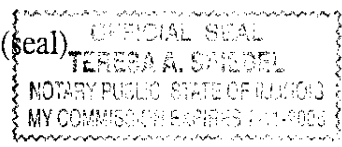
Title: AUTHORIZED SIGNATORY

STATE OF Illinois §

COUNTY OF Cook §

Before me, the undersigned authority, on this day personally appeared RALPH A. BERGHOLTZ, the AUTHORIZED SIGNATORY President of Allstate Investments, LLC, a Delaware limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity stated.

Given under my hand and seal of office this 7th day of April, 2003.



[Signature]

Notary Public

My commission expires: 1/1/05

[Signatures and acknowledgments continued on next page]

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LANDLORD:

Inland Shops at Orchard Place, L.L.C.,
a Delaware limited liability company

WITNESS:

By: Inland Real Estate Corporation, a
Maryland corporation, its sole member

By: *Mark Zalatoris*
Mark Zalatoris
Title: Senior Vice President

Date: _____

By: *David J. Kayner*
David J. Kayner
Title: Secretary

Date: _____

STATE OF Illinois §
 §
COUNTY OF DuPage §

Before me, the undersigned authority, on this day personally appeared Mark Zalatoris and David J. Kayner, the Senior Vice President and Secretary, respectively, of **Inland Shops at Orchard Place, L.L.C.**, a Delaware limited liability company, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed, in the capacity stated as the act and deed of said limited liability company.

Given under my hand and seal of office this 12th day of February, 2003.

(seal)

Mary H. Feko
Notary Public
My commission expires: _____



[Signatures and acknowledgments continued on next page]

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WITNESS:

TENANT:

Pier 1 Imports (U.S.), Inc.,
a Delaware corporation

Alicia W. Bern

By: J. Rodney Lawrence

J. Rodney Lawrence

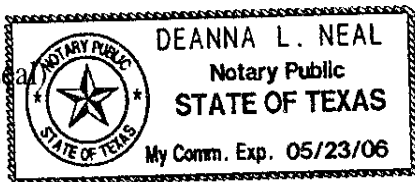
Date: Feb 11, 2003

Title: Executive Vice President

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

Before me, the undersigned authority, on this day personally appeared J. Rodney Lawrence, Executive Vice President of **Pier 1 Imports (U.S.), Inc.**, a Delaware corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office this 11 day of February, 2003.



Deanna L. Neal

Notary Public in and for the State of Texas

My commission expires: 6-23-06

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EXHIBIT A

SHOPPING CENTER LEGAL DESCRIPTION

PARCEL 1:

THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10; THENCE NORTH 01 DEGREES 04 MINUTES 02 SECONDS EAST ALONG THE WEST LINE OF SAID SECTION 10 A DISTANCE OF 835.26 FEET; THENCE SOUTH 88 DEGREES 55 MINUTES 58 SECONDS EAST AT RIGHT ANGLES TO SAID SECTION LINE A DISTANCE OF 40.00 FEET TO THE EAST RIGHT OF WAY LINE OF SKOKIE BOULEVARD PER CONDEMNATION CASE 63886 FOR A POINT OF BEGINNING; THENCE CONTINUING SOUTH 88 DEGREES 55 MINUTES 58 SECONDS EAST ALONG THE LAST DESCRIBED COURSE A DISTANCE OF 617.83 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 36 SECONDS WEST, 100.00 FEET; THENCE SOUTH 00 DEGREES 55 MINUTES 06 SECONDS WEST, 50.12 FEET TO A POINT IN THE NORTH RIGHT OF THE WAY LINE OF GOLF ROAD AS DEDICATED PER DOCUMENT 19434809; THENCE NORTH 89 DEGREES 00 MINUTES 50 SECONDS WEST ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 50.24 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 47 SECONDS WEST, 100.00 FEET; THENCE NORTH 82 DEGREES 21 MINUTES 52 SECONDS WEST, 89.30 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 47 SECONDS WEST, 207.97 FEET TO A POINT OF CURVATURE IN SAID RIGHT OF WAY LINE; THENCE ALONG A 70.0 FOOT RADIUS CURVE TO THE RIGHT HAVING A CHORD DISTANCE OF 98.36 FEET AN ARC DISTANCE OF 108.97 FEET TO A POINT OF TANGENCY WHICH IS 44.0 FEET EAST OF SAID WEST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10; THENCE NORTH 00 DEGREES 26 MINUTES 42 SECONDS EAST ALONG THE EAST RIGHT OF THE WAY LINE OF SKOKIE BOULEVARD PER CONDEMNATION CASE 63886 A DISTANCE OF 368.50 FEET; THENCE NORTH 01 DEGREES 04 MINUTES 02 SECONDS EAST, 328.48 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE EAST 100 FEET OF THE SOUTH 654 FEET OF THE SOUTH HALF OF THE EAST HALF OF THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PORTION USED FOR THE PUBLIC RIGHT OF WAY OF SIMPSON STREET (GOLF ROAD) IN COOK COUNTY, ILLINOIS.

Also known as Lot 1 in the Memorial Park Subdivision of part of the south half of Section 10, Township Section 10, Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N.: 10-10-301-015-0000

ADDRESS: Shops at Old Orchard, 9601-9747 Skokie Blvd., Skokie, Illinois 60077