

03-23690

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PREPARED BY: Patrice Davis  
RECORD and RETURN TO:  
Principal Commercial Funding  
801 Grand Avenue  
Des Moines, IA 50392-1360  
Attn: Commercial Real Estate-Closing

Doc#: 0335003092  
Eugene "Gene" Moore Fee: \$38.50  
Cook County Recorder of Deeds  
Date: 12/16/2003 02:41 PM Pg: 1 of 8

Doc#: 0324719213  
Eugene "Gene" Moore Fee: \$36.50  
Cook County Recorder of Deeds  
Date: 09/04/2003 01:57 PM Pg: 1 of 7

This instrument is being  
re-recorded to add the  
NOTARY ACKNOWLEDGEMENT  
FOR THE MORTGAGEE.  
1071

**SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made as of the 4th day of September, 2003, by and between **Principal Commercial Funding, LLC**, a Delaware limited liability company, having its principal office at c/o Principal Real Estate Investors, LLC, 801 Grand Avenue, Des Moines, Iowa 50392-1360 ("Mortgagee") 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. Tenant entered into a Lease Agreement dated January 20, 1989, as amended by a Letter Agreement dated January 19, 1989, a Lease Addendum dated July 21, 1989, and a Letter Agreement dated May 22, 1992 (the "Lease") with Hamilton Partners Orland Partners Limited Partnership, an Illinois limited partnership, whose interest is to be assigned to **TDS Ravinia Plaza-Orland Park, LLC**, an Illinois limited liability company, and **Ravinia Plaza CT Series, LLC**, an Illinois limited liability company, as tenants in common, having its principal office located at c/o Tucker Development Corporation, 513 Central Avenue, Suite 400, Highland Park, Illinois 60035, as landlord ("Landlord"), covering certain premises, together with all improvements thereon located at 15150 South LaGrange Road, Orland Park, Illinois, Pier 1 Imports Store #758 (the "Premises") in the Highland Plaza shopping center and 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, (the "Mortgage") to be recorded in the Office of 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. Tenant and Mortgagee 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, Tenant and Mortgagee hereby agree as follows:

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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.
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; provided, however, that Tenant shall be under no obligation to pay rent to Mortgagee until Tenant receives written notice from Mortgagee, together with evidence satisfactory to demonstrate that Mortgagee has succeeded to the interest of Landlord under the Lease and 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, 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

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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.

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 Mortgagee received any amendment or modification executed by Landlord and Tenant, 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:

Principal Commercial Funding, LLC  
 c/o Principal Real Estate Investors, LLC  
 801 Grand Avenue  
 Des Moines, Iowa 50392-1340  
 Attn: Loan Administration  
 Loan No.: 753655

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 shall have the same applicable cure period as granted Landlord under the Lease to cure such default; provided, however, with respect to any default by Landlord under the Lease in which Tenant has the right under the Lease (or at law or equity) to terminate the Lease, Mortgagee shall have thirty (30) days in addition to any cure period granted Landlord under the Lease before Tenant may exercise such termination or if any such default (other than a breach of Section 36.1 of the Lease regarding "Visibility") cannot be cured within said thirty (30) additional days, Tenant may not exercise such termination so long as Mortgagee shall have

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commenced the cure of such default within said thirty (30) day period and shall thereafter diligently pursue such cure to completion. Notwithstanding the foregoing, said additional thirty (30) day period shall not apply to any right of Tenant to terminate the Lease as expressly provided in **Article 20** of the Lease entitled "Fire and Casualty Damage" or **Article 21** of the Lease entitled "Condemnation".

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.

[remainder of page intentionally left blank]

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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.

### MORTGAGEE:

Principal Commercial Funding, LLC,  
a Delaware limited liability company

WITNESS:

By: Principal Real Estate Investors, LLC, a  
Delaware limited liability company, its  
authorized signatory

Dotty O'Connell

Date: September 3, 2003

Wanda M. Homan

Date: September 3, 2003

By: *Patrice Davis*

Printed Name: Patrice K. Davis  
Senior Closing Consultant

Title: \_\_\_\_\_

By: *[Signature]*

Printed Name: Thomas R. Pospisil  
Counsel

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, the \_\_\_\_\_ President, and \_\_\_\_\_, the \_\_\_\_\_ of Principal Real Estate Investors, LLC, a Delaware limited liability company, the authorized signatory of **Principal Commercial Funding, 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, and as the act and deed of said limited liability company.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

(seal)

Notary Public  
My commission expires: \_\_\_\_\_

(Signatures continued on next page)

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WITNESS:

TENANT:

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

Aligia W. Brown

By: Michael A. Carter

Date: Aug 27, 2003

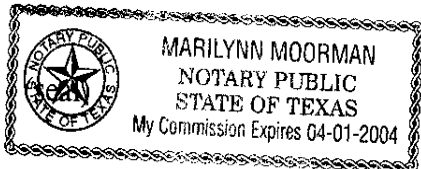
Its: Michael A. Carter  
Vice President

STATE OF TEXAS

COUNTY OF TARRANT

Before me, the undersigned authority, on this day personally appeared Michael A. Carter, 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 27<sup>th</sup> day of August, 2003.



Marilyn Moorman  
Notary Public in and for the State of Texas  
My commission expires: 4-1-04

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## EXHIBIT A

### Shopping Center Legal Description

Lots 1 and 2, taken as a tract (excepting the North 554.09 feet thereof) in Orland Center subdivision, being a subdivision of part of the Northeast 1/4 of Section 16, Township 36 North, Range 12 East of the third principal meridian in Cook county, Illinois.

PIN 27-16-206-008

address 15150-15260 S. WAGRANGE RD, ORLAND PARK, IL  
60462

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STATE OF IOWA )  
 )  
COUNTY OF POLK )

On this 3<sup>rd</sup> day of September, 2003, before me, the undersigned, a Notary Public in and for the said State, personally appeared Patrice K. Davis and Thomas R. Pospisil, to me personally known to be the identical persons whose names are subscribed to the foregoing instrument, who being by me duly sworn, did say that they are the Senior Closing Consultant and Counsel, respectively, of PRINCIPAL REAL ESTATE INVESTORS, LLC, a Delaware limited liability company, authorized signatory of PRINCIPAL COMMERCIAL FUNDING, LLC, a Delaware limited liability company, and that the seal affixed to the instrument is the seal of Principal Real Estate Investors, LLC; that the instrument was signed and sealed on behalf of the company by Principal Real Estate Investors, LLC, as authorized signatory of PRINCIPAL COMMERCIAL FUNDING, LLC, a Delaware limited liability company, by authority of the Board of Directors of PRINCIPAL COMMERCIAL FUNDING, LLC, a Delaware limited liability company; and that the aforesaid individuals each acknowledged the execution of the foregoing instrument to be the voluntary act and deed of Principal Real Estate Investors, LLC, as authorized signatories of said company, by it and by them voluntarily executed.

*Daniel Lowell Alexander*  
Notary Public in and for Polk County, Iowa



Polk County Clerk's Office