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Doc#: 0605918024 Fee: \$62.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 02/28/2006 10:51 AM Pg: 1 of 6

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT

THIS SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made to be effective as of the 21st day of February, 2006, by and between **Bridger Commercial Funding LLC**, a Missouri limited liability company ("Mortgagee"), as mortgagee, with its principal office located at 100 Shoreline Highway, Suite 100B, Mill Valley, California 94941, and **Pier 1 Imports (U.S.), Inc.**, a Delaware corporation ("Tenant"), as tenant, with its principal office located at 100 Pier 1 Place, Fort Worth, Texas 76102.

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RECITALS

A. Tenant entered into that Lease Agreement dated November 8, 1985; as subsequently amended pursuant to that First Amendment to Lease dated March 29, 1993; a Second Amendment to Lease dated April 10, 1996; a Third Amendment to Lease dated April 14, 2001, and a Fourth Amendment to Lease dated effective January 3, 2006 (collectively, the "Lease") with **Broadway Festival, LLC**, an Illinois limited liability company ("Landlord"), as landlord, successor in interest to Adesh Patel and Jesal Patel, as individuals, successor in interest to M & J Wilkow, Ltd., as managing agent for the beneficiary of American National Bank and Trust Company of Chicago, not personally, but solely as Trustee under Trust Number 101443-01 dated March 28, 1988, successor in interest to American National Bank and Trust Company of Chicago, as Trustee under Trust No. 59328, covering certain premises located at 5304 N. Broadway, Chicago, Illinois; **Pier 1 Imports Store #0409** (the "Premises"), together with all improvements thereon; the Premises is contained in a shopping center constructed on the real property described in **Exhibit A-1** attached hereto.

B. Mortgagee is the owner and holder of a Mortgage or Deed of Trust (the "Mortgage") recorded as Document No. 0605918021 in the office of the recorder of deeds and titles, 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:

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

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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's 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 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) under the Lease; provided, however, if Mortgagee fails to correct or fully cure or remedy any act or omission of any landlord (including Landlord) under the Lease which remains uncured at foreclosure or other acquisition of the Premises in lieu of foreclosure within thirty (30) days of receipt by Mortgagee of written notice of such act or omission from Tenant, or such greater cure period as may be

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reasonably required provided Mortgagee commences such cure within such thirty (30) day period and diligently and continuously pursues curative action until completion, then Tenant shall have the right to (i) terminate the Lease if the cost to cure such act or omission exceeds \$50,000.00, or (ii) cure such act or omission of the prior landlord and deduct all reasonable costs and expenses thereof from the rentals thereafter payable under the Lease (subject to any offset rate limitations set forth in the Lease); or

- b. subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord) except as 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.
6. Tenant may provide Mortgagee, at the following address, with a copy of any notice of default that is served upon Landlord:

1120 Chester Avenue
Suite 300
Cleveland, Ohio 44114

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. Mortgagee 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.

[Appropriate acknowledgements to follow on next page]

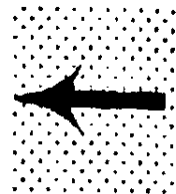
IN WITNESS WHEREOF, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year indicated below to be effective the date of last signing.

WITNESS:

Printed Name: JESSICA JAVIER
Date: 2/21/06

MORTGAGEE:
Bridger Commercial Funding LLC,
a Missouri limited liability company

By: Paul O'Rear
Printed Name: PAUL O'REAR
Title: SVP



STATE OF CALIFORNIA

COUNTY OF Marin

Before me, the undersigned authority, on this day personally appeared Paul O'Rear, the Senior Vice Pres of Bridger Commercial Funding LLC, a Missouri limited liability company, known to me, or proved 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 entity.

Given under my hand and seal of office this 21st day of February, 2006.

(seal)



Stephanie Allen
Notary Public
My commission expires: May 17, 2009


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

WITNESS:



Christopher M. Griswold

By: 

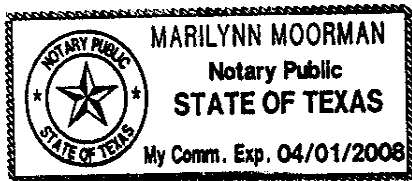
Michael A. Carter,
Senior Vice President

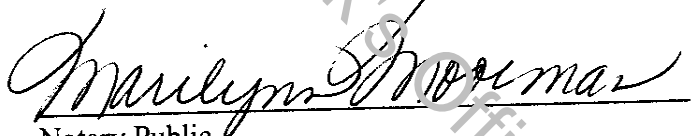
February 15, 2006

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

Before me, the undersigned authority, on this day personally appeared Michael A. Carter, Senior 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 15th day of February, 2006.
(seal)





Notary Public
My commission expires: 04-01-2008

Exhibit A-1 - shopping center legal description [attached]

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Parcel 1

Lots 5 through 19 in Block 9 in Cochran's Third Addition to Edgewater in the East half of the Northeast Quarter of Section 8, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2

Lots 20 through 24 in Block 9 in Cochran's Third Addition to Edgewater in the East half of the Northeast Quarter of Section 8, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Street Address of Property: 5300-5322 North Broadway Street, Chicago, Illinois 60640

Tax Parcel Numbers:

- Lot 10: 14-08-121-032-0000.
- Lots 11 and 12: 14-08-121-022-0000
- Lot 13: 14-08-121-023-0000
- Lot 14: 14-08-121-024-0000
- Lots 15 and 16: 14-08-121-025-0000
- Lot 17, 18 & 19: 14-08-121-026-0000
- Lots 20, 21, 22, 23 & 24: 14-08-121-027-0000

prepared by Jana Croft
 Polsinelli Shalton Welte Snelthaus
 700 W. 47th St. Suite 1000
 Kansas City, MO 64112-1802

Mail to: Pier 1 Imports
 Christopher M. Griswold
 100 Pier 1 Place
 Fort Worth, TX 76102