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12/11/2014 4:15:00 PM \$24.00  
Book - 10281 Pg - 2484-2491  
Gary W. Ott  
Recorder, Salt Lake County, UT  
FOUNDERS TITLE  
BY: eCASH, DEPUTY - EF 8 P.

Store #0231 - Sandy, Utah  
(South Towne Center)

SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN  
AGREEMENT WITH MORTGAGEE

THIS AGREEMENT, made as of this 28th day of October, 2014, between J. C. PENNEY CORPORATION, INC., a Delaware corporation, formerly known as J. C. PENNEY COMPANY, INC., having a mailing address of P. O. Box 10001, Dallas, Texas 75301-1104 ("Tenant"), and CANTOR COMMERCIAL REAL ESTATE LENDING, L.P., a Delaware limited partnership, having an address of 110 East 59<sup>th</sup> Street, 6<sup>th</sup> Floor, New York, New York 10022, Attention: Legal Department ("Mortgagee");

W I T N E S S E T H :

WHEREAS, by Lease, dated as of January 28, 1991, between SOUTH TOWNE INVESTORS LIMITED PARTNERSHIP, predecessor-in-interest to ST MALL OWNER, LLC ("Landlord") and Tenant, a Memorandum of which, dated as of January 28, 1991, was recorded on March 27, 1991, Salt Lake County, Utah, in Book 6300, at Page 2158 (said lease as amended by Letter Agreement dated August 19, 1992; Term Agreement dated October 5, 1992; First Amendment to Lease dated as of March 13, 1997; Letter dated February 9, 1998; Notice of Extension of Term dated August 2, 2006; Second Amendment to Lease dated July 22, 2009; and Notice of Extension of Term dated August 15, 2011 is hereinafter referred to as the "Penney Lease"), there was leased to Tenant a parcel of land containing approximately 104,045 square feet, in the City of Sandy, County of Salt Lake, State of Utah, which parcel forms a part of the South Towne Center described on Exhibit "A" to said Memorandum ("Entire Premises") and on Exhibit "A" attached hereto; and

WHEREAS, Mortgagee proposes to make a loan to Landlord secured by Landlord's promissory note and a first mortgage, deed of trust, or deed to secure debt on all or a portion of the Entire Premises (the "Mortgage"); and

WHEREAS, Tenant is willing to subordinate the Penney Lease to the lien of the Mortgage, provided it obtains assurance from Mortgagee that its possession of the Demised Premises and its right to use the "Common Facilities", as defined in the Penney Lease, will not be disturbed by reason of or in the event of foreclosure of the Mortgage; and

WHEREAS, Mortgagee is willing to give such assurance.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) paid by each party to the other, receipt whereof is hereby acknowledged, the mutual agreements herein contained

and other good and valuable consideration, the parties hereto do hereby mutually covenant and agree as follows:

1. Tenant hereby subordinates the Penney Lease to the lien of the Mortgage and to all renewals, modifications, replacements, consolidations and extensions of same.

2. So long as no event of default on the part of Tenant under the Penney Lease shall exist which would entitle Landlord to terminate the Penney Lease, or if such an event of default shall exist, so long as Tenant's time to cure same shall not have expired, (a) Mortgagee will not at any time join Tenant as a party defendant in any action or proceeding to foreclose the Mortgage or any extension, renewal, consolidation or replacement of same unless required by law to do so, and (b) the term of the Penney Lease shall not be terminated or modified in any respect whatsoever, and Tenant's right of possession to the Demised Premises and its rights in and to the "Common Facilities" in the remainder of the mortgaged premises and its other rights arising out of the Penney Lease will all be fully recognized and protected by Mortgagee and shall not be disturbed, canceled, terminated or otherwise affected by reason of the Mortgage or any action or proceeding instituted by Mortgagee to foreclose the Mortgage, or any extension, renewal, consolidation or replacement of same.

3. In the event that Mortgagee takes possession of the Entire Premises, either as the result of foreclosure of the Mortgage or accepting a deed to the Entire Premises in lieu of foreclosure, or otherwise, or the Entire Premises shall be purchased at such a foreclosure by a third party and Mortgagee or such third party shall furnish Tenant reasonably satisfactory evidence that it has acquired title to the Entire Premises, Tenant shall attorn to Mortgagee or such third party and recognize Mortgagee or such third party as its landlord under the Penney Lease and Mortgagee or such third party will recognize and accept Tenant as its tenant thereunder, whereupon, the Penney Lease shall continue in full force and effect as a direct lease between Mortgagee or such third party and Tenant for the full term thereof, together with all extensions and renewals thereof, and Mortgagee or such third party shall thereafter assume and perform all of Landlord's obligations, as landlord under the Penney Lease, with the same force and effect as if Mortgagee or such third party were originally named therein as Landlord, except that Mortgagee shall not be (i) liable for any act, omission, or default of Landlord, or any prior Landlord, except such acts, omissions, and defaults which are of a continuing nature, and of which Mortgagee received written notice within a reasonable time after the occurrence of same, (ii) bound by any prepayment of more than one month's rent reserved under the Penney Lease and (iii) bound by any amendment or modification of the Penney Lease made without the express written consent of Mortgagee if required by Section 4 below; but the foregoing (i), (ii) and (iii) shall in no way be deemed to affect or curtail any of Tenant's rights, whether accrued or not, under the article of the Penney Lease, captioned "UNPERFORMED COVENANTS OF LANDLORD

MAY BE PERFORMED BY TENANT". However, if conflicting claims should be made to the rent payable under the Penney Lease, Tenant shall have the right to institute an interpleader suit for the purpose of determining who is entitled to payment of such rent, and to pay the rent in accordance with the judicial determination rendered in such suit.

4. Landlord and Tenant may, from time to time, modify or amend the Penney Lease without Mortgagee's consent, provided, however, that if such modifications or amendments: (a) result in the reduction of the rent payable thereunder, and (b) Landlord is required by the applicable loan documents to obtain from Mortgagee written consent for such modifications or amendments, then any such modifications or amendments made without Mortgagee's written consent shall be void and of no force and effect as between Mortgagee and Tenant.

5. If Tenant has not received one original, fully executed copy of this Agreement, together with one copy of the recorded Agreement indicating that the Agreement has been recorded in the appropriate Recorder's Office, by **December 31, 2014**, the execution thereof by J. C. Penney Corporation, Inc. shall be deemed null and void. Furthermore, if any changes, additions or deletions are made to this Agreement without first obtaining Tenant's written approval thereof, the execution hereof by J. C. Penney Corporation, Inc. shall be deemed null and void.

6. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns and all subsequent owners of the Entire Premises acquiring title thereto from or through Mortgagee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their proper corporate officers the day and year first above written.

ATTEST:

Emaguant  
Assistant Secretary



J. C. PENNEY CORPORATION, INC.

By: Bruce Eyer  
Vice President

WITNESSES:

[Signature]  
[Signature]

ATTEST:

CANTOR COMMERCIAL REAL ESTATE LENDING, L.P.

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
President

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their proper corporate officers the day and year first above written.

ATTEST:



J. C. PENNEY CORPORATION, INC.

Emagnant  
Assistant Secretary

By: Brady Syz  
Vice President

WITNESSES:

[Signature]  
[Signature]

ATTEST:

CANTOR COMMERCIAL REAL ESTATE LENDING, L.P.

[Signature]  
Secretary Gary Stellato

By: [Signature]  
President

**Lawrence Britvan**  
**Senior Managing Director**  
**CCRE**

WITNESSES:

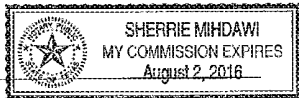
[Signature]  
[Signature]

STATE OF TEXAS            )  
                                  )SS.:  
COUNTY OF COLLIN        )

This instrument was acknowledged before me on the 4<sup>th</sup> day of November, 2014 by Bradley S. Siskow, a Vice President of J. C. PENNEY CORPORATION, INC., a Delaware corporation, on behalf of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:



Sherrie Mihdawi  
Notary Public, State of Texas

STATE OF                    )  
                                  )SS.:  
COUNTY OF                )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me a Notary Public, duly authorized in and for the said County and in the State aforesaid to take acknowledgments, personally appeared \_\_\_\_\_, to me known and known to me to be President of CANTOR COMMERCIAL REAL ESTATE LENDING, L.P., one of the limited partnerships described in the foregoing instrument, and acknowledged that as such officer, being authorized so to do, he executed the foregoing instrument on behalf of said limited partnership by subscribing the name of such limited partnership by himself as such officer of said limited partnership to be affixed thereto, as his free and voluntary act, and as the free and voluntary act of said limited partnership, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

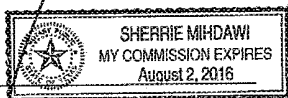
\_\_\_\_\_  
Notary Public

STATE OF TEXAS )  
 ) SS.:  
COUNTY OF COLLIN )

This instrument was acknowledged before me on the 4th day of Novmber, 2014 by Barley Swaco, a Vice President of J. C. PENNEY CORPORATION, INC., a Delaware corporation, on behalf of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:



Sherrie Mindawi  
Notary Public, State of Texas

STATE OF New York )  
 ) SS.:  
COUNTY OF New York )

On this the 18 day of November, 2014, before me a Notary Public, duly authorized in and for the said County and in the State aforesaid to take acknowledgments, personally appeared Lawrence Batvan, to me known and known to me to be President of CANTOR COMMERCIAL REAL ESTATE LENDING, L.P., one of the limited partnerships described in the foregoing instrument, and acknowledged that as such officer, being authorized so to do, he executed the foregoing instrument on behalf of said limited partnership by subscribing the name of such limited partnership by himself as such officer of said limited partnership to be affixed thereto, as his free and voluntary act, and as the free and voluntary act of said limited partnership, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

W. Turner Booth  
Notary Public

W. TURNER BOOTH  
Notary Public, State of New York  
No. 02BO6270194  
Qualified in New York County  
Certificate filed in New York County  
Commission Expires October 15, 2016

EXHIBIT A

LEGAL DESCRIPTION

5. The land referred to in this policy is located in the County of SALT LAKE State of UTAH and described as follows:

Beginning at a point on the West line of State Street (51.0 feet from monument line) North 89°50'56" East 41.33 feet from the Northeast corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, (Basis of Bearing being South 00°01'50" East along the State Street monument line between the monuments opposite the Northeast corner and the East Quarter corner of said Section 13); thence along the West Street line South 00°01'50" East 583.17 feet and South 00°50'43" East 70.31 feet to a point 50.0 feet from the monument line; thence along said West Street line South 00°01'50" East 89.93 feet; thence South 89°58'10" West 6.5 feet; thence South 00°01'50" East 1,242.98 feet to the North line of A. P. Stevens property, recorded as Entry No. 1619249 on Page 97 in Book 1556 of Deeds in the Salt Lake County Recorder's Office; thence along said property line, South 89°30'10" West 89.53 feet; South 70°00'10" West 35.00 feet; South 89°05'10" West 204.06 feet; South 00°01'50" East 63.87 feet; and North 89°01'10" East 326.50 feet; thence along the new right of way South 00°01'50" East 444.47 feet; South 89°58'10" West 6.50 feet; South 00°01'43" East 10.82 feet to the North line of Parcel "A" as shown on the Survey map by Robert R. Goff dated August 24, 1985, for Goff Enterprises, Draper, Utah; thence South 45°11'14" West 28.40 feet; thence along the North line of said Parcel "A" for the next four courses North 89°35' West 5.42 feet to a point of tangency with a 7,610 foot radius curve, the center of which bears North 00°25' East and along said curve to the right, through a central angle of 02°51'49" a distance of 380.34 feet to a point of reverse curve with a radius of 7735.00 feet, the center of which bears South 03°16'49" West, and along said curve to the left through a central angle of 02°51'49" a distance of 386.59 feet, and North 89°35' West, for a distance of 215.84 feet; thence North 76°40'15" West 153.77 feet to an iron rod shown on the C. J. Schuchert survey for Engineering Consortium, SLC; thence North 76°58'27" West 37.64 feet to a point that is 120 feet perpendicularly distant Northerly from the surveyed State Road Commission (SRC) Engineer's centerline Station 9+05.86 of State Highway Project 15-7, said point being the end of the Non-Access line of said project; thence along the highway right-of-way and non-access line of said project the next 5 courses (bearings rotated to agree with Basis of bearing); North 89°35' West 198.00 feet to a point of tangency with a 205.63 foot radius curve (SRC = 206.59) the center of which bears North 00°25' East, and along said curve to the right, through a central angle of 56°26'36" a distance of 209.75 (SRC = 210.15) and continuing North 34°54'34" West 420.27 feet to a point on the arc of a 1,740.85 foot radius curve, the center of which bears North 57°49'06" East, said point being 65 feet perpendicularly distant Northeasterly from Engineer's Station 57+61.83 for the centerline of Ramp "C" of said highway project, and continuing Northwesterly along said curve to the right, through a central angle of 24°10'17" a distance of 734.41 feet to a point 65 feet radially distant Northeasterly from Engineer's Station 50+00 for Ramp "C" (said point also being 145 feet radially distant Northeasterly from I-15 centerline Station 970+00), and continuing North 07°18'09" West 1,353.04 feet to a point on the North line of said Section 13 (North 89°49'53" West 2,198.92 feet from the Northeast corner of said Section 13); thence South 89°49'53" East 63.36 feet to a point on the arc of a 34,179.5 foot radius curve, the center of which bears North 84°14'35.33" East; thence Southeasterly along said curve to the left, through a central angle of 00°15'12.33" a distance of 151.16 feet to a point that is 198.0 feet radially distant Northeasterly from I-15 centerline Station 958+00; thence South 07°18'09" East 307.23 feet; thence parallel with the North line of said Section 13, South 89°49'53" East 750.73 feet to a fence line; thence along said fence line, North 440.75 feet and North 00°14'12" East 256.87 feet to the Southerly bank of a concrete ditch; thence along said ditch bank South 88°15'44" East 285.02 feet; South 88°11'28" East 304.00 feet; South 87°44'56" East 234.00 feet; and South 87°52'13" East 210.75 feet to the Southeasterly bank of said concrete ditch; thence along said Southeasterly ditch bank North 45°12'49" East 459.53 feet to the West line of State Street (51.0 feet from the monument line); thence along said Street line South 00°07'35" East 544.89 feet to the point of beginning.

27.13.227.016.4001 & 4002

LESS the property contained within the Salt Lake Canal according to deeds or an unwritten prescriptive easement 33 feet each side of the center of said Canal, whichever is greater.

ALSO LESS the property conveyed to Sandy City by deed recorded June 6, 1986 as Entry No. 4257245 in Book 5775 at Page 2179 of Official Records.

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Attached to and forming part of Subordination, Non-Disturbance and Attornment Agreement with Mortgagee, dated as of October 24, 2014, by and between J. C. PENNEY CORPORATION, INC., as Tenant, and CANTOR COMMERCIAL REAL ESTATE LENDING, L.P., as Mortgagee, covering premises at Sandy, Utah.

Initialed for identification for Tenant:

Initialed for identification for Mortgagee:

By [Signature] Senior Legal Analyst

By \_\_\_\_\_