

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into as of July 21, 2015, by and among Wells Fargo Bank, National Association ("Lender"), ACS Cedar South UT, LLC ("Landlord") and The TJX Companies, Inc. ("Tenant").

RECITALS:

WHEREAS, Lender is the holder of a Promissory Note which is secured, inter alia, by a Mortgage and Security Agreement (the "Mortgage") and Assignment of Lease and Rents (the "Lease Assignment") covering certain real property more particularly described in the Mortgage known as Cedar South Shopping Center located in Cedar City, Utah and described further in **Schedule A**, a copy of which is attached hereto (hereinafter referred to as "Property"); and

WHEREAS, Landlord and Tenant are the current holders of the interests of landlord and tenant under a Lease dated April 11, 2014 as the same has been amended from time to time (the "Lease"), whereby Landlord demised to Tenant a portion of the Property (the "Demised Premises"). All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Lease.

NOW THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant, Landlord and Lender, intending to be legally bound hereby, covenant and agree as follows:

1. **SUBORDINATION**. This Lease shall be and is hereby made subordinate to the lien of (but not the terms and conditions of) the Mortgage and to all increases, renewals, modifications, amendments, consolidations and extensions thereof.

2. **NON-DISTURBANCE**. Provided that Tenant is not in default under the Lease of such a nature as would permit Landlord to terminate the Lease pursuant to default provisions of the Lease, Lender shall not, in the exercise of any right, remedy, or privilege granted by the Mortgage or the Lease Assignment, or otherwise available to Lender at law or in equity:

(i) disturb Tenant's possession, enjoyment, use or occupancy of the Demised Premises and the appurtenant rights thereto under the Lease during the term of the Lease (including any extensions, renewal, or modification thereof); or

(ii) join or name Tenant as a party to any foreclosure or other proceeding instituted by Lender to enforce the terms of the Mortgage or the Lease Assignment against Landlord.

In the event Lender comes into possession of or acquires title to all or any portion of the Property as a result of any enforcement of the Mortgage, or any other means, Tenant shall peaceably and quietly have, hold and enjoy the Demised Premises and the rights of Tenant appurtenant thereto for the term of the Lease as the same may be extended, subject to the terms, covenants, conditions, provisions and agreements thereof.

3. ATTORNTMENT. In the event Lender comes into possession of or acquires title to all or any portion of the Property as a result of foreclosure or other enforcement of the Mortgage, or as a result of any other means, Lender agrees to recognize Tenant's possession of the Demised Premises and Tenant agrees to attorn to and accept Lender as landlord under the Lease for the balance then remaining of the term of the Lease, subject to all of the terms and conditions of the Lease.

Upon any attornment under this Paragraph 3, the Lease shall continue in full force and effect as a direct lease between Tenant and Lender and Lender will assume and perform all of Landlord's obligations under the Lease except that Lender shall not be:

(i) liable for any damages for any breach, act or omission of any prior landlord under the Lease except for acts or omissions of a continuing nature which continue after such time as Lender comes into possession of or acquires title to all or any portion of the Property; or

(ii) subject to any offsets, claims or defenses which Tenant might have against any prior landlord including Landlord except to the extent such right of offset or defense is specifically set forth in the Lease, or unless Lender was previously notified of the act or event giving rise to such offset or defense; or

(iii) bound by any rent or additional rent or other payment in lieu of rent which Tenant might have paid to any prior landlord more than 30 days in advance of its due date under the Lease, unless such prepayment is required pursuant to the terms of the Lease; or

(iv) bound by any amendment or modification to the Lease which has the effect of decreasing the rent payable under the Lease, or decreasing the term of the Lease made without Lender's written consent which consent shall not be unreasonably withheld, conditioned or delayed; or

(v) be liable for any security deposit unless actually received by Lender.

4. RENTS. Landlord hereby advises Tenant that the Lease Assignment provides for the direct payment to Lender of all rents and other monies due and to become due to Landlord under the Lease upon the occurrence of certain conditions as set forth in the Lease Assignment without Lender's taking possession of the Demised Premises or otherwise assuming Landlord's position or any of Landlord's obligations under the Lease. After written notice is given to Tenant by Lender in form reasonably acceptable to Tenant, that Landlord has defaulted under the Mortgage and that the rentals under the Lease should be paid to Lender, Tenant shall pay to Lender, or in accordance with the direction of Lender all rentals and other monies due and to become due to the Landlord under the Lease, and Landlord hereby expressly authorizes Tenant to make such payments as directed by Lender and hereby releases and discharges Tenant of, and from any liability to Landlord on account of any such payments. Tenant shall have no responsibility to ascertain whether such demand by Lender is permitted under the Mortgage or the Lease Assignment. Furthermore, in connection with the aforesaid, and notwithstanding anything to the contrary contained elsewhere, Landlord, its successor and/or assigns hereby agree to indemnify and hold harmless Tenant against any expenses, claims, losses, or damages incurred by

Tenant resulting from or arising out of claims by Landlord, its successors or assigns that such rental payments should not have been, or cannot be, made to Lender or the like.

5. DEFAULT NOTICES TO LENDER. So long as the Mortgage is in force and effect, Tenant agrees not to terminate the Lease by reason of default by Landlord under the Lease without giving prior written notice thereof to Lender and Lender shall have the right (but not the obligation until Lender comes into possession of or acquires title to all or any part of the Property) to cure any of Landlord's defaults under the Lease within the same time period as is available to Landlord for the curing thereof under the Lease after receipt of such notice except Tenant shall have the right to exercise its enumerated termination rights set forth in the Lease without giving Lender notice or the opportunity to cure.

6. NOTICES. All notices and other communications pursuant to the provisions of this Agreement shall be in writing and shall be sent by registered or certified mail, postage prepaid, return receipt requested, or by a reputable commercial overnight carrier that provides a receipt, such as Federal Express or Airborne Express, and shall be deemed given when received and addressed as noted below, or to such other address or addresses as shall from time to time be designated by notice by any party to the others as herein provided.

If to Tenant C/o The TJX Companies, Inc.
770 Cochituate Road
Framingham, MA 01701
Attn: Vice President - Real Estate

If to Lender: Wells Fargo Bank, National Associations
1000 Louisiana St., 3rd Floor
Houston, TX 77002
Attn: Tim Gebauer

Any party may change the place that notices are to be sent by written notice delivered in accordance with this Agreement.

7. SUCCESSORS AND ASSIGNS. As used in this Agreement, the term "Tenant" shall mean Tenant and any subsequent holder or holders of an interest of the lessee under the Lease, and the term "Lender" shall mean Lender or any other subsequent holder or holders of the Mortgage or any party becoming a mortgagee in possession or acquiring title to the Property or the Demised Premises by purchase at a foreclosure sale, deed in lieu of foreclosure, other enforcement of the Mortgage, by deed of the Lender, or otherwise. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. The terms Lease, Mortgage and Lease Assignment shall include any and all amendments, modifications, replacements, substitutions, extensions, renewals and supplements thereto. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceable shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

8. RECORDATION. Mortgagee agrees to record this agreement promptly upon full execution of the same. Upon recorded satisfaction of the Mortgage, this Agreement shall become null and void and be of no further effect.

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Cedar City, UT
#08-1417

9. **AUTHORITY.** The individuals executing this Agreement hereby represent and warrant that they are empowered and duly authorized to so execute this agreement on behalf of the parties they represent.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

WITNESS:

Alinda Blackstone

LENDER:

Wells Fargo Bank, National Association

By: Tim P. [Signature]
Name: TIMOTHY GEBAUER
Its: VICE PRESIDENT

WITNESS:

Jana Andrews

LANDLORD:

ACS Cedar South UT, LLC

By: [Signature]
Name: Thomas Cornier
Its: Manager

WITNESSES AS TO BOTH:

[Signature]

TENANT:

The TJX Companies, Inc.

By: Ann McCauley
Ann McCauley
Executive Vice President,
General Counsel and Secretary

Melanie Steens

By: Mary B. Reynolds
Mary B. Reynolds,
Senior Vice President
Finance and Treasurer

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WITNESS:

Alinda Blackstone

LENDER:

Wells Fargo Bank, National Association

By: *Tim P. Ull*
Name: **TIMOTHY GEBAUER**
Its: **VICE PRESIDENT**

WITNESS:

LANDLORD:

ACS Cedar South UT, LLC

By: _____
Name:
Its:

WITNESSES AS TO BOTH:

M. Now

TENANT:

The TJX Companies, Inc.

By: *Ann McCauley*
Ann McCauley
Executive Vice President,
General Counsel and Secretary

Melanie Steen

By: *Mary B. Reynolds*
Mary B. Reynolds,
Senior Vice President
Finance and Treasurer

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

WITNESS:

LENDER:
Wells Fargo Bank, National Association

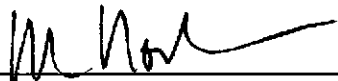
By: _____
Name:
Its:

WITNESS:

LANDLORD:
ACS Cedar South UT, LLC


By: _____
Name:
Its:


WITNESSES AS TO BOTH:





TENANT:
The TJX Companies, Inc.

By: 
Ann McCauley
Executive Vice President,
General Counsel and Secretary

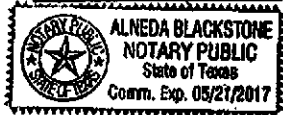
By: 
Mary B. Reynolds,
Senior Vice President
Finance and Treasurer

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LENDER'S ACKNOWLEDGEMENT

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this 1st
day of September, 2015 by Franklin Behrman and
Vice President on behalf of Wells Fargo Bank



Alneda Blackstone
Notary Public
My Commission Expires:

LANDLORD'S ACKNOWLEDGMENT

STATE OF Texas)
) SS.
CITY/COUNTY OF Jefferson)

The foregoing instrument was acknowledged before me this 1st
day of September, 2015 by Thomas Cormier and
Manager on behalf of AES Cedar South UT, LLC



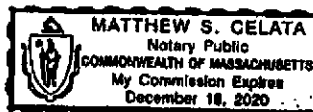
Marti Lynch
Notary Public
My Commission Expires:

TENANT'S ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS)
) SS.
COUNTY OF MIDDLESEX)

The foregoing instrument was acknowledged before me this 21st
July, 2015 by Ann McCauley as Executive Vice President, General
Counsel and Secretary and Mary B. Reynolds as Senior Vice President, Finance
and Treasurer of The TJX Companies, Inc. on behalf of the corporation.

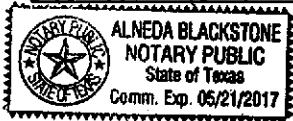
Matt Gelata
Notary Public
My Commission Expires:



LENDER'S ACKNOWLEDGEMENT

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this 1st
day of September, 2015 by Guadalupe Schauer and
Vice President on behalf of Wells Fargo Bank



Alneda Blackstone
Notary Public
My Commission Expires:

LANDLORD'S ACKNOWLEDGMENT

STATE OF)
) SS.
CITY/COUNTY OF)

The foregoing instrument was acknowledged before me this _____
day of _____, 2015 by _____ and
_____ on behalf of _____.

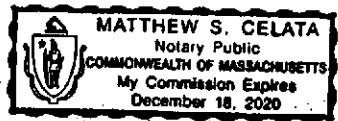
Notary Public
My Commission Expires:

TENANT'S ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS)
) SS.
COUNTY OF MIDDLESEX)

The foregoing instrument was acknowledged before me this 21st day of
July, 2015 by Ann McCauley as Executive Vice President, General
Counsel and Secretary and Mary B. Reynolds as Senior Vice President, Finance
and Treasurer of The TJX Companies, Inc. on behalf of the corporation.

Matthew S. Celata
Notary Public
My Commission Expires:



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Cedar City, UT
#08-1417

LENDER'S ACKNOWLEDGEMENT

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015 by _____ and _____ on behalf of _____.

Notary Public
My Commission Expires:

LANDLORD'S ACKNOWLEDGMENT

STATE OF _____)
) SS.
CITY/COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015 by _____ and _____ on behalf of _____.

Notary Public
My Commission Expires:

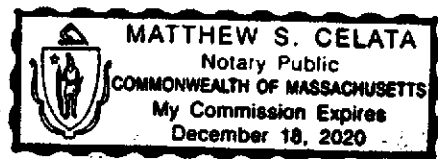
TENANT'S ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS)
) SS.
COUNTY OF MIDDLESEX)

The foregoing instrument was acknowledged before me this 21st day of July, 2015 by Ann McCauley as Executive Vice President, General Counsel and Secretary and Mary B. Reynolds as Senior Vice President, Finance and Treasurer of The TJX Companies, Inc. on behalf of the corporation.

Matthew Celata

Notary Public
My Commission Expires:



Legal Description

Cedar South Shopping
Center

Real property in the City of Cedar, County of Iron, State of Utah, described as follows:

Parcel 1:

Commencing 371.48 feet North 0°16' West of the Southwest corner of the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of Section 23, Township 36 South, Range 11 West, Salt Lake Base Meridian; thence North 0°16' West 324.92 feet, more or less, to the Southeasterly Right-of-Way line of State Route No. 130 (Old U.S. Highway 91, also known as South Main Street); thence North 45°37' East along the said Right-of-way a distance of 311.00 feet; thence South 44°23' East 173.10 feet; thence Southeasterly along the arc of a 382.5 foot radius curve to the right 21.40 feet (the Chord of which bears South 42°47' East 21.40 feet, said curve has a Delta Angle of 3°12'00"); thence North 45°37' East 114.10 feet to the Southwesterly line of Pine Street at a corner common to Lots 2 and 3, Block 4 of the original Plat of Valley View Subdivision; thence South 44°23' East 36.90 feet; thence Southeasterly along the arc of a 352.50 foot radius curve to the right 272.34 feet (the Chord of which bears South 22°15' East 265.61 feet, said curve has a Delta Angle of 44°16'00"); thence South 0°07' East 208.00 feet; thence South 89°44' West 564.73 feet to the point of Beginning.

Parcel 2:

Commencing at the Southwest Corner of the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of Section 23, Township 36 South, Range 11 West, Salt Lake Base and Meridian; thence North 0°16'00" West, 150.00 feet; thence North 89°44'00" East, 285.23 feet; thence South 0°16'00" East, 26.52 feet; thence North 89°44'00" East, 75.00 feet; thence South 0°16'00" East, 170.49 feet (107.50 feet of record); thence South 89°15'30" West, 360.28 feet (360.37 feet of record); thence North 0°13'45" West (North 0°07'00" West record) 50.00 feet along the Section line to the point of beginning.

Parcel 2A:

A perpetual, nonexclusive easement for purposes of ingress and egress of vehicular and pedestrian traffic over and across the following described land (which said easement was provided to in that certain Warranty Deed recorded in Iron County, Utah on July 16, 1981 as Entry No. 228615 in Book 278 at Page 288): Commencing 150.00 feet North 0°16' West of the Southwest corner of the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of Section 23, Township 36 South, Range 11 West, Salt Lake Base and Meridian; thence North 0°16' West 281.48 feet; thence North 89°44' East 30.00 feet; thence South 0°16' East 281.48 feet; thence South 89°44' West 30.00 feet to the beginning, as disclosed by instrument recorded August 29, 2001 as Entry No. 438138 in Book 763 at Pages 806-809, Official Iron County Records.

Also, all of the easements, rights, covenants, restrictions, and requirements which are appurtenances of and/or intended to benefit the Parcel (i.e., Parcel 1) in question and which are created or provided for in that certain "Covenants recorded in Iron County, Utah on July 16, 1981 as Entry No. 228617 in Book 278 at Page 298, as said instrument as heretofore been amended by that certain First Amendment thereto recorded on November 17, 1981 as Entry No. 231361 in Book 284 at Page 113 and by that certain Second Amendment thereto, dated February 15, 1982, recorded on May 12, 1982 as Entry No. 235091 in Book 289 at Page 932, Official Iron County Records.

Parcel 3:

Beginning at the most Easterly corner of Lot 2, Block 4, Valley View Subdivision, Cedar City, Utah; thence South 45°37'00" West, 114.10 feet along the Southeasterly line of said Lot 2; thence along the arc of a non-tangent curve to the left, having a radius of 382.50 feet, a distance of 21.40 feet (the chord of which bears North 42°47' West, 21.40 feet, said curve has a delta angle of 3°12'00");

SCHEDULE A

A-2

thence North 44°23'00" West, 174.41 feet (173.10 feet record); thence North 45°37'00" East, 143.50 feet along the Southeasterly Right-of-Way line of Highway SR-130; thence South 44°23'00" East, 195.81 feet (194.50 feet record) along the center line of Pine Street; thence South 45°37'00" West, 30.00 feet to the point of Beginning.

Parcel 4:

Beginning at the Northeast Corner of W.H. Leigh Subdivision; said point also being located on the Southeasterly right of way of State Route No. 130 at a point North 0°16'00" West, 696.40 feet from the Southeast Corner of the Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section 22, Township 36 South, Range 11 West, Salt Lake Base and Meridian; thence South 0°16'00" East, along the Subdivision boundary 222.13 feet to an intersection with Northeasterly right of way of Fir Street; thence following said right of way, Northwesterly around the arc of a curve to the left, the radius point of which is located South 89°44'00" West, 229.10 feet, a distance of 176.40 feet to an intersection with the Southeasterly right of way of State Route 130; thence along said right of way North 45°37'00" East, 90.00 feet to the point of beginning.

Parcel 5:

Beginning at the Northeast Corner of the Southeast Quarter of the Northeast Quarter (SE1/4NE1/4) of Section 22, Township 36 South, Range 11 West, Salt Lake Base and Meridian; thence South 0°13'45" East, 100.00 feet along the Section line; thence South 89°42'00" West, 258.70 feet to a point on the Easterly line of Fir Street; thence along the Easterly line of Fir Street as follows: thence North 0°16'00" West, 40.61 feet; thence Northeasterly along the arc of a curve to the right, having a radius of 168.00 feet, a distance of 134.54 feet; thence North 45°37'00" East, 247.50 feet; thence along the arc of a curve to the left, having a radius of 100.00 feet, a distance of 80.08 feet; thence departing said Fir Street, South 0°16'00" East, 304.80 feet to the point of beginning.

Parcel 6:

Beginning at the most Easterly corner of Lot 2, Block 4, Valley View Subdivision, thence North 45°37'00" East, 30.00 feet; thence along the centerline of Pine Street as follows; thence South 44°23'00" East, 36.90 feet; thence along the arc of a curve to the right, having a radius of 382.50 feet, a distance of 143.01 feet; thence departing said street centerline South 0°07'00" East, 148.49 feet, to a point being North 0°07'00" West, 5.0 feet from the Northeast Corner of Lot 7, Block 4, Valley View Subdivision; thence along the arc of a curve to the left (Note: Radius point for said curve bears South 89°53'00" West, 352.50 feet) a distance of 272.34 feet; thence North 44°23'00" West 36.90 feet to the point of beginning.

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