

RECORDING REQUESTED BY  
AND WHEN RECORDED, MAIL TO:

Old Navy, LLC  
c/o The Gap, Inc.  
Real Estate Law  
2 Folsom Street  
San Francisco, CA 94105  
Attn: Real Estate Law, Old Navy #5832

11975701  
1/13/2015 4:24:00 PM \$26.00  
Book - 10288 Pg - 5298-5306  
Gary W. Ott  
Recorder, Salt Lake County, UT  
FOUNDERS TITLE  
BY: eCASH, DEPUTY - EF 9 P.

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into as of this 31<sup>st</sup> day of October, 2014, by and among CANTOR COMMERCIAL REAL ESTATE LENDING, L.P., a Delaware limited partnership ("Mortgagee"), OLD NAVY, LLC, a Delaware limited liability company ("Tenant") and ST MALL OWNER, LLC, a Delaware limited liability company ("Landlord").

RECITALS

A. Mortgagee is the holder of a certain note (the "Note") and mortgagee under a mortgage (the "Mortgage") dated October 31, 2014, in which Landlord is named as the mortgagor, which Mortgage was recorded on November 3, 2014, in the Official Records of Salt Lake County, State of Utah, as Document No. 11938954. The Mortgage covers certain real property together with all appurtenances thereto and improvements thereon (the "Property") all as more particularly described in Exhibit A attached hereto and made a part hereof and which property is commonly known as South Towne Marketplace, in the City of Sandy, County of Salt Lake, State of Utah.

B. Landlord is the owner in fee simple of the Property and is the current obligor under the Note.

C. By lease dated January 22, 1996 (as amended, the "Lease") Landlord's predecessor-in-interest, Equity Properties and Development Limited Partnership, d/d/a Equity Properties and Development (Illinois) Limited Partnership, leased to Tenant's predecessor-in-interest, The Gap, Inc., those certain premises (the "Premises") which constitutes or forms a portion of the Property covered by the Mortgage and commonly known as South Towne Marketplace, all as more particularly described in said Lease. Other documents affecting or amending the Lease include the following: : Notice re: Delivery of Possession dated May 7, 1996; Notice re: Change of Ownership/Legal Notice Address/Rent Payment Address/Sales Report Address dated March 28, 1997; Assignment and Assumption of Lease and Notice of Assignment and Assumption of Lease both dated February 1, 1998; Notice of Conversion/Change of Address dated January 30, 2004; Exercise of Option Notice dated October 28, 2005; First Amendment of Shopping Center Lease dated February 9, 2012; Confidential Settlement Agreement dated December 26, 2012; Tolling Agreement dated December 26, 2012; Second Amendment of Shopping Center Lease dated January 18, 2013; Third Amendment of Shopping Center Lease and Third Extension of Term dated June 25, 2013; Fourth Amendment of Shopping Center Lease and Fourth Extension of Term dated March 13, 2014.

D. The Lease is or may become (subject to this Agreement) subordinate in priority to the Mortgage.

E. Tenant wishes to obtain from Mortgagee certain assurances that Tenant's possession of the Premises will not (subject to this Agreement) be disturbed by reason of the enforcement of the Mortgage covering the Premises or a foreclosure of the lien thereunder.

F. Mortgagee is willing to provide such assurances to Tenant upon and subject to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the above, the reciprocal promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do mutually agree as follows:

1. **Ratification.** The Lease now is or shall become upon the mutual execution of this Agreement subordinate in all respects to the Mortgage and to all renewals, modifications and extensions thereof, subject to the

terms and conditions of this Agreement. Tenant hereby affirms that the Lease is in full force and effect and that the Lease has not been modified or amended. Mortgagee acknowledges receipt of a copy of the Lease and hereby approves the same.

2. **Landlord's Default.** From and after the date Tenant receives a fully executed copy of this Agreement, Tenant will not seek to terminate the Lease by reason of any act or omission that constitutes (or would over time constitute) a default of Landlord until Tenant shall have given written notice of such act or omission to Mortgagee (at Mortgagee's last address furnished to Tenant) and until a period of thirty (30) days shall have elapsed, Mortgagee shall have the right, but not the obligation, to remedy such act or omission, provided however that if the act or omission does not involve the payment of money from Landlord to Tenant and (i) is of such a nature that it could not be reasonably remedied within the thirty (30) day period aforesaid, or (ii) the nature of the act or omission or the requirements of local law require Mortgagee to appoint a receiver or to foreclose on or commence legal proceedings to recover possession of the Property in order to effect such remedy and such legal proceedings and consequent remedy cannot reasonably be achieved within said thirty (30) days, then Mortgagee shall have such further time as is reasonable under the circumstances to effect such remedy provided that Mortgagee shall notify Tenant, within ten (10) days after receipt of Tenant's notice, of Mortgagee's intention to effect such remedy and provided further that Mortgagee institutes immediate legal proceedings to appoint a receiver for the Property or to foreclose on or recover possession of the Property within said thirty (30) day period and thereafter prosecutes said proceedings and remedy with due diligence and continuity to completion. Notwithstanding the foregoing, Mortgagee shall have no rights under this Section 2 if Mortgagee is an entity that controls, is controlled by, or is under common control with Landlord.

3. **Non-Disturbance and Attornment.** So long as Tenant is not in default under the Lease (beyond any period given Tenant to cure such default) as would entitle Landlord to terminate the Lease or would cause, without any further action of Landlord, the termination of the Lease or would entitle Landlord to dispossess Tenant thereunder, Mortgagee will not disturb the peaceful and quiet possession or right of possession of the Premises by Tenant nor shall the Lease or its appurtenances be extinguished by reason of any Foreclosure (as hereinafter defined) or otherwise, nor join Tenant as a party in any action or proceeding brought pursuant to the Mortgage.

In the event that Mortgagee or its successors or assigns, as defined in Paragraph 7 hereof ("Successor Landlord") acquires the interest of Landlord or comes into the possession of or acquires title to the Premises (the "Succession") by reason of the foreclosure (judicial or non-judicial) or enforcement of the Mortgage (including a private power of sale) or the Note or obligations secured thereby or by a conveyance in lieu thereof or other conveyance or as a result of any other means (any or all of the foregoing hereinafter referred to as a "Foreclosure"), then the Lease and all appurtenances thereto shall remain in full force and effect and Tenant shall be bound to Successor Landlord under all of the provisions of the Lease for the balance of the term thereof (including any extensions or renewals thereof which may be effected in accordance with any options contained in the Lease) with the same force and effect as if Successor Landlord was landlord under the Lease, and Tenant shall attorn to Successor Landlord as its landlord, such attornment to be effective and self operative, without the execution of any further instruments on the part of either of the parties hereto, immediately upon the Succession; and further, in such event, Successor Landlord shall be bound to Tenant under all of the provisions of the Lease, and Tenant shall, from and after such Succession, have the same remedies against Successor Landlord for the breach of any agreement contained in the Lease that Tenant might have had under the Lease against Landlord thereunder, provided, however, that if Successor Landlord is not an entity that controls, is controlled by, or is under common control with Landlord, then Successor Landlord shall not be:

- (a) liable for any act or omission of any prior landlord (including Landlord) unless Tenant shall have given notice (pursuant to Paragraph 2 hereof) of such act or omission to the party who was the then holder of the Mortgage (whether or not such holder elected to cure or remedy such act or omission); or
- (b) subject to any offsets (except those expressly permitted under the Lease) or defenses which Tenant might have against any prior landlord (including Landlord) unless Tenant shall have given notice (pursuant to Paragraph 2 hereof) of the state of facts or circumstances under which such offset or defense arose to the party who was the then holder of the Mortgage (whether or not such holder elected to cure or remedy such condition); or
- (c) bound by any rent or additional rent which Tenant might have paid to any prior landlord (including Landlord) more than thirty (30) days in advance of the due date under the Lease; or
- (d) bound by any security deposit which Tenant may have paid to any prior landlord (including Landlord), unless such deposit is available to the party who was the holder of the Mortgage at the time of a Foreclosure.

Tenant shall be under no obligation to pay rent to Mortgagee or Successor Landlord until Tenant receives written notice from Mortgagee or Successor Landlord stating that Mortgagee or Successor Landlord is entitled to receive the rents under the Lease directly from Tenant. Landlord, by its execution hereof, hereby authorizes Tenant

to accept such direction from Mortgagee or Successor Landlord and to pay the rents directly to Mortgagee or Successor Landlord and waives all claims against Tenant for any sums so paid at Mortgagee's or Successor Landlord's direction. Tenant may conclusively rely upon any written notice Tenant receives from Mortgagee or Successor Landlord notwithstanding any claims by Landlord contesting the validity of any term or condition of such notice, including any default claimed by Mortgagee or Successor Landlord, and Tenant shall have no duty to inquire into the validity or appropriateness of any such notice.

4. Intentionally Deleted.

5. Agreement to Release Proceeds or Awards.

(a) **Destruction.** In the event of a casualty at the Premises, Mortgagee shall release its interest in any insurance proceeds applicable to the nonstructural improvements installed by Tenant. Mortgagee acknowledges that it has no interest and waives any interest in Tenant's personal property, Tenant's signs, the satellite dish, and any safety systems (such as, without limitation, fire and security monitoring and alarm systems) installed at or about the Premises, or any insurance proceeds that are payable with respect thereto under either Landlord's or Tenant's policies.

(b) **Eminent Domain.** In the event of a public taking or act of eminent domain, Mortgagee shall release its interest in that portion of the award to which Tenant is entitled pursuant to the Lease, as well as its interest in so much of the award applicable to the Improvements installed by Tenant as shall be necessary for the purposes of restoration, consistent with Landlord's and Tenant's rights and obligations under the Lease.

6. **Notices.** In order to be effective, any notice to be given under this Agreement must be in writing and either (1) served personally at the following applicable notice address, provided that proof of delivery thereof can be produced; or (2) sent by registered or certified U.S. mail, Federal Express or a similar reputable express courier to the following applicable notice address, provided that proof of delivery thereof can be produced, or (3) if the notice is not a notice of default, sent by fax at the applicable fax number listed under the following applicable notice address, provided that proof of delivery thereof can be produced, and provided further that a copy of the notice is also promptly sent by U.S. mail, Federal Express or a similar reputable express courier to the following applicable notice address.

To Mortgagee: Cantor Commercial Real Estate Lending, L.P.  
110 East 59<sup>th</sup> Street, 6<sup>th</sup> Floor  
New York, NY 10022  
Attention: Jill Weinstein  
Telephone: ( ) -  
Fax: ( ) -

To Tenant: Old Navy, LLC  
c/o The Gap, Inc.  
2 Folsom Street  
San Francisco, CA 94105  
Attention: Real Estate Law, Old Navy #5832  
Telephone: (415) 427-0225  
Fax: (415) 427-0227

To Landlord: ST Mall Owner, LLC  
c/o Pacific Retail Capital Partners, LLC  
100 N. Sepulveda Boulevard, Suite 1925  
El Segundo, CA 90245  
Telephone: ( ) -  
Fax: ( ) -

No notice of default shall be sent by fax. No notice to Tenant shall be effective unless it is addressed to the attention of Real Estate Law (for all notices, including notices of default, other than invoices) and as otherwise set forth above. No notice delivered to the Premises shall be effective. The telephone numbers identified above are for informational purposes only and not for purposes of giving notice under this Agreement. Any party may change the address or fax number by written notice to the other parties clearly stating such party's intent to change the address or fax number for all purposes of this Agreement, which new address or fax number shall be effective one (1) month after receipt. Except as hereinafter provided, notice shall be deemed given when received or when receipt is refused.

7. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective personal representatives, successors and assigns it being understood that the obligations herein of Mortgagee shall extend to it in its capacity as mortgagee under the Mortgage and to its

successors and assigns, including anyone who shall have succeeded to its interest or to Landlord's interest in the Premises or acquired possession thereof by Foreclosure or otherwise.

8. **Effectiveness of Agreement.** If, within four (4) weeks of Tenant's execution of this Agreement, Tenant has not received: (a) a notice letter in conformance with Section 6 hereof indicating that Landlord is the landlord of the Property, and (b) two (2) fully executed copies of this Agreement at the notice address listed above, this Agreement shall, at Tenant's option, be null and void.

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

MORTGAGEE

CANTOR COMMERCIAL REAL ESTATE LENDING, L.P.,  
a Delaware limited partnership

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

TENANT

OLD NAVY, LLC,  
a Delaware limited liability company

By: Tim Elliott  
Name: Tim Elliott  
Its: Corporate Counsel

LANDLORD

ST MALL OWNER, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_


CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

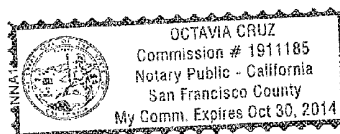
STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF SAN FRANCISCO )

On October 22, 2014, before me, Octavia Cruz, Notary Public, personally appeared Tim Elliott, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 (SEAL)  
Notary Public Signature



STATE OF \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_ (SEAL)  
Notary Public Signature

STATE OF \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_ (SEAL)  
Notary Public Signature

successors and assigns, including anyone who shall have succeeded to its interest or to Landlord's interest in the Premises or acquired possession thereof by Foreclosure or otherwise.

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

MORTGAGEE

CANTOR COMMERCIAL REAL ESTATE LENDING, L.P.,  
a Delaware limited partnership

By: \_\_\_\_\_  
Name: **Lawrence Britvan**  
Its: **Senior Managing Director**  
**CCRE**

TENANT

OLD NAVY, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: **Tim Elliott**  
Its: **Corporate Counsel**

LANDLORD

ST MALL OWNER, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_


CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF SAN FRANCISCO )

On October 22, 2014, before me, Octavia Cruz, Notary Public, personally appeared Tim Elliott, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, of the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

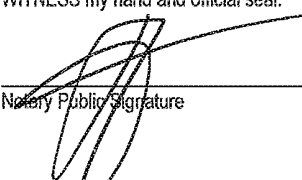
 (SEAL)  
Notary Public Signature



STATE OF New York )  
 ) ss:  
COUNTY OF New York )

On October 15, 2016, before me, Turner Booth, Notary Public, personally appeared Lawrence Butvan personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

 (SEAL)  
Notary Public Signature

**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

STATE OF \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public Signature (SEAL)

**ST MALL OWNER, LLC,**  
a Delaware limited liability company

By: ST Mall Mezzco, LLC, a Delaware limited liability  
company, its sole economic member

By: GS Pacific ST LLC, a Delaware limited liability  
company, its sole economic member

By: South Towne Pacific LLC, a Delaware  
limited liability company, its managing  
member

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

Name: Steven M. Plenge

Title: Authorized Signatory

STATE OF CALIFORNIA

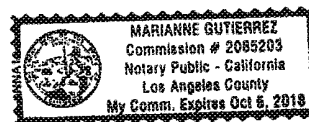
COUNTY OF LOS ANGELES

On this 29th day of October, 2014, personally appeared before me Marianne Gutierrez, who being by me duly sworn (or affirmed), did say that he is the Authorized Signatory of South Towne Pacific LLC, and that said instrument was signed on behalf of said limited liability company by authority of its constitutive documents (or of a resolution of its board of directors, as the case may be) and said Steven M. Plenge, acknowledged to me that said limited liability company executed the same.

SEAL

*Marianne Gutierrez*  
\_\_\_\_\_  
(Signature)

My commission expires: October 6, 2018



SNDA signature page

BK 10288 PG 5305



EXHIBIT A

Legal Description

EXHIBIT A  
TO GROUND LEASE

LEGAL DESCRIPTION OF SHOPPING CENTER

BEGINNING at a point on the Westerly right of way line of State Street, which point is North  $89^{\circ}50'56''$  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  $00^{\circ}01'50''$  East 2599.11 feet along the monument line of State Street between the monuments found marking the intersections of 10600 South & 10200 South Streets), said Northeast Corner of Section 13 being South  $69^{\circ}53'20''$  West 92.33 feet from the monument at the intersection of 10200 South and State Streets, and running thence South  $00^{\circ}01'50''$  East 583.24 feet along said line; thence South  $00^{\circ}30'43''$  East 70.31 feet along said line; thence South  $00^{\circ}01'50''$  East 53.16 feet along said line to the northerly line of an access road and a point on a 25.00 foot radius curve to the right; thence running along said Northerly line for the next five courses, Southwesterly 21.60 feet along the arc of said curve through a central angle of  $49^{\circ}30'41''$  (chord bearing South  $65^{\circ}15'40''$  West 20.94 feet); thence North  $89^{\circ}59'00''$  West 192.15 feet to the point of tangency with a 306.00 foot radius curve to the left; thence Southwesterly 162.31 feet along the arc of said curve through a central angle of  $30^{\circ}23'31''$ ; thence South  $39^{\circ}37'30''$  West 74.04 feet to the point of tangency with a 25.00 foot radius curve to the right; thence Northwesterly 37.15 feet along the arc of said curve through a central angle of  $85^{\circ}08'19''$  to the point of tangency with a 758.00 foot radius curve to the left and being the North line of the South Towne Mall Ring Road; thence Northwesterly 712.45 feet along the arc of said curve through a central angle of  $53^{\circ}51'11''$  along said line; thence North  $00^{\circ}00'36''$  East 1300.81 feet; thence South  $89^{\circ}57'20''$  East 519.88 feet; thence North  $86^{\circ}50'50''$  East 266.48 feet; thence South  $89^{\circ}59'01''$  East 280.57 feet to said West right of way line of State Street; thence South  $00^{\circ}07'35''$  East 847.85 feet along said line to the point of BEGINNING.