

9.

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is entered into as of this 11th day of ~~January~~^{February}, 2011, by and between to **DB PRIVATE WEALTH MORTGAGE LTD.**, a New York corporation, whose address is 345 Park Avenue, 14th Floor, New York, New York 10154, Attention: David C. Williams, Director ("Lender"), **THE SHOPPES AT SCHERERVILLE, L.L.C.**, a Missouri limited liability company, whose address is 213 N. Stadium Blvd., Suite 213, Columbia, Missouri 65203, Attention: Maly Commercial Realty ("Landlord"), and **PETSMART, INC.**, a Delaware corporation, whose address is 19601 N. 27th Avenue, Phoenix, Arizona 85027, Attention: Vice President and Deputy General Counsel ("Tenant").

WITNESSETH:

WHEREAS, Lender and Tenant have entered into a Shopping Center Lease Agreement dated January 21, 2005, as amended by that certain First Amendment to Shopping Center Lease Agreement dated September 14, 2005, as supplemented by that certain Conditional Commencement Date Certificate dated September 20, 2005, and as evidenced by the Memorandum of Lease dated January 21, 2005 and recorded on September 2, 2005 (collectively, the "Lease"), pertaining to certain premises (the "Premises") at The Shoppes at Schererville (the "Shopping Center") in Schererville, Indiana; and

WHEREAS, Lender has made or agreed to make a loan secured by, among other things, a lien (the "Mortgage") upon the real property described in Exhibit A attached hereto (which includes the Premises); and

WHEREAS, Tenant wishes to be assured of the continued use and occupancy of the Premises and related Common Area (as such terms are defined in the Lease) and pylon or other signage of the Shopping Center under the terms of the Lease, notwithstanding any breach or default by Landlord or the exercise of any remedies under the Mortgage; and

WHEREAS, Lender wishes for Tenant to recognize and attorn to Lender in the event that Lender succeeds to the rights of Landlord under the Lease as a result of foreclosure or otherwise.

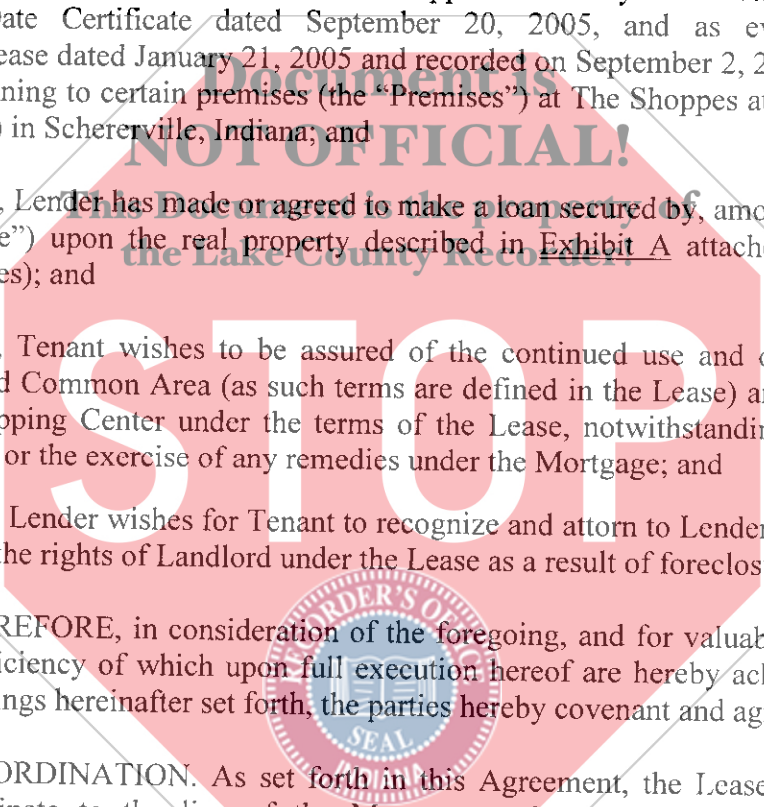
NOW, THEREFORE, in consideration of the foregoing, and for valuable consideration, the receipt and sufficiency of which upon full execution hereof are hereby acknowledged, and the mutual undertakings hereinafter set forth, the parties hereby covenant and agree as follows:

1. **SUBORDINATION.** As set forth in this Agreement, the Lease is and shall be subject and subordinate to the lien of the Mortgage and to all renewals, modifications, consolidations, replacements and extensions of the Mortgage, to the full extent of amounts secured thereby and interest thereon. The foregoing notwithstanding, in no event shall any of

AMOUNT \$ 28⁰⁰
CASH _____ CHARGE _____
CHECK # 1077001881
OVERAGE _____
COPY _____
NON-COM _____

BB

2011 012777
MAR - 7 AM 10:07
RECORDED IN THE
OFFICE OF THE CLERK
OF THE SUPERIOR COURT
STATE OF INDIANA
LEAKS FOR RECORD



Tenant's trade fixtures, inventory, equipment, furniture and furnishings, accounts, books or records or other assets be or become subject or subordinate to the lien in favor of Lender.

2. **NON-DISTURBANCE.** So long as the Lease has not been terminated as a result of a default by Tenant beyond any applicable grace, notice and cure period, Tenant's possession, use and enjoyment of the Premises and the related Common Area, including but not limited to related signage, shall not be interfered with, disturbed or diminished, or otherwise affected in any manner as a result of any act or omission of Landlord, and all rights and privileges of Tenant under the Lease, and any renewals, modifications, or extensions thereof, shall be recognized by Lender and any Successor Landlord (as defined in paragraph 3 below). If any action or proceeding is commenced by Lender for the foreclosure of the Mortgage or the sale of the Premises, Tenant shall not be named as a party therein unless such joinder shall be required by law and Tenant shall not thereby be subjected or exposed to any liability, cost or expense, and such joinder shall not result in the termination of the Lease or disturb Tenant's possession, use or enjoyment of the Premises, and the foreclosure or sale in any such action or proceeding shall be made subject to all rights of Tenant under the Lease.

3. **ATTORNMEN**T. In the event that title to, possession of or control of the Premises or any other interest therein, which includes the right to receive payment of rent or to enforce the performance of other obligations under the Lease, is transferred as a result of any trustee's sale, judicial foreclosure, deed in lieu of foreclosure or other proceedings pursuant to the Mortgage, Tenant will attorn to the purchaser or transferee who acquires such title or other interest ("Successor Landlord") and will recognize such Successor Landlord as landlord under and subject to the terms and conditions of the Lease. Tenant hereby waives the provisions of any statute or rule of law now or hereafter in effect which might give it any right or election to terminate the Lease by reason of any such foreclosure proceeding.

4. **PERFORMANCE BY TENANT.** In the event that Tenant receives any notice from Lender or any Successor Landlord to pay rent or other sums or render any other performance under the Lease to such Lender or Successor Landlord, Tenant may render performance in accordance with such notice without any duty of inquiry and despite any knowledge or notice to the contrary with the same force and effect as if such payment or performance were rendered to Landlord, and Landlord hereby releases and discharges Tenant of and from any liability to Landlord resulting from Tenant's payment of such rent to Lender or any Successor Landlord in accordance with this Agreement or Lender's or any Successor Landlord's notice or instructions from Lender or any Successor Landlord.

5. **SUCCESSOR LANDLORD LIABILITY.** Upon transfer of the Premises to the Successor Landlord, including Lender, the Successor Landlord shall have the same rights and obligations under the Lease as the Landlord and Tenant shall have the same rights and remedies under the Lease against the Successor Landlord as existed against Landlord, including for a breach of the Lease; provided, however, that Lender or any Successor Landlord shall not:

(a) be subject to any offsets which Tenant might have against any prior landlord (including Landlord), except for offsets arising under the Lease with respect to costs and expenses (but not damages) incurred by Tenant after Tenant has notified Lender and given

Lender an opportunity to cure as provided in this Agreement, and/or offsets arising from (i) a reconciliation or year-end adjustment of an estimated rental or other charge under the Lease or (ii) an audit of Landlord's business records, as provided in the Lease; or

(b) be bound by any Base Rent which Tenant might have paid for more than one (1) month in advance; or

(c) be obligated to reimburse Tenant for any security deposit, unless said security deposit is received by Lender; or

(d) be bound by any amendment or modification of the Lease made after the date hereof without Lender's consent, which consent shall not be unreasonably withheld, conditioned or delayed, and it being agreed by Lender that consent shall be deemed given unless Lender makes objection in writing and properly noticed to Tenant within thirty (30) days from the date of Tenant's notice to Lender.

Provided however, that nothing herein shall excuse Lender or any Successor Landlord from liability or responsibility for, or limit any right or remedy of Tenant with respect to, any breach or default which continues from and after the date when Lender or such Successor Landlord obtains title to or takes possession or control of the Premises.

6. **NOTICE OF LANDLORD DEFAULT.** Each of the Lender and Tenant shall give to the other, by certified or registered mail, a copy of any notice of default served upon Landlord under the Mortgage or the Lease, respectively, at the address set forth above, and the other shall have the same right, but shall have no obligation, to cure any such default on behalf of Landlord as is provided in the Mortgage or the Lease, respectively.

7. **LEASE TERMINATION.** In the event Tenant notifies Lender that Tenant elects to terminate the Lease as a result of Landlord's default, the Lease shall not terminate until Lender has had a reasonable period of time after such notice in which to cure said default, not to exceed thirty (30) days ("Initial Cure Period"), which period may run concurrently with any notice or cure period given to Landlord; provided, however, that if due to the nature of the default Lender is unable to complete such cure within the Initial Cure Period, Lender shall be entitled to such additional time as may be necessary to cure such default, not to exceed thirty (30) days following the expiration of the Initial Cure Period, only if and so long as the following conditions are satisfied: (i) Lender has notified Tenant in writing of its intent to cure Landlord's default; (ii) Lender has commenced such cure within the Initial Cure Period; and (iii) Lender diligently pursues such cure to completion.

8. **OTHER DOCUMENTS.** Each of Lender, Landlord and Tenant agrees to reasonably execute and deliver to the others such further documents and assurances confirming the foregoing as any of such parties may reasonably request.

9. **SUCCESSORS AND ASSIGNS.** The terms "Lender", "Successor Landlord" and "Landlord" shall include such parties and any successors or assigns, including any successors in title to the Premises. The term "Tenant" shall include any assignee or sublessee.


10. CONDITION. The parties agree that this Agreement shall be valid only once fully executed, acknowledged and delivered by all of the parties hereto.

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

LENDER:

DB PRIVATE WEALTH MORTGAGE LTD.,
a New York corporation

By: 
Name: David C. Williams
Title: Director

By: 
Name: Jie Chen
Title: Director

LANDLORD:


Document is NOT OFFICIAL!
THE SHOPPES AT SCHERERVILLE, L.L.C.,
a Missouri limited liability company

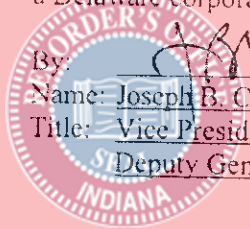
This Document is the property of the Lake County Recorder!
By: The Shoppes at Schererville, GP, Inc.,
a Delaware corporation, as its manager

By: _____
Name: _____
Title: _____

TENANT:

PETSMART, INC.,
a Delaware corporation

By: 
Name: Joseph B. Conn
Title: Vice President and Deputy General Counsel



10. CONDITION. The parties agree that this Agreement shall be valid only once fully executed, acknowledged and delivered by all of the parties hereto.

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

LENDER:

DB PRIVATE WEALTH MORTGAGE LTD.,
a New York corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

LANDLORD:

THE SHOPPES AT SCHERERVILLE, L.L.C.,
a Missouri limited liability company

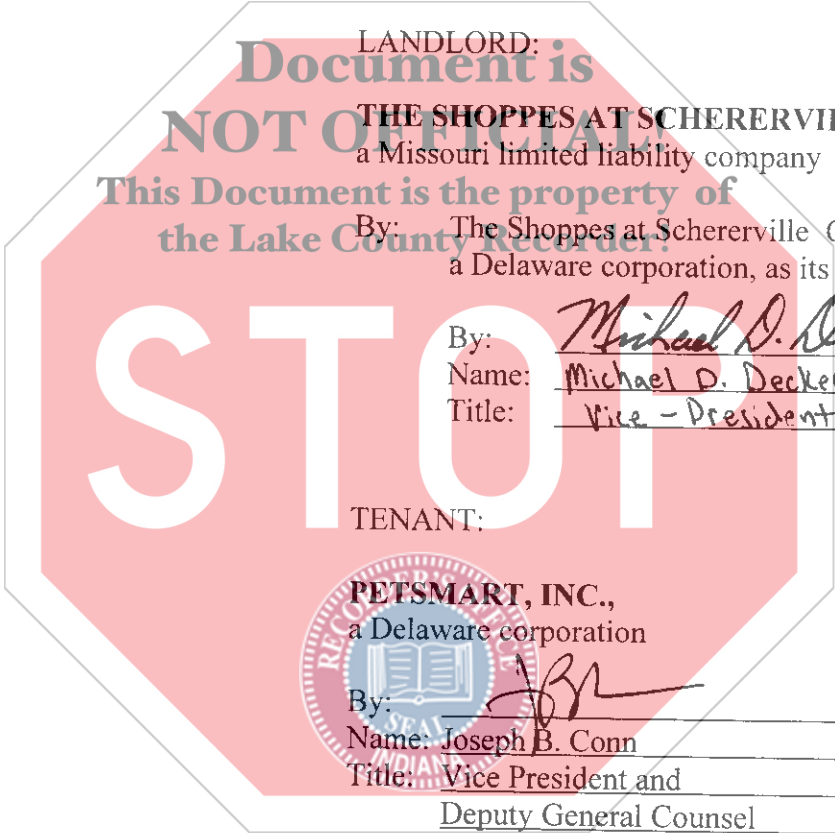
By: The Shoppes at Schererville GP Inc.,
a Delaware corporation, as its manager

By: Michael D. Decker
Name: Michael D. Decker
Title: Vice - President

TENANT:

PETSMART, INC.,
a Delaware corporation

By: Joseph B. Conn
Name: Joseph B. Conn
Title: Vice President and
Deputy General Counsel



ACKNOWLEDGEMENTS

STATE OF New York,
COUNTY OF New York SS:

On this 12th day of June, 2011, before me, the undersigned officer, personally appeared David Williams, who acknowledged himself/herself to be the Director of DB PRIVATE WEALTH MORTGAGE LTD., a New York corporation, and that he/she, as such Director being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

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

[Signature]
Notary Public

My Commission Expires:
[Signature]

Document is NOT OFFICIAL

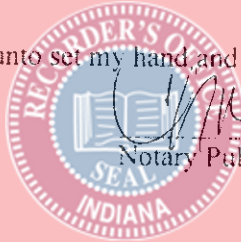
Christopher Y. Yeung, Notary Public
State of New York, ID No. 01YE6128503
Qualified in New York County
Certificate Filed in Westchester County
Commission Expires June 13, 2012

STATE OF New York,
COUNTY OF New York

This Document is the property of
LSS: Lake County Recorder!

On this 12th day of June, 2011, before me, the undersigned officer, personally appeared David Williams, who acknowledged himself/herself to be the Director of DB PRIVATE WEALTH MORTGAGE LTD., a New York corporation, and that he/she, as such Director being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

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



[Signature]
Notary Public

My Commission Expires:
[Signature]

Christopher Y. Yeung, Notary Public
State of New York, ID No. 01YE6128503
Qualified in New York County
Certificate Filed in Westchester County
Commission Expires June 13, 2012

STATE OF Texas)
COUNTY OF Heller) SS:

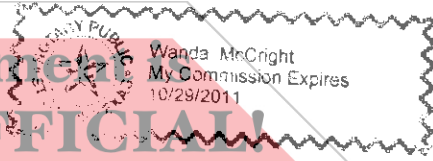
On this 9th day of February, 2011, before me, the undersigned officer, personally appeared Michael J. Theodor, who acknowledged himself/herself to be the Vice President of THE SHOPPES AT SCHERERVILLE L.L.C., a Missouri limited liability company, and that he/she, as such Vice President being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

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

[Signature]
Notary Public

My Commission Expires:

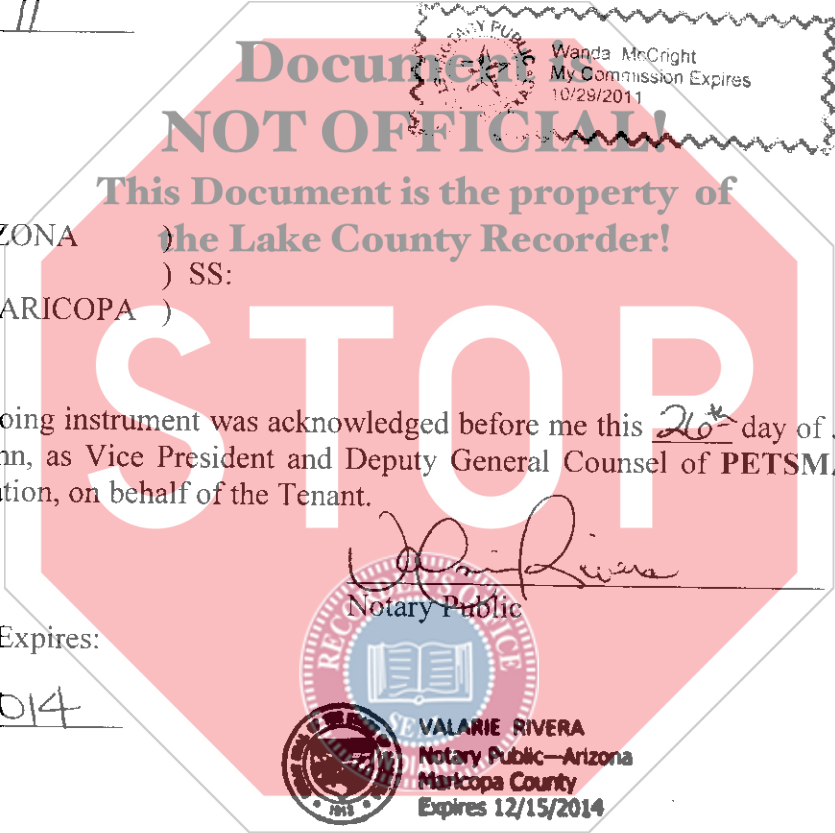
10/29/11



Document
NOT OFFICIAL!

**This Document is the property of
the Lake County Recorder!**

STATE OF ARIZONA)
COUNTY OF MARICOPA) SS:



The foregoing instrument was acknowledged before me this 26th day of January, 2011, by Joseph B. Conn, as Vice President and Deputy General Counsel of PETSMA^RT, INC., a Delaware corporation, on behalf of the Tenant.

[Signature]
Notary Public

My Commission Expires:

12-15-2014

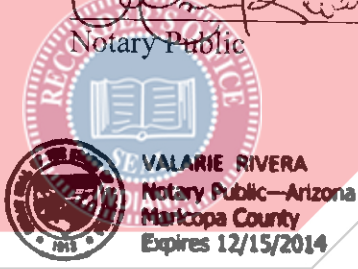


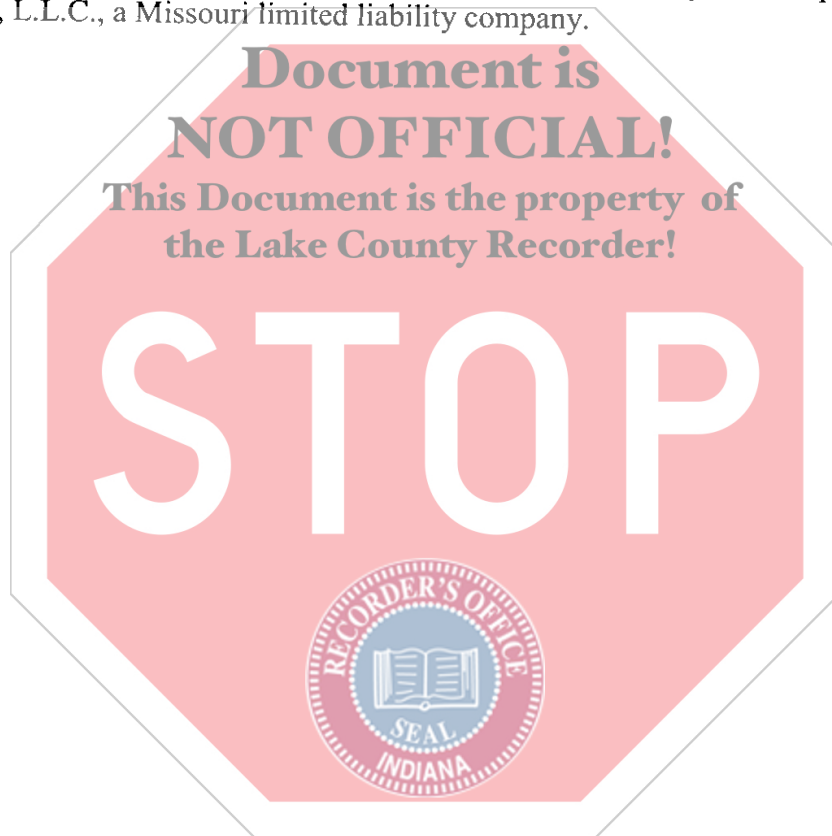
EXHIBIT A

LEGAL DESCRIPTION

Parcel 1: Lots 1, 2, 3, 4 and Outlot A in The Shoppes of Schererville, an Addition to the Town of Schererville, as per plat thereof, recorded in Plat Book 95, page 52, in the Office of the Recorder of Lake County, Indiana.

Parcel 2: Easements created by that certain Declaration of Restrictive Easements, Covenants and Restrictions Agreement, made and entered into as of the 26th day of May 2004 and recorded June 2, 2004 as Document No. 2004 045756, by an between Lowe's Home Centers, inc., a North Carolina corporation and The Shoppes at Schererville, L.L.C., a Missouri limited liability company.

Parcel 3: Easements created by that certain Declaration of Easements, Covenants and Restrictions for The Shoppes at Schererville, Lake County, dated May 28, 2004 and recorded June 2, 2004, as Document No. 2004 045759 executed by The Shoppes at Schererville, L.L.C., a Missouri limited liability company.



Addendum to Subordination, Non-Disturbance and Attornment Agreement (re: PetSmart, Inc.)

This instrument was prepared by: Valarie Rivera, Paralegal, PETSMART, INC.,
19601 N. 27th Avenue, Phoenix, Arizona, telephone number: (623) 580-6100.

I affirm under the penalties of perjury, that I have taken reasonable care to redact
each social security number in this document, unless required by law. Valarie Rivera,
Paralegal.

Address of mortgagee: 345 Park Avenue, New York, NY 10154.

