

SUBORDINATION, NON- Clerk: CSBESS

INMENT AGREEMENT

31.00

6 **THIS AGREEMENT** is entered into as of the 26 day of January, 2023, between SERVISFIRST BANK, an Alabama banking corporation with a place of business at 4800 W. Main Street, Dothan, Alabama 36305 ("Mortgagee"), and Academy, Ltd., a Texas limited partnership, having an office at 1540 North Mason Road, Katy, Texas, 77449 ("Tenant").

Recitals

A. Mortgagee has made a loan to Highway 150, LLC ("Landlord") in the original principal amount of \$12,500,000.00 (the "Loan").

B. Mortgagee is the holder of a mortgage or deed of trust securing the Loan (the "Mortgage") covering that certain parcel of land owned by Landlord and described on Exhibit "A" attached hereto and made a part hereof, together with the improvements erected thereon, commonly known as "Colonial Promenade" (the "Shopping Center").

C. By a certain Lease entered into between Landlord and Tenant, dated as of September 14, 2015 (the "Lease"), Landlord leased to Tenant certain premises within the Shopping Center, as more particularly described in the Lease (the "Premises").

D. A copy of the Lease has been delivered to Mortgagee, the receipt of which is hereby acknowledged.

E. The parties hereto desire to effect the subordination of the Lease to the Mortgage and to provide for the non-disturbance of Tenant by the holder of the Mortgage or any purchaser under a foreclosure or deed in lieu thereof.

Agreement

In consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. Mortgagee hereby consents to and approves the Lease and all of the terms and conditions thereof.

2. Tenant covenants and agrees with Mortgagee that the Lease is hereby made and shall continue hereafter to be subject and subordinate to the lien of the Mortgage, and to all modifications and extensions thereof, with the same force and effect as if the Mortgage had been executed and delivered prior to the execution and delivery of the Lease and without regard to the order of priority of recording the Mortgage, subject, however, to the provisions of this Agreement.



3. Tenant certifies that the Lease is presently in full force and effect and unmodified and Tenant as of this date has no knowledge of any default, charge, lien or claim of offset under the Lease.

4. Mortgagee agrees that, so long as Tenant is not in default under the Lease:

(a) Tenant shall not be named or joined as a party or otherwise in any suit, action or proceeding for foreclosure by the Mortgagee or to enforce any rights under the Mortgage or the Loan.

(b) The possession by Tenant of the Premises and Tenant's rights under the Lease shall not be disturbed, affected or impaired by (i) any suit, action or proceeding under the Mortgage or the Loan or for foreclosure under the Mortgage, or any other enforcement of any rights under the Mortgage or any other documents pertaining to the Loan, (ii) any judicial or non-judicial foreclosure, sale or execution of the Premises or the Shopping Center, or any deed given in lieu of foreclosure, or (iii) any default under the Mortgage or the Loan.

(c) All condemnation awards and insurance proceeds paid or payable with respect to the Premises or any other part of the Shopping Center and received by Mortgagee shall be applied and paid in the manner set forth in the Lease.

(d) Neither the Mortgage nor any other security instrument executed in connection with the Loan shall cover or be construed as subjecting in any manner to the lien thereof any trade fixtures, signs or other personal property at any time furnished or installed by or for Tenant in or on the Premises.

5. If Mortgagee or any future holder of the Mortgage or any other transferee under the Mortgage shall become the owner of the Shopping Center or any part thereof by reason of foreclosure of the Mortgage, or if the Shopping Center or any part thereof shall be sold as a result of any action or proceeding to foreclose the Mortgage, or by transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between Tenant and the then owner of the Shopping Center as "Landlord" under the Lease, upon all of the same terms, covenants and provisions contained in the Lease, and in such event:

(a) Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including also any extension periods, if Tenant elects or has elected to exercise its option to extend the term) and Tenant hereby agrees to attorn to such new owner and to recognize such new owner as "Landlord" under the Lease; and

(b) Such new owner shall be bound to Tenant under and hereby assumes all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including



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also any extension periods, if Tenant elects or has elected to exercise its option to extend the term), and Tenant shall, from and after the date such new owner succeeds to the interest of "Landlord" under the Lease, have the same remedies against such new owner for the breach of any covenant contained in the Lease; provided, however, that such new owner shall not (i) be bound by any rent or additional rent which Tenant might have paid for more than one month in advance to any prior landlord (including Landlord), or (ii) be personally liable for any breach of the Lease by or other act or omission of any prior landlord (including Landlord) or (iii) be bound by any amendment or modification of the Lease made without Mortgagee's consent which would reduce fixed annual rent or any other monetary obligation of Tenant under the Lease.

6. Any notices or communications given under this Agreement shall be in writing and shall be deemed given on the earlier of actual receipt or three (3) days after deposit in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, at the respective addresses set forth above, or at such other address as the party entitled to notice may designate by written notice as provided herein.

7. This Agreement shall bind and inure to the benefit the parties hereto and their respective successors and assigns.

8. This Agreement contains the entire agreement between the parties and cannot be changed, modified, waived or canceled except by an agreement in writing executed by the parties against whom enforcement of such modification, change, waiver or cancellation is sought.

9. This Agreement and the covenants contained herein shall run with and shall bind the land on which the Shopping Center is located.

[Signature Page Follows]



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[Signature Page to SNDA)

EXECUTED as of the date first written above.

MORTGAGEE:

SERVISFIRST BANK

By: 

Name: John Peacock

Title: Vice-President

TENANT:

ACADEMY, LTD., a Texas limited partnership

By: Academy Managing Co., L.L.C., a Texas
limited liability company, its general partner

By: 

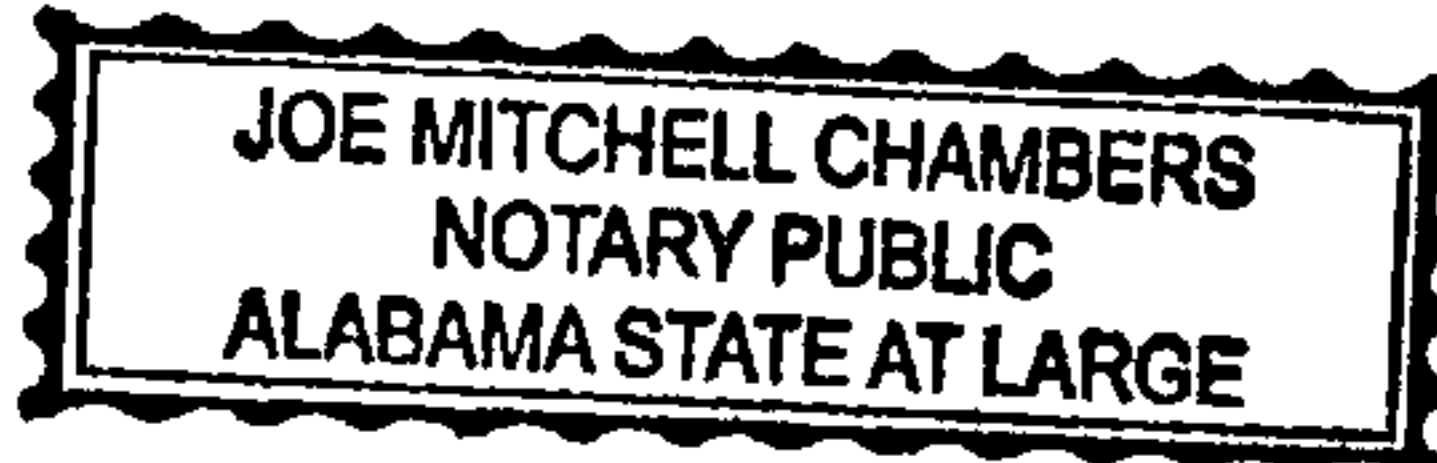
Name: John Kranyak



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STATE OF Alabama §
COUNTY OF Houston §

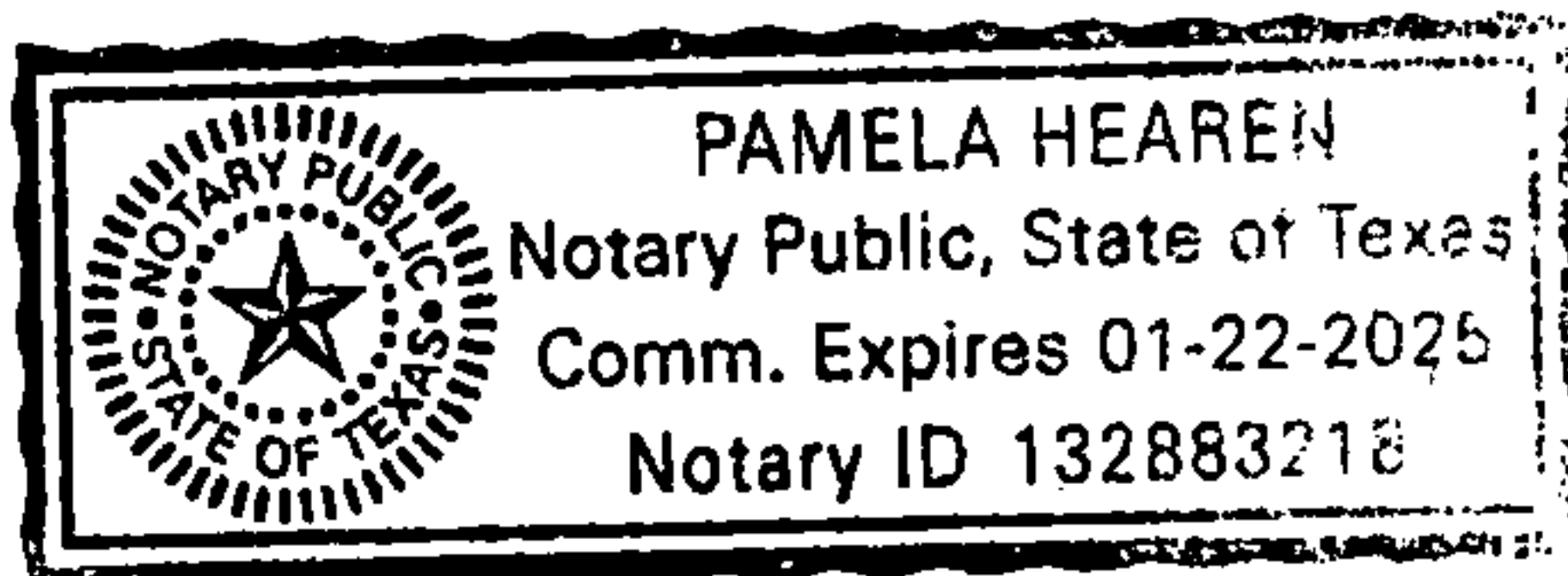
The foregoing instrument was acknowledged before me this 6 day of February, 2023, by John Peacock, Vice-President of ServisFirst Bank, an Alabama banking corporation on behalf of said Corporation.



[Signature]
Notary Public, State of Alabama

STATE OF TEXAS §
COUNTY OF Harris §

The foregoing instrument was acknowledged before me this 26th day of January, 2023, by John Kranyak, SVP of Academy Managing Co., L.L.C., a Texas limited liability company, general partner of Academy, Ltd., a Texas limited partnership, on behalf of said limited liability company and limited partnership.



[Signature]
Notary Public, State of Texas



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EXHIBIT "A"

LEGAL DESCRIPTION

Lots 1, 3, 5 and 6. according to the Final Plot of Colonial Promenade Hoover. Phase III, as recorded In Map Book 37, Page 15, In the Probate Office of Jefferson County, Alabama, Bessemer Division. and In Map Book 29, Page 149, In the Probate Office of Shelby County, Alabama TOGETHER WITH the non-exclusive easements appurtenant to each of the above described Lots for Ingress, Egress, parking of motor vehicles and the Installation, use, maintenance and repair of utility lines over Lot 2 (over such Lot 2 is shown on the plot recorded In Map Book 37, Page 6. In the Probate Office of Jefferson County, Alabama, Bessemer Division), which easements are created by and more particularly described In the Easement with Covenants and Restrictions Affecting Land ("ECR"), dated March 1, 2001, recorded In Bessemer Instrument 200162/4737 In the Probate Office of Jefferson County, Alabama, Bessemer Division and re-filed In Instrument 2001-37349 In the Probate Office of Shelby County, Alabama.