

TAX ID NO. 42-088-0002
Loan No. 2000911-9001

ENT 91807:2018 PG 1 of 9
Jeffery Smith
Utah County Recorder
2018 Sep 25 01:17 PM FEE 26.00 BY BA
RECORDED FOR Meridian Title Company
ELECTRONICALLY RECORDED

WHEN RECORDED, RETURN TO:

ZB, N.A. dba Zions First National Bank
Enterprise Loan Operations-UT RDWG 1970
PO Box 25007
Salt Lake City, UT 84125-0007

**SUBORDINATION, NON-DISTURBANCE AND
ATTORNMENMENT AGREEMENT AND ESTOPPEL CERTIFICATE**

This Subordination, Non-Disturbance and Attornment Agreement and Estoppel Certificate (the "Agreement") is made and executed as of the 21 day of September, 2018, by and between ZB, N.A., dba Zions First National Bank ("Lender"), Traverse Educational Holdings, LLC, a Utah limited liability company ("Landlord"), and Ignite Entrepreneurship Academy ("Tenant").

RECITALS

A. Tenant and Landlord have entered into a Charter School Lease dated as of June 1, 2017 (together with any and all amendments, modifications and extensions, and including all guarantees of the lease, the "Lease"), whereby Tenant has agreed to lease the real property described in the Lease as the leased or demised premises, which leased or demised premises are located in Utah County, State of Utah, together with the improvements now or hereafter located on the leased or demised premises, and are more particularly described in Exhibit A attached hereto and incorporated into this Agreement by this reference (the "Property"). On the condition that the Lease and all of Tenant's rights in the Property (the "Lease Rights") be subordinated as provided below, and that Tenant enter into this Agreement, Lender has agreed to make a term loan (the "Loan") in the principal amount of Five Million Three Hundred Thirty-Five Thousand Dollars (\$5,335,000.00) to provide term financing for Landlord. In connection with the Loan, Landlord has or will be executing a Term Loan Agreement (the "Loan Agreement"), a Promissory Note (the "Note"), a Term Loan Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing (the "Trust Deed"), an Assignment of Leases (the "Assignment of Leases"), and any and all other documents required by Lender to evidence and/or secure Landlord's obligations under the Loan and the Loan Documents.

AGREEMENT

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Lender, Landlord, and Tenant agree as follows:

1. **Estoppel Certificate.** Tenant and Landlord hereby certify to Lender that, as of the date of this Agreement, Lender is relying on all of the following certifications and agreements of Tenant and Landlord as consideration for Lender executing this Agreement, and in the making of the Loan evidenced by the Note and secured by the Trust Deed, Assignment of Leases, and other collateral identified in the Loan Documents:

- a. The Lease is unmodified and in full force and effect.
- b. None of the rent which Tenant is required to pay under the Lease has been prepaid, or will in the future be prepaid, more than one month in advance.
- c. To Tenant's and Landlord's knowledge, neither Tenant nor Landlord is in default under the Lease and no event has occurred and no condition exists, which with the giving of notice, the passage of time, or both, would constitute a default by Tenant or Landlord under the Lease.
- d. The Lease has not been modified, terminated, or amended, by "side letter" or otherwise, and shall not after the date of this Agreement be modified, terminated, or amended, by "side letter" or otherwise, without the prior written consent of Lender for any termination and each such amendment or modification. Any attempted modification, termination, or amendment without the prior written consent of Lender shall be void.
- e. Tenant has an exclusive option to purchase the Property pursuant to Section 2.6 and Exhibit C of the Lease.

2. **Subordination to Loan Documents.** The Lease and Lease Rights are hereby made subject, subordinate, inferior, and junior to the Loan Documents and the liens created by the Loan Documents, and to all sums advanced on the security for the Loan Documents, including all sums advanced or costs incurred in connection with the Loan Documents or the Loan, and including all renewals, modifications, consolidations, replacements, and extensions of the Loan and any of the Loan Documents, including, without limitation, any increases in the principal amount of the Loan and changes in the interest rate of the Loan, and any future lien or liens affecting the Property held by or made for the benefit of Lender. The Lease and Lease Rights are hereby subordinated to the Loan Documents and the liens created by the Loan Documents, the same and as fully as if the Loan Documents had been executed and delivered, and recorded, where applicable, prior to execution, delivery, and recording of the Lease.

3. **Acknowledgement of Assignment of Rents.** Tenant agrees and acknowledges that it has notice that the Lease, the Lease Rights, the rents, and all other sums due under the Lease have been assigned or are to be assigned to Lender. Specifically, but without limitation, Tenant consents to the Assignment of Leases executed by Landlord to Lender. In the event that Lender notifies Tenant of a default under any of the Loan Documents and demands that Tenant pay its rent and all other sums due under the Lease to Lender, Tenant shall honor such demand and pay its rent and all other sums due under the Lease directly to Lender or as otherwise required pursuant to such notice.

4. **Notice and Opportunity to Cure.** Tenant agrees to deliver to Lender, within five (5) days of delivery to Landlord, a copy of all notices and other documents delivered to Landlord in connection with the Lease, specifically including, but without limitation, any notices of default

or termination. If any default occurs under the Lease, Lender shall have the same rights of notice of the default and to cure such default as Landlord has under the Lease.

5. **Non-Disturbance.** In the event of foreclosure of the Trust Deed, or upon a sale of the Property pursuant to the trustee's power of sale contained in the Trust Deed, or upon a transfer of the Property by conveyance in lieu of foreclosure (collectively, a "Transfer"), then so long as Tenant is not in default under any of the terms, covenants, or conditions of the Lease, Lender shall not name or join Tenant in any foreclosure proceeding, nor shall Lender disturb the possession of Tenant, its successors and assigns. In the event of a Transfer, Lender will perform and be bound by all of the obligations imposed on Landlord by the Lease for the balance of the term of the Lease, and any extension or renewals of the Lease, as long as no event of default has occurred under the Lease, which has continued to exist for such period of time, after notice and opportunity to cure, if any, required by the Lease, as would entitle Landlord under the Lease 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 under the Lease.

6. **Attornment.** Upon the occurrence of a Transfer, Tenant hereby agrees to attorn to, adhere to and accept any such successor owner as landlord under the Lease, and to be bound by and perform all of the obligations imposed by the Lease, such attornment to be self-operative without the execution of any further instruments.

7. **No Liability for Lender.** Lender, or any successor owner of the Property resulting from a Transfer, shall not be (a) liable for any obligations under the Lease which arise or accrue prior to a Transfer or which arise or accrue at any time after Lender ceases to be the owner of the Property; (b) liable for any damages or other relief attributable to any act or omission of a prior landlord, including Landlord; (c) liable for any damages or other relief attributable to any latent or patent defect in the Property; (d) liable for any damages or other relief attributable to any breach by any prior landlord, including Landlord, under the Lease or any representation or warranty made in connection with the Lease; (e) subject to any offsets or defenses which Tenant might have against any prior landlord, including Landlord; (f) bound by any rent or additional rent which Tenant might have paid in advance to any prior landlord, including Landlord, for a period in excess of one month or by any security deposit, cleaning deposit or other prepaid charge which Tenant might have paid in advance to any prior landlord, including Landlord; (g) bound by any assignment, subletting, renewal, extension or any other agreement or modification of the Lease made without the prior written consent of Lender; or (h) liable for any indirect or consequential damages, including loss of sublet rentals, loss of profits, or damage to goodwill or reputation.

Nothing in this Agreement is intended to constitute an agreement by Lender to perform any obligation of Landlord as landlord under the Lease prior to the time Lender obtains title to the Property by Transfer or otherwise obtains possession of the Property pursuant to the terms of the Loan Documents. Specifically, but without limitation, Lender shall have no obligations with respect to the erection or completion of any improvements on the Property, either at the commencement of the term of the Lease or upon any renewal or extension of the term of the Lease, or upon the addition of additional space, pursuant to any expansion rights contained in the Lease.

In the event that Lender shall acquire title to the Property, Lender shall have no obligation, nor incur any liability, beyond Lender's then equity interest, if any, in the Property, and Tenant shall look exclusively to such equity interest of Lender, if any, in the Property for the payment and discharge of any obligations imposed upon Lender under this Agreement or under the Lease, and Lender is hereby released and relieved of any other obligations under this Agreement and the Lease.

8. Unlawful Use, Medical Marijuana, Controlled Substances and Prohibited Activities. Tenant shall not use or occupy or permit the use or occupancy of the Property in any manner that would be a violation of federal, state or local law or regulation, regardless of whether such use or occupancy is lawful under any conflicting law, including without limitation, any law relating to the use, sale, possession, cultivation manufacture, distribution or marketing of any controlled substances or other contraband (whether for commercial, medical, or personal purposes), or any law relating to the medicinal use or distribution of marijuana.

9. Notices. All notices shall be in writing and shall be deemed to have been sufficiently given or served when personally delivered, deposited in the United States mail, by registered or certified mail, or deposited with a reputable overnight mail carrier which provides delivery of such mail to be traced, addressed as follows:

Lender: Zions First National Bank
Real Estate Banking Group
One South Main Street, Suite 470
Salt Lake City, Utah 84133
Attn: Jacob Despain

With copies to: Kirton McConkie
50 East South Temple, Suite 400
Salt Lake City, Utah 84111
Attn: John B. Lindsay

Landlord: Traverse Educational Holdings, LLC
17 East Winchester Street, Suite 200
Murray, Utah 84107
Attn: William O. Perry, IV

Tenant: Ignite Entrepreneurship Academy
1650 West Traverse Terrace Drive
Lehi, Utah 84043

Such addresses may be changed by notice to the other party given in the same manner provided in this Section.

10. **No Derogation of Liens.** Nothing contained in this Agreement shall be construed to derogate from or in any way impair or affect the lien and charge or provisions of the Trust Deed, Assignment of Leases, or any other lien created by the Loan Documents.

11. **Governing Law.** This Agreement shall be governed by, construed and interpreted in accordance with the laws of the State of Utah.

12. **Successors and Assigns.** This Agreement is and shall be binding upon and shall inure to the benefit of Tenant, Lender and their respective successors and assigns.

13. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Agreement shall be sufficient for all purposes without producing or accounting for any other counterpart. Copies of this Agreement, and fax signatures thereon, shall have the same force, effect and legal status as an original.

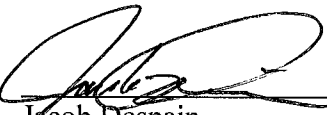
14. **Defined Terms.** Unless otherwise defined in this Agreement, capitalized terms used herein have the meanings given them in the Loan Agreement. The term Loan Documents shall include all amendments and modifications to the Loan Documents.

***[SIGNATURE PAGE(S) AND EXHIBIT(S),
IF ANY, FOLLOW THIS PAGE]***

DATED: September _____, 2018.

LENDER

ZB, N.A.,
dba Zions First National Bank


By: 

Jacob Despain
Senior Vice President

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)



The foregoing instrument was acknowledged before me this 25 day of September, 2018, by Jacob Despain, Senior Vice President of ZB, N.A., dba Zions First National Bank.

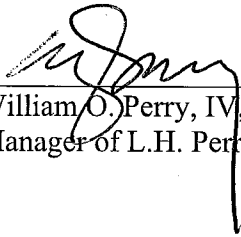


NOTARY PUBLIC
Residing at: Salt Lake City

LANDLORD

TRAVERSE EDUCATIONAL HOLDINGS, LLC,
a Utah limited liability company

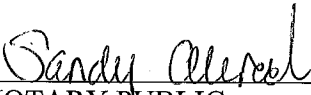
By: L.H. Perry Investments, LLC,
a Utah limited liability company,
Manager of Traverse Educational Holdings, LLC

By: 

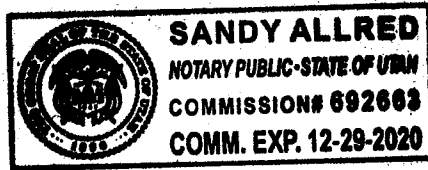
William O. Perry, IV,
Manager of L.H. Perry Investments, LLC

STATE OF UTAH)
)
) : ss.
)
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 17 day of September, 2018, by William O. Perry, IV, Manager of L.H. Perry Investments, LLC, a Utah limited liability company, Manager of Traverse Educational Holdings, LLC, a Utah limited liability company.



NOTARY PUBLIC
Residing at: Salt Lake City



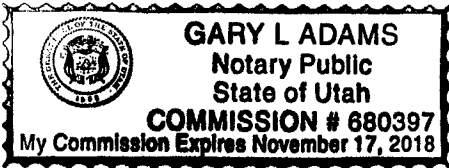
TENANT

IGNITE ENTREPRENEURSHIP ACADEMY,
a Utah nonprofit corporation

By: Heidi Long
Name: Heidi Long
Its: Executive Director

STATE OF UTAH)
) ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this 18th day of September, 2018, by Heidi Long, of Ignite Entrepreneurship Academy, a Utah nonprofit corporation.



Gary Adams
NOTARY PUBLIC
Residing at: Spanish Fork, UT

EXHIBIT A
REAL PROPERTY DESCRIPTION

The real property located in Utah County, State of Utah, and more particularly described as follows:

Lot 2, Ignite Subdivision, according to the plat thereof as recorded in the office of the Utah County Recorder.

Tax ID: 42-088-0002