

## SECOND AMENDED AND RESTATED PROMISSORY NOTE

Tulsa, Oklahoma

\$ 3,000,000.00

March 7, 2019

**FOR VALUE RECEIVED, LOFT PARTNERS LLC**, an Oklahoma limited liability company, or its permitted assigns, having its office at 2624 E. 21<sup>st</sup> Street, Tulsa, Oklahoma 74114, (hereinafter called "Maker"), promises to pay to the order of the TULSA DEVELOPMENT AUTHORITY, a public body corporate, as Payee Agent for Tulsa Uptown Redevelopment Corporation and Tribune Building Redevelopment Corporation of Fifth Floor, City Hall, 175 East Second Street, Tulsa, Oklahoma 74103 (hereinafter, together with all subsequent holders of this Second Amended and Restated Note – the "Second Amended Note", called "Payee") the principal sum of Three Million Dollars (\$3,000,000.00), or so much thereof as shall be disbursed and remain outstanding hereunder, without interest, in U. S. funds on the following date:

Three Million Dollars shall be due and payable on the 15th day of October, 2020 or ten years after the last date on which an advance to Maker was made hereunder as an authorized reimbursement for expenditures made in the development of the land hereinafter described pursuant to the Contract for Sale of Land for Private Development dated February 7, 2008, between Maker's assignor and predecessor, Tribune Acquisition, LLC, and Payee (the "Contract").

TDA will hold this Second Amended Note solely as Paying Agent on behalf of Tulsa Uptown Redevelopment Corporation and Tribune Building Redevelopment Corporation, and shall promptly forward any cash amounts received pursuant to this Second Amended Note to Tulsa Uptown Redevelopment Corporation and Tribune Building Redevelopment Corporation, as appropriate. Maker shall have no obligation to Payee other than to make cash payments to TDA pursuant to this Second Amended Note, except as otherwise provided in the "Contract". Only TDA shall have the right to enforce this Second Amended Note on behalf of the Payee and shall have sole authority to waive any of its rights, powers or privileges hereunder

Failure to pay the Three Million Dollars due hereunder on the due date above set forth will constitute a default applying to the entire indebtedness. Upon default or at maturity of said amount above described, interest will start to

accrue on the unpaid principal balance hereunder at the rate of 12% per annum until paid.

If the principal is not paid when due Payee, without notice except as otherwise provided herein, shall be entitled, at Payee's option, to declare the Maker in default and may exercise any and all rights and remedies under all instruments securing payment hereof, as well as any and all other rights and remedies at law or in equity or otherwise for the collection of the indebtedness evidenced hereby and all lawful charges thereon.

The Maker shall also pay costs of collection, including a reasonable attorney's fee if this Second Amended Note is referred to an attorney for collection. Time is of the essence hereof for all purposes. All payments due hereunder shall be payable in lawful money of the United States of America and shall be made to Payee at the above address, or at such other address as Payee may from time to time designate in writing to Maker. Maker shall have the right to prepay this Second Amended Note, in whole or in part, at any time without penalty.

Maker waives presentment and demand for payment, notice of intent to accelerate maturity, notice of acceleration of maturity, protest or notice of protest and nonpayment, bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and properties securing payment hereof.

If default be made in the payment in whole or in part of any sum provided for herein, or an event of default shall occur under any instrument executed as security for (including without limitation the Irrevocable Letter of Credit issued by MapleMark Bank, No.: 5002, dated February 27, 2019), as evidence of, or otherwise in connection with this Second Amended Note or the indebtedness evidenced hereby (hereinafter all such instruments being collectively called the "Loan Documents"), then Payee may, at Payee's option, without further notice or demand (except as may be otherwise specifically provided for in the Loan Documents), declare the unpaid principal balance and accrued interest on this Second Amended Note at once due and payable, pursue any and all other rights, remedies, and recourses available to Payee, or pursue any combination of the foregoing, all remedies hereunder and under the Loan Documents being cumulative.

Failure to exercise any of the foregoing options upon the happening of one or more of the foregoing events shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event, and no single or partial exercise of any right or remedy shall preclude other or further exercise of the same or any other right or remedy. Payee shall have no duty to exercise any or all of the rights and remedies herein provided or contemplated. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time, or nullify any prior exercise of any such option without the express written consent of the Payee.

This Second Amended Note is secured by the Irrevocable Letter of Credit issued by MapleMark Bank, No.: 5002, dated February 27, 2019. This Second Amended Note shall be covered and construed according to the laws of the State of Oklahoma, without regard to principles of conflicts of laws.

All notices hereunder shall be given at the following addresses: if to Maker, 2624 E. 21<sup>st</sup>, Tulsa, OK 74114; if to Payee, Chairman Tulsa Development Authority, 1216 N. Lansing Avenue, Suite D, Tulsa, Oklahoma 74106.

Either party may change its address for notice purposes upon giving ten (10) days prior notice thereof in accordance with this paragraph. All notices given hereunder shall be in writing and shall be considered properly given if mailed by first class United States Mail, postage prepaid, registered or certified with return receipt requested, or by delivering the notice in person to the intended addressee. Any notice mailed as above provided shall be effective the day following the day of deposit in the custody of the U. S. Postal Service; notice personally delivered shall be effective upon receipt.

The records of the holder thereof shall be prima facie evidence of the amount owing on this Second Amended Note. This Second Amended Note may not be terminated orally, but only by a discharge in writing and signed by the party who is the owner and holder of this Second Amended Note at the time enforcement of any discharge is sought.

In the event that the Maker shall sell, convey, transfer or otherwise alienate directly or indirectly all or any portion of the legal or equitable title to Property without the prior written consent of Payee, whether voluntarily or involuntarily, the entire amount of the principal due under the terms hereof shall

become immediately due and payable in full at the option of the Payee and the mortgage shall be subject to immediate foreclosure.

Advances of funds hereunder shall be made only in compliance with the following provisions and conditions:

## **SECTION 1. DEFINITIONS.**

The terms herein set forth shall for all purposes of this Second Amended Note have the following meanings. Unless the context otherwise indicates, words importing the singular shall include the plural and vice versa and the use of the neuter, masculine or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine and feminine gender.

A. "Developer" or "Redeveloper" means Loft Partners LLC, an Oklahoma Limited Liability Company, or any permitted assigns. Assignment or other transfer to an entity in which Jay Helm and/or Steven Ganzkow own a controlling interest shall be deemed a permitted assignment and shall not require the consent of TDA; provided that at least sixty (60) days prior to any such assignment, Maker shall deliver advance written notice thereof to Payee together with documentation acceptable to Payee demonstrating that the intended assignee has, at a minimum, financial qualifications, strength and resources equivalent to that of the Maker as of the date of this Second Amended Note.

B. "Letter of Credit" means that certain irrevocable standby letter of credit in the total principal sum of Three Million Dollars (\$3,000,000.00), issued by The MapleMark Bank, No.: 5002, dated February 27, 2019, in the form attached hereto as Exhibit A.

## **SECTION 2. CONTACT PERSON.**

The Redeveloper agrees that Jay L. Helm is the primary contact/member of the Redeveloper. He shall act as primary contact person, acting on behalf of the Redeveloper regarding all aspects of the project. Developer may update this information periodically and any changes or updates to the contact information below shall be provided to TDA in writing. The Redeveloper furnished the

following contact information and grants permission for the City or TDA to contact:

Name: Jay L. Helm  
Address: 2624 E. 21st  
Tulsa, Oklahoma 74114  
Phone: 918/748-8636  
Fax: 918/749-2450  
E-mail: [jay@argtulsa.com](mailto:jay@argtulsa.com)

**SECTION 3. AMENDMENT AND RESTATEMENT.** This Second Amended Note amends and restates in its entirety, and is being delivered by Maker in substitution for, the Amended and Restated Promissory Note dated March 15, 2013 (the Amended Note) which amended the Original Note dated October 15, 2010 (the "Original Note"). This Second Amended Note evidences all of the same indebtedness evidenced by the Original Note and the Amended Note, less previous repayments upon the principal balance (the current balance of which is \$3,000,000.00), and is not intended to be, nor shall it be construed to create, a novation or accord and satisfaction of the Original Note nor the Amended Note. From and after the execution and delivery of this Second Amended Note, the terms and provisions of the Original Note and the Amended Note shall be deemed superseded and the terms and provisions of this Second Amended Note shall govern. Upon execution and delivery of this Second Amended Note, Lender shall add a notation to the Original Note and the Amended Note that each has been amended, restated and superseded by this Second Amended Note.

Executed as of the date and year first above written.

**LOFT PARTNERS LLC.**

By: \_\_\_\_\_  
Jay L. Helm, Manager