

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO

Lendeavor, Inc.

268 Bush Street #2921

San Francisco, CA 94104

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DT #202012110107

GNW 20-8531

2nd DT #202012110108

**SUBORDINATION AGREEMENT**

**THIS SUBORDINATION AGREEMENT** (as amended, restated, supplemented or otherwise modified from time to time, this "*Agreement*"), is made and entered into this 2nd day of December, 2020 by and between EML REAL ESTATE, LLC ("*Subordinated Creditor*") and Lendeavor, Inc. ("*Senior Lender*").

**WITNESSETH THAT:**

A. TEL PROPERTIES, LLC and MATTHEW E. CARLSON, DDS, PLLC (collectively referred to as "*Borrower*") wish to enter into separate Loans and Security Agreements with Senior Lender (as the same may be amended, supplemented, increased, restated or otherwise modified from time to time, the "*Senior Secured Facility*"), secured by first position mortgage on the real property located at 130 S. 15th St, Mount Vernon, WA 98274 and a 1<sup>st</sup> priority UCC-1 security interest in Borrower and

B. Borrower, as borrower, and Subordinated Creditor, as lender, wish to enter into a Promissory Note, a draft of which is attached hereto as Exhibit A (as the same may be amended, supplemented, increased, restated or otherwise modified from time to time, the "*Subordinated Facility*"); and

C. Senior Lender is unwilling to enter Senior Secured Facility with Borrower unless and until the parties hereto enter into this Agreement.

**AGREEMENT:**

Now therefore, in order to induce Senior Lender to make and maintain financial accommodations to Borrower provided for in the Senior Secured Facility, in order for Subordinated Creditor to extend financial accommodations to Borrower and enter into this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are

hereby acknowledged, Subordinated Creditor and Senior Lender each agree that each such party will comply with such of the following provisions as are applicable to it.

**1. Certain Definitions.**

**1.1 Bankruptcy Laws.** The term "*Bankruptcy Laws*" shall mean Title 11, United States Code, as amended, or any similar or successor statute.

**1.2 Collateral.** The term "*Collateral*" shall mean the Senior Lender Collateral or Subordinated Creditor Collateral, as the context may require with respect to actions by Senior Lender or Subordinated Creditor, respectively.

**1.3 Disposition.** The term "*Disposition*" shall mean any sale, lease, exchange, transfer or other disposition.

**1.4 Enforcement Action.** The term "*Enforcement Action*" shall mean an action under applicable law to

(a) foreclose, execute, levy, or collect on, take possession or control of, sell or otherwise realize upon (judicially or non-judicially), or lease, license, or otherwise dispose of (whether publicly or privately), Collateral, or otherwise exercise or enforce remedial rights with respect to Collateral under the Senior Secured Facility or the Subordinated Facility (including by way of set-off, recoupment, notification of a public or private sale or other disposition pursuant to the UCC or other applicable law, notification to account debtors, notification to depository banks under deposit account control agreements, or exercise of rights under landlord consents, if applicable);

(b) solicit bids from third Persons to conduct the liquidation or disposition of Collateral or to engage or retain sales brokers, marketing agents, investment bankers, accountants, appraisers, auctioneers, or other third Persons for the purposes of valuing, marketing, promoting, and selling Collateral;

(c) to receive a transfer of Collateral in satisfaction of Indebtedness or any other Obligation secured thereby or to exercise any put option or to cause any Obligor to honor any redemption or mandatory prepayment obligation with respect to any Indebtedness; or

(d) to otherwise enforce a security interest or exercise another right or remedy, as a secured creditor or otherwise, pertaining to the Collateral at law, in equity, or pursuant to the Senior Secured Facility or the Subordinated Facility (including the commencement of applicable legal proceedings or other actions with respect to all or any portion of the Collateral to facilitate the actions described in the preceding clauses, and exercising voting rights in respect of equity interests comprising Collateral).

**1.5 Insolvency Proceeding.** The term "*Insolvency Proceeding*" shall mean any voluntary or involuntary dissolution, winding-up, total or partial liquidation, reorganization or bankruptcy, insolvency, receivership or other statutory or common law proceedings or arrangements involving an Obligor, or the readjustment of the liabilities of an Obligor or any assignment for the benefit of creditors or any marshalling of the assets or liabilities of an Obligor.

**1.6 Obligor.** The term "***Obligor***" shall mean Borrower, any guarantor of the Senior Indebtedness at any time, and each other Person that now or hereafter is liable, whether directly or indirectly, for all or any portion of the Senior Indebtedness, or whole property or assets or any portion thereof are security for all or any portion of the Senior Indebtedness.

**1.7 Paid in Full and Payment in Full.** The terms "***Paid in Full***" and "***Payment in Full***" shall mean all amounts owing with respect to the Senior Indebtedness (including any interest accruing thereon after the commencement of any Insolvency Proceeding by or against an Obligor, and any such amounts shall be deemed held in trust by Subordinated Creditor for the benefit of Senior Lender, and Subordinated Creditor shall deliver any such amounts to Senior Lender), have been fully and completely paid in cash.

**1.8 Person.** The term "***Person***" shall mean any natural person, corporation, limited liability company, trust, business trust, joint venture, association, company, partnership, governmental authority, or other entity.

**1.9 Proceeds.** The term "***Proceeds***" shall mean (a) all "proceeds," as defined in Article 9 of the UCC, of the Collateral, and (b) whatever is recovered when Collateral is sold, exchanged, collected, or disposed of, whether voluntarily or involuntarily, including any additional or replacement Collateral provided during any Insolvency Proceeding and any payment or property received in an Insolvency Proceeding on account of any "secured claim" (within the meaning of section 506(b) of the Bankruptcy Code or similar Bankruptcy Law).

**1.10 Senior Indebtedness.** The term "***Senior Indebtedness***" shall mean any and all loans, advances, extensions of credit to, and all other indebtedness, obligations and liabilities, now existing or hereafter arising, direct or contingent, of an Obligor now or hereafter owing to Senior Lender, outstanding from time to time pursuant to the Senior Secured Facility or any obligations owing to the Senior Lender and its affiliates required to be secured pursuant to the terms of the Senior Secured Facility, prior to, during or following any proceeding in respect of any Insolvency Proceeding, together with interest thereon and all fees, expenses and other amounts (including costs of collection and reasonable attorneys' fees) at any time owing to Senior Lender, arising in connection with the Senior Secured Facility (but only to the extent to which the Senior Secured Facility is enforceable against an Obligor and to the extent to which such amounts are allowed or allowable as claims against an Obligor in any Insolvency Proceeding, and in such case, including any interest thereon accruing after the commencement of any Insolvency Proceeding). All Senior Indebtedness shall be entitled to the benefits of this Agreement without notice thereof being given to Subordinated Creditor, and the Senior Indebtedness shall be deemed outstanding while an enforceable commitment of Senior Lender to extend credit or issue or guaranty the issuance of letters of credit exists pursuant to the loan documents between the Senior Lender and the Borrower (the "***Senior Lender Loan Documents***"), even if there is no amount then owing to Senior Lender.

**1.11 Senior Lender.** The term "***Senior Lender***" shall include, jointly and severally, Initial Senior Lender and any and all holders or pledgees of Senior Indebtedness and their respective heirs, legal or personal representatives, successors and assigns.

**1.12 Senior Lender Collateral.** The term "***Senior Lender Collateral***" shall mean the term Collateral as defined in the Senior Secured Facility and any and all other property of Borrower

or any other Obligor, now existing or hereafter acquired, that may at any time be or become subject to a security interest in favor of the Senior Lender.

**1.13 Senior Lender Loan Documents.** The term “*Senior Lender Loan Documents*” shall mean all loan agreements, notes, security interests and related documents executed in connection with the Senior Secured Facility.

**1.14 Subordinated Indebtedness.** The term “*Subordinated Indebtedness*” shall mean all loans, advances, extensions of credit to, and all other indebtedness, obligations and liabilities, now existing or hereafter arising, direct or contingent, of an Obligor now or hereafter owing to Subordinated Creditor pursuant to the Subordinated Facility or otherwise and any and all indebtedness to Subordinated Creditor in respect of any and all future loans or advances or extensions of credit made to an Obligor by Subordinated Creditor, prior to, during or following any proceeding in respect of any Insolvency Proceeding, together with interest thereon and all fees, expenses and other amounts (including costs of collection and reasonable attorneys’ fees) at any time owing to Subordinated Creditor, whether arising in connection with the Subordinated Facility or such other indebtedness (but only to the extent to which the Subordinated Facility is enforceable against an Obligor and to the extent to which such amounts are allowed or allowable as claims against an Obligor in any Insolvency Proceeding, and in such case, including any interest thereon accruing after the commencement of any Insolvency Proceeding).

**1.15 Subordinated Creditor.** The term “*Subordinated Creditor*” shall include Subordinated Creditor and its respective heirs, legal or personal representatives, successors and assigns.

**1.16 Subordinated Creditor Collateral.** The term “*Subordinated Creditor Collateral*” shall mean the term Collateral as defined in the Subordinated Facility and any and all other property of Borrower or any other Obligor, now existing or hereafter acquired, that may at any time be or become subject to a security interest in favor of the Subordinated Creditor.

**1.17 Subordinated Note.** The term “*Subordinated Note*” shall mean the Promissory Note attached as Exhibit A.

**1.18 Other Capitalized Terms.** Except as otherwise specified in this Agreement, capitalized terms used in this Agreement which are defined in the Senior Secured Facility have the same meanings herein as therein.

**2. Representations and Warranties.** Subordinated Creditor hereby represents and warrants to Senior Lender that there is no default in respect of any Subordinated Indebtedness.

**3. Terms of Subordination.**

**3.1 Payment Subordinated.** Subject to the following sentence, anything in the Subordinated Note to the contrary notwithstanding, the payment of the Subordinated Indebtedness is and shall be expressly subordinate and junior in right of payment to the prior indefeasible Payment in Full in cash of the Senior Indebtedness, and the Subordinated Indebtedness is hereby subordinated as a claim against any Obligor or any of the assets of, or ownership

interests in, any Obligor, whether such claim be in the event of any distribution of the assets of an Obligor upon any Insolvency Proceeding, or otherwise. In furtherance of the foregoing, no Obligor will make, and no Subordinated Creditor will demand, accept or receive, any payment or other distribution on account of the Subordinated Indebtedness until all the Senior Indebtedness has been indefeasibly Paid in Full in cash, provided that the payments of principal and interest in respect of the Subordinated Note set forth in the Subordinated Note may be made to the Subordinated Creditor to the extent that at the time of any such payment no Event of Default under the Senior Secured Facility has occurred and is continuing. If all or any part of payment of the Senior Indebtedness is rescinded or recovered directly or indirectly from Senior Lender as a preference, fraudulent transfer or otherwise (whether by demand, settlement, litigation or otherwise), such rescinded or recovered payments shall constitute Senior Indebtedness for all purposes under this Agreement and the obligations of Subordinated Creditor under this Agreement shall continue and remain in full force and effect or be reinstated, as the case may be. The provisions of the preceding sentence shall survive the termination of this Agreement and the Payment in Full of the Senior Indebtedness.

**3.2 Distributions in Insolvency Proceeding.** In the event of any Insolvency Proceeding relative to an Obligor or the property of any Obligor, all of the Senior Indebtedness shall first be indefeasibly Paid in Full in cash before any payment on account of principal, premium or interest or otherwise is made upon or in respect of any Subordinated Indebtedness, and in any such proceedings any payment or distribution of any kind or character, whether in cash or property or securities that may be payable or deliverable in respect of any Subordinated Indebtedness shall be paid or delivered directly to Senior Lender for application in payment of the Senior Indebtedness, unless and until all such Senior Indebtedness shall have been indefeasibly Paid in Full in cash. If, notwithstanding the foregoing, upon any such Insolvency Proceeding, any payment or distribution of assets of any Obligor of the Senior Indebtedness of any kind or character, whether in cash, property or securities, shall be received by Subordinated Creditor before all Senior Indebtedness is indefeasibly Paid in Full in cash, such payment or distribution shall be immediately paid over to Senior Lender, for application to the payment of all Senior Indebtedness remaining unpaid until all Senior Indebtedness shall have been indefeasibly Paid in Full in cash after giving effect to any concurrent payment or distribution to Senior Lender.

**3.3 Attorneys-in-Fact, Proof and Voting of Claims, Release of Lien in Collateral.**

(a) Release of Liens. If Senior Lender releases any Lien on any Collateral in connection with:

- (i) an Enforcement Action, or
- (ii) a Disposition of any Collateral under the Senior Secured Facility other than pursuant to an Enforcement Action (whether or not there is an event of default under the Senior Secured Facility),

then any Lien of Subordinated Creditor on such Collateral will be, except as otherwise provided below, automatically and simultaneously released to the same extent (and

transferred to the Proceeds of such Collateral), and Subordinated Creditor will promptly execute and deliver to Senior Lender such termination statements, releases, and other documents as Senior Lender requests to effectively confirm the release.

(b) Subordinated Creditor hereby appoints Senior Lender as its true and lawful attorney-in-fact with full power and authority in the place and stead of Subordinated Creditor or in Senior Lender's own name, in Senior Lender's discretion to take any action and to execute any and all documents and instruments that may be reasonable and appropriate for the limited purpose of carrying out the terms of Section 3.3(a), including any endorsements or other instruments of transfer or release. This appointment is coupled with an interest and is irrevocable until the Payment in Full of Senior Indebtedness or such time as this Agreement is terminated in accordance with its terms.

(d) Until Payment in Full of the Senior Indebtedness, Subordinated Creditor hereby irrevocably appoints, which appointment is irrevocable and coupled with an interest, Senior Lender as such Subordinated Creditor's true and lawful attorney-in-fact, with full power and authority, to the extent permitted by law, to prove all claims relating to the Subordinated Indebtedness, in the name of Senior Lender, or in the name of such Subordinated Creditor, as agent for and in the interest of Subordinated Creditor, in good faith, by proof of debt or proof of claim, to collect any assets of an Obligor and to receive and collect all distributions, securities, property and payments to which Subordinated Creditor would be otherwise entitled on any liquidation of an Obligor or any of its property or in any proceeding affecting an Obligor or its property under any bankruptcy or insolvency laws or any laws or proceedings relating to the relief of an Obligor, readjustment, composition or extension of indebtedness or reorganization on account of the Senior Lender Collateral. In no event shall Senior Lender be liable to Subordinated Creditor for any failure to prove the Subordinated Indebtedness, to exercise any right with respect thereto or to collect any sums payable thereon.

(e) **No Interference.** Subordinated Creditor shall not impede, interfere with, or restrain the exercise by Senior Lender of rights and remedies under the Senior Lender Loan Documents. In furtherance thereof, Subordinated Creditor hereby agrees not to oppose any motion filed or supported by Senior Lender for relief from stay or for adequate protection payments in respect of the Senior Indebtedness and not to oppose any motions supported by Senior Lender for any Obligor's use of cash collateral.

**3.4 Effect of Provisions.** The provisions hereof as to subordination are solely for the purpose of defining the relative rights of Senior Lender on the one hand, and Subordinated Creditor on the other hand, and none of such provisions shall impair, as between Obligors and Subordinated Creditor, the obligations of Obligors, which obligations are and shall remain unconditional and absolute, to pay to Subordinated Creditor in accordance with the terms of the Subordinated Note, nor shall any such provisions prevent Subordinated Creditor from exercising all remedies otherwise permitted by applicable law or under the terms of such Subordinated Indebtedness, subject to the rights, if any, of Senior Lender under the provisions of this Agreement.

**3.5 Lien Subordination; Priorities.** Notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any Liens securing the Subordinated Indebtedness granted on the Subordinated Creditor Collateral or of any Liens securing the Senior Indebtedness granted on the Senior Lender Collateral and notwithstanding any provision of the UCC, or any other applicable law or this Agreement or the Subordinated Note or any defect or deficiencies in, or failure to perfect, the Liens securing the Senior Indebtedness or any other circumstance whatsoever, the Subordinated Creditor hereby agrees that:

(a) any Lien on the Senior Lender Collateral securing any Senior Indebtedness now or hereafter held by or on behalf of the Senior Lender or any agent or trustee therefor, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be senior in all respects and prior to any Lien on the Subordinated Creditor Collateral securing any Subordinated Indebtedness; and

(b) any Lien on the Subordinated Creditor Collateral securing any Subordinated Indebtedness now or hereafter held by or on behalf of the Subordinated Creditor or any agent or trustee therefor regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to all Liens on the Senior Lender Collateral securing any Senior Indebtedness. All Liens on the Senior Lender Collateral securing any Senior Indebtedness shall be and remain senior in all respects and prior to all Liens on the Subordinated Creditor Collateral securing any Subordinated Indebtedness for all purposes, whether or not such Liens securing any Senior Indebtedness are subordinated to any Lien securing any other obligation of the Borrower or any other Person.

(c) For the avoidance of doubt, this Section 3.5 shall remain in full force and effect, and the relative priorities shall apply, regardless of whether or not the Lien securing the Senior Indebtedness is properly perfected or granted, voided, avoided, impaired or otherwise defective for any reason.

**3.6 Enforcement.** The Subordinated Creditor will not commence any action or proceeding against Borrower or any other Obligor to recover all or any part of the Subordinated Indebtedness, or join with any creditor (unless the Senior Lender shall so join) in bringing any Insolvency Proceeding against Borrower or any other Obligor, or take possession of, sell or dispense of any Collateral or any other asset of Borrower or any other Obligor or exercise or enforce any other right or remedy available to the Subordinated Creditor with respect to Borrower, any other Obligor, any of the Collateral or any other asset of Borrower or any other Obligor, unless and until the Senior Indebtedness has been Paid in Full.

(a) In furtherance of the foregoing, until the Payment in Full of the Senior Indebtedness, Senior Lender shall have the exclusive right to:

(i) commence and maintain an Enforcement Action (including the rights to set off or credit bid its debt);

- (ii) subject to Section 3.3, make determinations regarding the release or disposition of, or restrictions with respect to, the Senior Lender Collateral; and
- (iii) otherwise enforce the rights and remedies of a secured creditor under the UCC and the Bankruptcy Laws of any applicable jurisdiction, so long as any Proceeds received by Senior Lender in the aggregate in excess of those necessary to achieve Payment in Full are distributed in accordance with Section 3.7, except as otherwise required pursuant to the UCC and applicable law.

(d) Senior Lender will promptly notify Subordinated Creditor of the Payment in Full of Senior Indebtedness.

(e) **Custodial Files.** Upon Payment in Full of the Senior Indebtedness, upon the request of the Borrower or the Subordinated Creditor, the Senior Lender will direct any custodian holding assets of the Borrower to deliver such assets to the Subordinated Creditor or any other successor creditor that is to be a senior creditor to the Subordinated Creditor.

**3.7 Application of Proceeds.** Until the Payment in Full of the Senior Indebtedness, and regardless of whether an Insolvency Proceeding has been commenced, Collateral or Proceeds will be applied:

(a) first, to the Payment in Full of Senior Indebtedness (including any interest accruing thereon after the commencement of any Insolvency Proceeding by or against an Obligor, but only to the extent to which such amounts are allowed or allowable as claims against an Obligor, and excluding unasserted contingent obligations and indemnification obligations for which no claim or demand for payment has been made, in each case, at such time);

(b) second, to the payment in full in cash of the Subordinated Indebtedness, which shall include all amounts owing with respect thereto (including any interest accruing thereon after the commencement of any Insolvency Proceeding by or against an Obligor, but only to the extent to which such amounts are allowed or allowable as claims against an Obligor, and excluding unasserted contingent obligations and indemnification obligations for which no claim or demand for payment has been made, in each case, at such time); and

(c) third, to the Obligors or as otherwise required by applicable law.

**3.8 Prohibition on Contesting Liens.** This Agreement has been negotiated by the parties with the expectation and in reliance upon the assumption that the instruments and documents evidencing the Senior Indebtedness and the Subordinated Indebtedness are valid and enforceable. In determining whether to enter into this Agreement, Subordinated Creditor, on the one hand, and Senior Lender, on the other hand, have assumed such validity and enforceability, and have agreed to the provisions contained herein, without relying upon any reservation of a right to challenge or call into question such validity or enforceability. Each of the Senior Lender and Subordinated Creditor agrees, to the fullest extent permitted by law, that it will not (and

hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency Proceeding), (i) any payment received by Senior Lender for application to all or any part of the Senior Indebtedness, or (ii) the existence, perfection, priority, validity or enforceability of a Lien or security interest held by or on behalf of any of the other party in its Collateral or the provisions of this Agreement nor shall either party challenge the validity or enforceability of the documents and instruments evidencing or securing the Senior Indebtedness or Subordinated Indebtedness, as applicable; provided that nothing in this Agreement shall be construed to prevent or impair the rights of the parties hereto to enforce this Agreement, including the priority of the Liens securing the Senior Indebtedness or Subordinated Indebtedness, as applicable.

4. **Agreement to Hold in Trust.** If Subordinated Creditor shall receive any payment or distribution on account of the Subordinated Indebtedness this is expressly prohibited to be received by Subordinated Creditor under the Senior Secured Facility or that Agreement, Subordinated Creditor shall hold such payment or distribution in trust for the benefit of Senior Lender and, promptly upon discovery or notice of such violation, deliver such payment or distribution over to Senior Lender for application in accordance with Section 3.7.

5. **Amendments.** Subordinated Creditor covenants and agrees that unless Senior Lender otherwise expressly consents thereto in writing, it will not amend any of the provisions of the Subordinated Note or the Subordinated Facility in any way.

6. **Evidences of Subordinated Indebtedness/Legend.** Subordinated Creditor shall cause each agreement and instrument representing or evidencing any of the Subordinated Indebtedness to have affixed upon it a legend which reads substantially as follows:

“THIS INSTRUMENT IS SUBJECT TO A SUBORDINATION AGREEMENT DATED AS OF [\_\_\_\_\_] , BETWEEN [\_\_\_\_\_] AND LENDEAVOR, INC., ITS SUCCESSORS AND ASSIGNS. BY ITS ACCEPTANCE OF THIS INSTRUMENT, THE HOLDER HEREOF AGREES TO BE BOUND BY THE PROVISIONS OF SUCH SUBORDINATION AGREEMENT TO THE SAME EXTENT THAT SUBORDINATED CREDITOR (AS DEFINED THEREIN) IS BOUND.”

7. **Marshaling.** Subordinated Creditor hereby expressly waives any right that it otherwise might have to require Senior Lender to marshal any property of any Obligor or to resort to any Collateral in any particular order or manner, whether provided for by common law or statute, or to enforce any guaranty or any Lien or security interest given by an Obligor as a condition precedent or concurrent to the exercise of any of their respective remedies.

8. **Additional Rights of Senior Lender.** If Subordinated Creditor shall commence, prosecute or participate in any suit, action or proceeding against an Obligor in violation of this Agreement, Senior Lender may intervene and interpose such defense or plea in Senior Lender's name or in the name of such Obligor. If Subordinated Creditor obtains any assets of an Obligor

as a result of any administrative, legal or equitable action, or otherwise, in each case, prior to Payment in Full of the Senior Indebtedness, Subordinated Creditor agrees immediately to pay, deliver and assign to Senior Lender any such assets for application to the Senior Indebtedness.

**9. Subsequent Changes.** Except as otherwise provided in this Agreement, Subordinated Creditor agrees that Senior Creditor may, in its sole and absolute discretion, without notice to or further assent of Subordinated Creditor and without in any way releasing, affecting or impairing the obligations and liabilities of Subordinated Creditor under this Agreement, to the extent permitted by the Senior Lender Loan Documents and in every case in accordance with the terms and conditions of the Senior Lender Loan Documents: (i) waive compliance with, or any default under, or grant any other indulgences with respect to, the Senior Lender Loan Documents (including, without limitation, any waiver of a condition to the making of a Loan); (ii) modify, amend or change any provisions of the Senior Lender Loan Documents (including, without limitation, any changes to the payment schedules or maximum amount of the Senior Indebtedness); (iii) effect any release, compromise or settlement in connection therewith; (iv) agree to the substitution, exchange, release or other disposition of any Obligor or of all or any part of the collateral securing the Senior Indebtedness (whether or not anything or any amount is received in return therefor); (v) make advances for the purpose of performing any term or covenant contained in the Senior Lender Loan Documents, with respect to which an Obligor shall be in default; (vi) assign or otherwise transfer the Senior Lender Loan Documents, including, without limitation, this Agreement, or any interest therein; and (vii) except for adherence to the obligations of the Senior Lender under this Agreement, deal in all respects with each Obligor, the Senior Indebtedness or any Collateral or guaranty securing the Senior Indebtedness as if this Agreement were not in effect. The obligations of Subordinated Creditor under this Agreement shall be absolute and unconditional, irrespective of the regularity, enforceability or priority of the Senior Lender Loan Documents or any other circumstances which might otherwise constitute a legal or equitable discharge of a surety or guarantor. No exercise or nonexercise by Senior Lender of any right given to it hereunder or under the Senior Lender Loan Documents, and no impairment or suspension of any right or remedy of Senior Lender, shall in any way affect any of Subordinated Creditor's obligations hereunder or give Subordinated Creditor any recourse against Senior Lender, except to the extent of Senior Lender's breach of its obligations under this Agreement. No right of Senior Lender to enforce the subordination as provided herein shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of any Obligor; by any act or failure to act by Senior Lender, or by any noncompliance by any Obligor with the terms hereof, regardless of any knowledge thereof which Senior Lender may have or be otherwise charged with.

**10. Waivers.** Subordinated Creditor hereby expressly waives, solely and exclusively in its capacity as Subordinated Creditor, in each case insofar as it relates to the credit relationships of Senior Lender and Subordinated Creditor to Borrower: (i) notice of acceptance of this Agreement; (ii) except as required by the terms of this Agreement, notice of any default hereunder or under the Senior Lender Loan Documents and of all indulgences; (iii) except as required by the terms of this Agreement, demand for observance or performance of, or enforcement of, any terms or provisions of this Agreement or the Senior Lender Loan Documents; (iv) notice of extensions of credit by Senior Lender to an Obligor other than those that are made after an

Insolvency Event and of any change in the rate at which interest accrues under the Senior Lender Loan Documents; (v) all other notices and demands otherwise required by law which Subordinated Creditor may lawfully waive; (vi) other than as otherwise expressly permitted herein and claims for damages for breaches of this Agreement, the right to assert in any action or proceeding hereupon any setoff, counterclaim or other claim which it may have against Senior Lender; (vii) all rights of subrogation, reimbursement or contribution against an Obligor which might otherwise arise by reason of such Subordinated Creditor's execution or performance of this Agreement, until Payment in Full in cash of the Senior Indebtedness; (viii) all rights (statutory or otherwise) that require Senior Lender to make an election of remedies where Senior Lender holds security interests and Liens on both the real and personal property of an Obligor or to take recourse first or solely against any particular collateral securing the Senior Secured Facility or the other Senior Lender Loan Documents; (ix) all rights (statutory or otherwise) that restrict, affect or impair the rights or remedies of Senior Lender to collect any deficiency after the application to the obligations of any proceeds arising from the foreclosure of the Liens and security interests evidenced by any Senior Lender Loan Documents; (x) any defense based on the adequacy of a remedy at law that might be asserted as a bar to the remedy of specific performance of this Agreement in any action brought therefor by any party hereto; and (xi) so long as this Agreement remains in effect, the benefit of all other principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof, in each and every case.

11. **Indulgences Not Waivers.** Neither the failure nor any delay on the part of any party hereunder to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof or give rise to an estoppel, nor be construed as an agreement to modify the terms of this Agreement, nor shall any single or partial exercise of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver by a party hereunder shall be effective unless it is in writing and signed by the party making such waiver, and then only to the extent specifically stated in such writing.

12. **Independent Credit Investigations.** Subordinated Creditor, Senior Lender and their respective directors, officers, agents, or employees, shall not be responsible to the other for any Obligor's solvency, creditworthiness, financial condition, or ability to repay any of their claims or for the accuracy of any recitals, statements, representations, or warranties of an Obligor, oral or written, or for the validity, sufficiency, enforceability, or perfection of their claims or their respective loan documents, or any security interests or Liens granted by an Obligor to any claimant in connection therewith. Subordinated Creditor and Senior Lender has each entered into its respective financing agreements with Obligors based upon its own independent investigation, and makes no warranty or representation to the other, nor does it rely upon any representation of the other with respect to matters identified or referred to in this paragraph.

13. **Effect of Bankruptcy/Additional Financing.** This Agreement is intended to be enforceable as a subordination agreement under the United States Bankruptcy Code Section 510 notwithstanding the commencement of any bankruptcy or other Insolvency Proceeding by or against an Obligor and, to the full extent permitted by law, shall apply with full force and effect to any indebtedness arising pursuant to debtor-in-possession financing arrangements or pursuant to financing arrangements entered into in connection with the confirmation of a plan of

reorganization under Chapter 11 of the United States Bankruptcy Code. Subordinated Creditor acknowledges and consents that, to the extent that Senior Lender elects at its option to provide to an Obligor additional financing upon terms and conditions satisfactory to Senior Lender and an Obligor, whether prior to, during, or after an Insolvency Proceeding, or at any other time prior to the Senior Indebtedness having been indefeasibly Paid in Full in cash, such additional indebtedness (represented by such additional financing), together with any and all interest or fees thereon (collectively, the "*Additional Financing*"), shall become a part of the Senior Indebtedness, and shall be treated as such under this Agreement. Subordinated Creditor acknowledges and agrees that Subordinated Creditor shall not seek relief from any automatic stay until the Senior Indebtedness is indefeasibly Paid in Full in cash. Subordinated Creditor may not seek or request adequate protection or relief from the automatic stay imposed by section 362 of the United States Bankruptcy Code or other relief until the Senior Indebtedness is indefeasibly Paid in Full in cash. Any claim by a Subordinated Creditor under section 507(b) of the United States Bankruptcy Code will be subordinate in right of payment to any claim of Senior Lender under section 507(b) of the United States Bankruptcy Code and any payment thereof will be deemed to be proceeds of Collateral.

**14. Notices.** All notices, requests, demands and other communications provided for hereunder shall be in writing (including telecopied communication) and mailed or telecopied or delivered to the applicable party at the addresses indicated below.

**If to Senior Lender:**

Lendeavor, Inc.  
268 Bush St #2921  
San Francisco, CA 94104  
Attn: James Bachmeier III, Esq., COO

**If to Subordinated Creditor:**

FML Real Estate, LLC  
322 N. State St.  
Bellingham, WA 98225  
Attn: Richard M. Simcock, DDS

or, as to each party, at such other address as shall be designated by such parties in a written notice to the other parties complying as to delivery with the terms of this Section. All such notices, requests, demands and other communication shall be deemed given upon receipt by the party to whom such notice is directed (or if a notice is sent to such party's then currently designated address via certified mail, return receipt requested, in a properly addressed and postage prepaid envelope, such notice shall be deemed received three (3) business days after depositing such notice with the United States Postal Service).

15. **Successors; Continuing Effect, Etc.** This Agreement shall be binding upon and inure to the benefit of Senior Lender and Subordinated Creditor and their respective successors and assigns. This Agreement shall be a continuing agreement and shall be irrevocable and shall remain in full force and effect until the Payment in Full of the Senior Indebtedness, in which event, this Agreement shall terminate and have no further effect other than those provisions that expressly survive termination.

16. **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and no modification or waiver of any provision of this Agreement shall in any event be effective unless the same shall be in writing signed by Senior Lender and Subordinated Creditor.

17. **Miscellaneous.** This Agreement, which may be executed in any number of counterparts, shall take effect as a sealed instrument and shall be governed by and construed in accordance with the laws of the State of Indiana applicable to contracts made and performed in said State. The headings in this Agreement are for convenience of reference only and shall not alter or otherwise affect the meaning hereof.

18. **CONSENT TO JURISDICTION; WAIVER OF JURY TRIAL.**

(a) SUBORDINATED CREDITOR AND SENIOR LENDER, TO THE EXTENT THAT EACH MAY LAWFULLY DO SO, HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE STATE OF INDIANA, AS WELL AS TO THE JURISDICTION OF ALL COURTS TO WHICH AN APPEAL MAY BE TAKEN FROM SUCH COURTS, FOR THE PURPOSE OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF ANY OF ITS OBLIGATIONS ARISING HEREUNDER OR UNDER THE LOAN DOCUMENTS OR WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREBY, AND EXPRESSLY, KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY, WAIVES ANY AND ALL OBJECTIONS IT MAY HAVE AS TO VENUE, INCLUDING, WITHOUT LIMITATION, THE INCONVENIENCE OF SUCH FORUM, IN ANY OF SUCH COURTS. IN ADDITION, TO THE EXTENT THAT IT MAY LAWFULLY DO SO, SUBORDINATED CREDITOR AND SENIOR LENDER EACH CONSENTS TO THE SERVICE OF PROCESS BY PERSONAL SERVICE OR U.S. CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE PARTIES AT THE ADDRESSES PROVIDED HEREIN. TO THE EXTENT THAT SUBORDINATED CREDITOR OR SENIOR LENDER HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, SUBORDINATED CREDITOR AND SENIOR LENDER EACH HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS TO THE MAXIMUM EXTENT PERMITTED BY LAW.

(b) **WAIVER OF JURY TRIAL.** SUBORDINATED CREDITOR AND SENIOR LENDER HEREBY VOLUNTARILY, KNOWINGLY, INTENTIONALLY AND IRREVOCABLY WAIVE TRIAL BY JURY IN RESPECT OF ANY ACTION BROUGHT ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF SENIOR LENDER OR SUBORDINATED CREDITOR RELATING TO THE ADMINISTRATION OF THE FINANCING UNDER THE LOAN DOCUMENTS OR THE ENFORCEMENT OF THE LOAN DOCUMENTS, AND AGREE THAT NONE OF THE PARTIES WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EXCEPT AS PROHIBITED BY LAW, EACH OF SUBORDINATED CREDITOR AND SENIOR LENDER HEREBY KNOWINGLY, INTENTIONALLY, VOLUNTARILY AND IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY LITIGATION ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. EACH OF SUBORDINATED CREDITOR AND SENIOR LENDER CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR EACH PARTY TO ENTER INTO THIS AGREEMENT.

19. **No Third Party Beneficiaries.** This Agreement is solely for the benefit of Senior Lender, Subordinated Creditor, and their respective heirs, personal or legal representatives, successors and assigns, and neither any Obligor nor any other Person is intended to be a third-party beneficiary hereunder or to have any right, benefit, priority or interest under, or because of the existence of, or to have any right to enforce, this Agreement. Senior Lender and Subordinated Creditor shall have the right to modify or terminate this Agreement at any time without notice to or approval of any Obligor or any other Person.

20. **Inconsistent or Conflicting Provisions.** In the event a provision of the documents evidencing or governing the Senior Indebtedness or the Subordinated Indebtedness is inconsistent or conflicts with the provisions of this Agreement, the provisions of this Agreement shall govern and prevail.

21. **Specific Performance.** Senior Lender and Subordinated Creditor may each demand specific performance of this Agreement, and each waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action brought by a Senior Lender and Subordinated Creditor, respectively.

22. **Counterparts.** This Agreement may be executed and delivered in counterparts, including electronic transmission counterpart signatures, and all counterparts taken together shall be deemed a single original agreement.

[SIGNATURES ON NEXT PAGE]

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

SENIOR LENDER:

Lendeavor, Inc.

By: Heather Dickson

Name: Heather Dickson

Title: Loan Operations Manager

NOTARY ACKNOWLEDGMENT

State of Ohio }

County of Franklin }

The foregoing Subordination Agreement was acknowledged before me this 25 day of November, 2020, by Heather Dickson, Operations Manager of Lendeavor, Inc., an entity incorporated in Delaware, on behalf of the entity.

(Seal)



DANIEL GRAEFF  
Notary Public, State of Ohio  
My Comm. Expires June 23, 2021

Daniel Graeff

Signature of Notarial Officer

SUBORDINATED CREDITOR:

EML REAL ESTATE, LLC

By: [Signature]

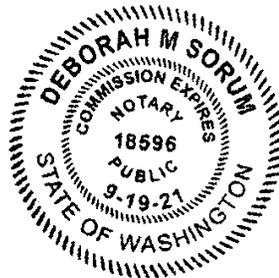
Name: Richard Simcock

Title: owner

NOTARY ACKNOWLEDGMENT

State of Washington }  
County of Skagit }

On this 2<sup>nd</sup> day of December, 2020, before me, the undersigned notary public, personally appeared Richard M. Simcock (name), owner (title) of EML Real Estate, LLC (entity name), proved to me through satisfactory evidence of identification, which were WADOL (document), to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.



[Signature]  
Deborah M. Sorum  
Signature of Notarial Officer

My commission expires: 9-19-21

**ACKNOWLEDGED AND ACCEPTED AND AGREED TO BY BORROWERS**

Borrower hereby assents to the foregoing Agreement (and the terms thereof) and agrees to abide thereby and to keep, observe and perform the several matters and things therein intended to be kept, observed and performed by them, and specifically agrees not to make or permit to be made any payments contrary to the intention and terms of such Agreement. Borrowers agree that it may not claim any rights or benefits under such Agreement.

Executed as of 10 December 2020.

TEL PROPERTIES, LLC

By: Matthew E Carlson

Name: Matthew E Carlson

Title: Owner

MATTHEW E. CARLSON, DDS, PLLC

By: Matthew E Carlson

Name: Matthew E Carlson

Title: Owner

(Notary Acknowledgement on following page)

NOTARY ACKNOWLEDGMENT

State of Washington }  
County of Sikagit }

On this 10<sup>th</sup> day of December, 2020, before me, the undersigned notary public, personally appeared Matthew E. Carlson DDS (name), OWNER (title) of TEL PROPERTIES LLC (entity name), proved to me through satisfactory evidence of identification, which were WADOL (document), to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.



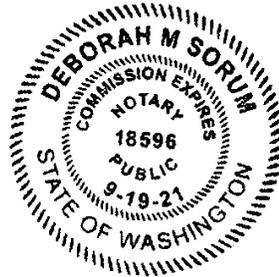
Deborah M. Sorum  
Deborah M. Sorum  
Signature of Notarial Officer

My commission expires: 9-19-21

NOTARY ACKNOWLEDGMENT

State of Washington }  
County of Sikagit }

On this 10<sup>th</sup> day of December, 2020, before me, the undersigned notary public, personally appeared Matthew E. Carlson, DDS (name), Matthew E. Carlson DDS (title) of OWNER (title) (entity name), proved to me through satisfactory evidence of identification, which were WADOL (document), to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.



Deborah M. Sorum  
Deborah M. Sorum  
Signature of Notarial Officer

My commission expires: 9-19-21

**Exhibit A**

UNOFFICIAL DOCUMENT

**Exhibit A**  
**PROMISSORY NOTE**

\$205,000.00

10 December, 2020  
Mount Vernon, Washington

This promissory note ("Note") is made pursuant to a Real Estate Purchase and Sale Agreement ("Purchase Agreement") between EML Real Estate, LLC ("Holder"), and TEL Properties, LLC, a Washington limited liability company ("Maker"). In consideration of the benefits offered in the Purchase Agreement, Maker promises to pay to the order of Holder (or her assigns), at such place as Holder may designate in writing, the principal sum of \$205,000, with interest, on the terms and conditions set forth below.

1. Beginning on December 1, 2020, and continuing until November 1, 2030, interest shall accrue on the unpaid principal at 5% per annum and Maker shall make 120 consecutive equal monthly payments of principal and interest in the amount of \$2,174.34. Such monthly payments shall begin on December 1, 2020, and shall continue on the first day of each succeeding calendar month. A copy of the amortization schedule for this note is attached as Schedule 1. All payments under this Note shall be paid via automatic debit or direct debit to Holder's benefit.
2. The entire unpaid principal balance of this Note together with accrued interest thereon shall be paid on or before November 1, 2030. Commencing on the one-year anniversary of the effective date of this Note and then every one-year anniversary thereafter, Maker shall make a good faith effort to obtain financing to pay the outstanding balance due on this Note. When reasonably requested, Maker shall provide proof of its efforts to seek financing. For purposes of this Note, terms which are consistent with those offered by dental practice lenders in Western Washington to borrowers with good credit will be deemed reasonable.
3. This Note is secured by a Security Agreement and Deed of Trust executed concurrently by this parties to this Note, which shall remain in effect until the full amount of this Note is paid. This instrument is subject to a Subordination Agreement dated as of \_\_\_\_\_, between EML Real Estate, LLC, and Lendeavor, Inc., its successors and assigns. By its acceptance of this instrument, the Holder hereof agrees to be bound by the provisions of such Subordination Agreement to the same extent that Subordinated Creditor (as defined therein) is bound.
4. This Note may be prepaid (in whole or in part) without penalty. All payments made herein shall be applied: first, to the payment of any late charges, costs or fees applicable; second, to the payment of interest then accrued; and third, to the reduction of principal. All payments made under this Note will be made via automatic direct debit. The parties agree to coordinate promptly after execution to setup such automatic direct debit.
5. In the event that any payment or portion thereof is not paid within ten days commencing with the date it is due, the holder hereof shall collect and the undersigned agrees to pay with each such payment a "late charge" of 0.12 for each dollar so overdue as liquidated damages for the additional expense of handling such delinquent payment.
6. Time is of the essence of this Note, and the occurrence of any of the following shall constitute an event of default:

- (a) Maker fails to make a payment required herein when the same is due and owing and does not cure such default within five days of notice from Holder of such missed payment;
  - (b) Maker materially breaches any of the terms, conditions or covenants contained in this Note or the Security Agreement entered of even date to which this Note is attached as an exhibit or any integrated document, other than any term requiring a monetary payment by Maker or Guarantor and subject to Section 1, above, and does not cure such default within 30 days following notice from Holder, or if the default is not capable of being cured in 30 days, to begin and diligently pursue a cure of such default;
  - (c) Maker states in writing the inability to pay its debts generally as they become due;
  - (d) Maker files a voluntary petition in bankruptcy or for the adoption of an arrangement under the federal Bankruptcy Code or other debtor's relief law, which petition or proceeding is not dismissed within sixty (60) days; or
  - (e) Maker makes an assignment of any of its property for the benefit of creditors.
7. Any default under this Note, at the option of the holder of this Note, shall render the entire outstanding principal balance and all accrued interest then unpaid immediately due and collectible and the same shall thereafter bear interest at the lesser of 12% or the maximum contractual rate which could legally be charged to the undersigned at the date of such default. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time.
8. Should any action be brought for the collection of any principal or interest of this Note, or should this Note be referred for collection, the undersigned promises to pay all fees as the court may judge reasonable. The Maker and any endorsers separately waive presentment, protest and demand, notice of protest, demand or dishonor, and non-payment of this Note, and expressly agree that this Note, or any payment hereunder, may be extended from time to time without in any way affecting the liability of the maker and endorsers hereof. All undertakings of the undersigned are binding upon any marital community of which the undersigned may be a member.
9. This Note is to be governed and construed in accordance with the laws of Washington, and the undersigned executes the same as a principal and not as a surety.
10. This Note is not assignable by Maker, without the consent of Holder. Holder may assign this Note in its discretion.
11. The undersigned represents and warrants that the loan evidenced by this Note is for commercial use and not for personal, family or household purposes.
12. This Note is made subject to the Real Estate Purchase Agreement executed between Maker (or its assigns) and Holder.

*[Signature Page Follows]*

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

**MAKER:**

TEL Properties, LLC, a Washington limited liability company

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Matthew Carlson, D.D.S., Member

**HOLDER:**

EML Real Estate, LLC, a Washington limited liability company

---

Richard M. Simcock, D.D.S., Manager

**GUARANTY**

Matthew Carlson, D.D.S. ("Guarantor") unconditionally and irrevocably guarantee to Holder and its successors and assigns, and to every subsequent holder of this Note, the prompt and punctual payment of all sums owing under this Note, in accordance with the provisions set forth herein, whether at maturity, by acceleration or otherwise. In case of any extension of time of payment or renewal in whole or in part, all sums shall be promptly paid when due according to such extension(s) or renewal(s).

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Mathew Carlson, D.D.S.