

THIS IS A FUTURE ADVANCE PROMISSORY NOTE PURSUANT TO THE PROVISION FOR FUTURE ADVANCES IN THAT CERTAIN MORTGAGE AND SECURITY AGREEMENT DATED MARCH 8, 2012 AND RECORDED MARCH 9, 2012 UNDER OFFICIAL RECORDS INSTRUMENT NUMBER 2012030681, AS MODIFIED BY THAT CERTAIN MORTGAGE MODIFICATION AGREEMENT AND RECEIPT OF FUTURE ADVANCE DATED MAY 9, 2015 AND RECORDED MAY 19, 2015 UNDER OFFICIAL RECORDS INSTRUMENT NUMBER 2015061488, ALL OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

FUTURE ADVANCE PROMISSORY NOTE

\$2,093,920.45

Sarasota County, Florida
Effective Date: December _____, 2019

FOR VALUE RECEIVED, GONDOLIER PROPERTIES, LLC, a Florida limited liability company ("**Borrower**"), whose address is 1435 E. Venice Avenue, #104, Venice, FL 34292, promises to pay to the order of FIRST HORIZON BANK, a Tennessee banking corporation, formerly known as Capital Bank, a division of First Tennessee Bank National Association, including its successors and/or assigns, whose address is 6435 Naples Boulevard, Naples, FL 34109 ("**Lender**"), at Lender's office aforesaid, or at such other place as Lender may designate, the principal sum of TWO MILLION NINETY-THREE THOUSAND NINE HUNDRED TWENTY AND 45/100THS DOLLARS (\$2,093,920.45), in United States Dollars, together with interest thereon as hereinafter provided, or so much as is advanced pursuant to the Loan Agreement of even date herewith (as amended from time to time, the "**Loan Agreement**") between Lender and Borrower. Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement.

1. **Terms of Repayment.** The indebtedness evidenced by this Future Advance Promissory Note (this "**Note**") shall be repaid in accordance with the terms and conditions of that certain Second Consolidated, Amended and Restated Promissory Note (the "**Second Consolidated Note**") dated of even date herewith from the undersigned to the holder in the original principal sum of SEVEN MILLION SEVEN HUNDRED THOUSAND AND NO/100THS DOLLARS (\$7,700,000.00).

2. **Interest Rate.** Interest shall accrue on the outstanding principal balance of this Note at the per annum rate set forth in the Second Consolidated Note. All interest payable in accordance with this Note shall be computed on the basis of the actual number of calendar days elapsed but calculated on a daily basis as if each year consisted of three hundred sixty (360) days.

3. **Right of Prepayment and Prepayment Penalty.** Borrower may prepay, all or any portion of the Note, at any time, without premium.

4. **Application of Payments.** Lender may apply and allocate any payment against any portion of the Indebtedness (as defined in the Second Consolidated Note) then due as Lender, in its sole discretion, may elect.

5. **Default.** The term “**Event of Default**” shall mean the occurrence of any one or more of the following:

- (a) A failure by Borrower to make any payment of principal or interest or any combination thereof on this Note when due;
- (b) Borrower’s breach of any provision hereof; or
- (c) The occurrence of an Event of Default as defined in the Loan Agreement or the Mortgage (defined below).

Lender agrees to provide notice to Borrower of any Event of Default and an opportunity to cure the same as provided in the Loan Agreement. Upon the occurrence of any Event of Default, and the expiration of any applicable notice and cure period, the entire Indebtedness shall thereupon bear interest at the highest interest rate permitted by law (the “**Default Rate of Interest**”), and at the option of Lender, all the Indebtedness together with interest thereon at the Default Rate of Interest shall immediately become due and payable, without regard to the stated Maturity Date, without demand made therefor, and without notice to any person, notice of the exercise of said option being hereby expressly waived, and Lender shall have all remedies of a secured party under law and equity to enforce the payment of all of the Indebtedness, time being of the essence. The Default Rate of Interest shall be charged to Borrower upon the occurrence of any Event of Default notwithstanding any invoices or billing statements sent by Lender to Borrower indicating an interest rate to the contrary. In addition, any waiver of Lender’s right to charge the Default Rate of Interest or to declare the Indebtedness immediately due and payable must be made in writing and cannot be waived by oral representation or the submission to Borrower of monthly billing statements.

6. **Late Penalty Charge.** Without waiving the rights contained in Paragraph 5 of this Note or the rights contained in the Mortgage securing this Note and, in addition to the Default Rate of Interest contained in Paragraph 5 of this Note, if any payment of principal or interest or both is not paid in full within ten (10) days of the due date, then, in addition to the amount of said payment, there shall be due and payable a late charge for each such payment in the amount of five percent (5%) of such payment, which Borrower agrees is a fair and reasonable charge for costs incurred by Lender in processing such late payment and is not a penalty.

7. **Interest Charge.** Nothing contained herein shall be construed or so operate as to require Borrower, or any person liable for the payment of the Indebtedness, to pay interest in an amount or at a rate greater than the highest rate permissible under applicable law. Should any interest or other charges paid by Borrower, or any parties liable for the payment of the Indebtedness, result in the computation or earning of interest in excess of the highest rate permissible under applicable law, then any and all such excess shall be and the same is hereby waived by Lender, and all such excess shall be automatically credited against and in reduction of the unrepaid advances of the principal sum, and any portion of said excess which exceeds the unrepaid advances of the principal sum shall be paid by Lender to Borrower and any parties liable for the payment of the Indebtedness, it being the intent of the parties hereto that under no circumstances shall Borrower or any parties liable for the payment of the Indebtedness, be required to pay interest in excess of the highest rate permissible under applicable law. All interest paid or

agreed to be paid to Lender shall, to the extent permitted under applicable law, be amortized, prorated, allocated and spread throughout the full period until payment in full of the Indebtedness, including the period of any renewal or extensions thereof, so that interest thereon for such full period shall not exceed the maximum amount permitted by applicable law.

Notwithstanding anything to the contrary herein contained, in the event that the interest rate to be charged hereunder ever exceeds the highest rate permissible under applicable law, thereby causing the interest accruing on the Indebtedness to be limited to such rate, then any subsequent reduction in the interest rate to which Borrower would otherwise be entitled shall be held in abeyance until the total amount of interest accrued on the Indebtedness equals the amount of interest which would have accrued on the Indebtedness had the interest rate not been limited to the highest rate permissible under applicable law.

8. **Waivers.** Each and every party to this Note, whether as maker, endorser, surety, guarantor or otherwise, hereby waives presentment, demand, protest, and notice of dishonor and of protest and assents to the terms hereof and to any extension or postponement of the time of payment or any other indulgence. It is further specifically agreed that this Note or any part of the principal or interest due herein may, with the consent of the holder of this Note, be renewed from time-to-time by the Note holder at the request of the then owner of all or part of the security affected by the said Mortgage or at the request of any party bound hereon or who has assumed or may hereafter assume payment hereof without the consent of or notice to other parties bound hereon and without releasing them from liability then existing.

9. **Security.** This Note is secured by among other things, the following: (i) that certain Mortgage and Security Agreement (the “**Original Mortgage**”) dated March 8, 2012 and recorded March 9, 2012 under Official Records Instrument Number 2012030681, as modified by that certain Mortgage Modification Agreement and Receipt of Future Advance (the “**2015 Mortgage Modification**”) dated May 9, 2015 and recorded May 19, 2015 under Official Records Instrument Number 2015061488, all of the Public Records of Sarasota County, Florida, as further modified by that certain Mortgage Modification Agreement and Notice of Receipt of Future Advance dated of even date herewith and to be recorded in the Public Records of Sarasota County, Florida, made by Borrower and delivered to Lender (the “**2019 Mortgage Modification**” and, collectively with the Original Mortgage and 2015 Mortgage Modification, the “**Mortgage**”); (ii) that certain Assignment of Leases, Contracts, Rents and Profits (the “**Assignment of Rents**”) dated March 8, 2012 and recorded March 9, 2012 under Official Records Instrument Number 2012030682, of the Public Records of Sarasota County, Florida; and (iii) other instruments executed by Borrower in favor of Lender (the Mortgage, Assignment of Rents, Construction Loan Agreement and all other instruments given as security for this Note are sometimes referred to herein as the “**Security Instruments**”). The terms and conditions of said Security Instruments are made a part hereof and shall control any interpretation and enforcement of this Note, all of which shall be construed according to the laws of the State of Florida.

10. **Future Advance.** This Note is a future advance under the loan from Lender to Borrower as evidenced by: (i) that certain Commercial Loan Note (the “**Original Note**”) dated March 8, 2012 in the original principal sum of FOUR MILLION SIX HUNDRED FIFTY THOUSAND AND NO/100THS DOLLARS (\$4,650,000.00) from Borrower to Lender; and (ii) that certain Future Advance Promissory Note (the “**2015 Future Advance Note**”) dated May 14,

2015 in the original principal sum of TWO MILLION THREE HUNDRED EIGHTY-FIVE THOUSAND SEVEN HUNDRED TWENTY-THREE AND 71/100THS DOLLARS (\$2,385,723.71), as consolidated by that certain Consolidated, Amended and Restated Promissory Note (the "**Original Consolidated Note**") dated May 14, 2015 in the original principal sum of SIX MILLION FIVE HUNDRED THOUSAND AND NO/100THS DOLLARS (\$6,500,000.00) from Borrower to Lender.

11. **Documentary Stamp Taxes.** Florida Documentary Stamps and Intangible Taxes were affixed to or paid on that certain Mortgage Modification Agreement and Notice of Receipt of Future Advance dated of even date herewith.

12. **Notices.** Any notice required or permitted to be given hereunder shall be in writing. If mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, then such notice shall be effective upon its deposit in the mails. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notice, the addresses of Borrower and Lender shall be as set forth above; provided however, that either party shall have the right to change such party's address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' written notice.

13. **Partial Invalidity.** The invalidity or unenforceability of any one or more provisions of this Note shall not render any other provision invalid or unenforceable. In lieu of any invalid or unenforceable provision, there shall be added automatically a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

14. **JURY WAIVER. BORROWER AND LENDER AGREE THAT ANY SUIT, ACTION OR PROCEEDING, WHETHER CLAIM OR COUNTERCLAIM, BROUGHT BY LENDER OR BORROWER, ON OR WITH RESPECT TO THIS NOTE OR ANY OTHER LOAN DOCUMENT OR THE DEALINGS OF THE PARTIES WITH RESPECT HERETO OR THERETO, SHALL BE TRIED ONLY BY A COURT AND NOT BY A JURY. LENDER AND BORROWER EACH HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND INTELLIGENTLY, AND WITH THE ADVICE OF THEIR RESPECTIVE COUNSEL, WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING. BORROWER ACKNOWLEDGES AND AGREES THAT THIS SECTION IS A SPECIFIC AND MATERIAL ASPECT OF THIS NOTE AND THAT LENDER WOULD NOT EXTEND CREDIT TO BORROWER IF THE WAIVERS SET FORTH IN THIS SECTION WERE NOT A PART OF THIS NOTE.**

[remainder of page intentionally left blank]

[signature on following page]

(signature page to Future Advance Promissory Note)

EXECUTED the day and year first above written.

BORROWER:
GONDOLIER PROPERTIES, LLC, a Florida
limited liability company

By: _____

Print Name: John R. Cassidy

Title: Member