

**CITY OF NORTHFIELD
THIRD LOAN MODIFICATION
AGREEMENT**

THIS THIRD LOAN MODIFICATION AGREEMENT (this "Agreement") is made and entered into as of this _____ day of _____, 2018 (the "Effective Date,"), by and between StrataPoint, Inc., a Minnesota corporation with its registered address at 8736 Lunskie Lane, Eden Prairie, MN 55347, (the "Recipient"), and the City of Northfield, a municipal corporation of the State of Minnesota (the "City").

WITNESSETH:

WHEREAS, Recipient and the City entered into that certain Loan Agreement dated September 3, 2009 (the "Agreement"), pursuant to which the City agreed to provide a Master Development Loan with principal of \$50,000.00 to Recipient (the "Loan") to assist Recipient with locating and creating its business in the City; and

WHEREAS, the original terms of the loan were 3.25% for 60 months; and

WHEREAS, Recipient provided timely payments through April 2013 and then notified the City that future payments would not be made due to financial implications within the company; and

WHEREAS, the remaining balance of the loan is \$14,999.78; and

WHEREAS, pursuant to City Council Resolution 2013-061, passed on May 7, 2013, Recipient and the City entered into a Loan Modification Agreement pursuant to which the City agreed to modify the terms of the Loan to provide a 24-month period during which Recipient would be allowed to make interest only payments (the "First Loan Modification"); and

WHEREAS, the 24-month period during which Recipient would be allowed to make interest only payments on the Loan pursuant to the First Loan Modification expired on June 31, 2015; and

WHEREAS, pursuant to City Council Resolution 2015-075, passed on July 21, 2015, Recipient and the City entered into a second modification of the Loan with terms of interest-only payments for an additional twenty-four months, with a mid-term review of company financials, at which time the loan would be modified to continue payments including principal (the "Second Loan Modification"); and

WHEREAS, the 24-month period during which Recipient would be allowed to make interest only payments on the Loan pursuant to the Second Loan Modification expired on July 31, 2017; and

WHEREAS, the City's Economic Development Authority (the "EDA") passed Resolution 2017-02 on October 26, 2017 pursuant to which the EDA recommended to the City Council a third modification of the Loan for a full workout of the initial loan with principal and interest payments on the outstanding principal amount (the "Third Loan Modification"); and

WHEREAS, the City Council passed Resolution 2018-__ on ____, 2018 approving the recommended Third Loan Modification pursuant to the terms and conditions herein.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. AMOUNT AND TERMS OF THE LOAN.

- a. Third Loan Modification. Subject to, and upon the terms and conditions herein set forth, the City agrees to modify the Loan to Recipient such that Recipient shall make principal and interest payments on the Loan's principal balance of \$14,999.78 for a period of sixty months (five years) pursuant to the Amortization Schedule attached hereto as Schedule A, with a mid-term review of company financials pursuant to Paragraph 1(c) herein, at which time a balloon payment would occur; and
- b. Interest. Interest shall accrue on the unpaid principal balance of the Loan at the annual rate of 1 percent (the "Modified Loan Rate").
- c. Mid-Term Financial Review. After a period of thirty-six months from the date first above mentioned, Recipient shall permit representatives of the City and/or EDA to inspect and review any and all financial documentation maintained by Recipient for the purposes of reevaluating Recipient's financial position and ability to resume making principal and interest payments on the Loan.

2. REPRESENTATIONS OF RECIPIENT. Recipient warrants that the following statements are true:

- a. The statements and representations made in Recipient's request for this Third Loan Modification were at the time of the request and are as of the date hereof true and correct.
- b. Recipient is in good standing with all public entities having any authority or jurisdiction over Recipient, and Recipient is in compliance and shall at all times remain in compliance with all federal, state and local laws, rules and regulations which apply to Recipient.
- c. Recipient shall use the Loan funds for, and only for, the purposes stated in Recipient's request or as otherwise approved by the City in the award of the Loan, specifically, to help Recipient pay operating expenses related to its business established at its offices identified above in the City.

- d. Recipient is current on local property tax and special assessment payments owing on Recipient's Property.
3. REPAYMENT OF LOAN FUNDS. Recipient shall make principal and interest payments on the Loan in monthly installments of \$89.77 commencing April 1, 2018 and continuing every month thereafter for 60 months, with a final balloon payment of Ten Thousand Two Hundred Forty-Seven and 56/100 dollars (\$10,247.56) due and payable on or before May 1, 2023, as reflected in the amortization schedule attached hereto as Schedule A, or for such shorter period of time as may reasonably be determined by the City following the mid-term review of Recipient's financial documentation pursuant to Paragraph 1(c) herein. All monthly payments pursuant to Schedule A shall be due on the first day of the month, provided that should such date not be a business day, such payment shall be payable on the next business day. Any amount of principal and accrued interest which is not paid when due shall bear interest from the date on which such amount is due until such amount is paid in full, payable on demand, at the Loan Rate or the maximum rate allowable by law. Interest shall be computed daily at the Loan Rate on the basis of the actual number of days in which all or any portion of the principal amount hereof is outstanding computed on the basis of a 365 day year. Recipient may prepay the Loan at any time without penalty. Principal and interest shall be payable in lawful money of the United States at the City's offices located at 801 Washington Street, Northfield, Minnesota.
4. EVENTS OF DEFAULT OF RECIPIENT. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:
 - a. Recipient shall fail to pay when due (whether by acceleration or otherwise) principal or interest under this Agreement, and such default unless otherwise cured shall have continued for a period of thirty calendar days after Recipient receives notice thereof from the City;
 - b. Any representation or warranty made by or on behalf of Recipient in this Agreement, in any other Loan Document or in any statement or certificate given in writing pursuant thereto or in connection therewith is false, misleading or incomplete in any material respect when made (or deemed to have been made);
 - c. Recipient fails or neglects to perform, keep or observe any covenant set forth in this Agreement and the same has not been cured within thirty calendar days after Recipient receives notice thereof from the City;
 - d. Recipient shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any

such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;

- e. An involuntary case or other proceeding shall be commenced against Recipient seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against Recipient under the federal bankruptcy laws as now or hereafter in effect; or
- f. This Agreement, for any reason (other than the satisfaction in full of all amounts owing in connection with the Loan) ceases to be, or is asserted by Recipient not to be, a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms, and such occurrence has not been cured to the City's satisfaction within five (5) calendar days after Recipient receives notice thereof from the City.

5. CITY REMEDIES IN EVENT OF DEFAULT. If an Event of Default shall occur and be continuing or shall exist, the outstanding principal amount of the Loan and interest accrued thereon shall be immediately due and payable without presentment demand, protest or further notice of any kind, all of which are hereby expressly waived, interest thereon shall accrue on the total amount of the Loan (principal and interest) outstanding from and after the date of default at the rate of 5 percent simple interest per annum (the current interest rate on state court judgments established by the State Court Administrator's office), and an action therefore shall immediately accrue. After the date of default, payments by Recipient shall be applied first to interest and then to principal. Recipient shall also pay any costs of collection, including but not limited to reasonable attorneys' fees and expenses, incurred by the City in enforcing this obligation.

6. GENERAL TERMS.

- a. Voluntary and Knowing Action. The parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.
- b. Authorized Signatories. The parties each represent and warrant to the other that (1) the persons signing this Agreement are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for

the full enforceability of this Agreement against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

- c. Assignment. This Agreement may not be assigned by either party without the written consent of the other party.
- d. Modifications/Amendment. Any alterations, variations, modifications, amendments or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representative of the City and Recipient.
- e. Records—Availability and Retention. Pursuant to Minn. Stat. § 16C.05, subd. 5, Recipient agrees that the City, the EDA, State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of Recipient and involve transactions relating to this Agreement. Recipient agrees to maintain these records for a period of six years from the date of termination of this Agreement.
- f. Compliance with Laws. Recipient shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement or to the facilities, programs and staff for which Recipient is responsible.
- g. Interest by City/EDA Officials. No elected official, officer, or employee of the City or the EDA shall, during his or her tenure or employment and for one year thereafter, have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- h. Governing Law. This Agreement shall be deemed to have been made and accepted in Rice County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Agreement without regard to its choice of law or conflict of laws principles.
- i. Data Practices. The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*
- j. No Waiver. Any party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that party's right to assert or rely upon the terms and conditions of

this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving party.

- k. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.
- l. Entire Agreement. These terms and conditions constitute the entire Agreement between the parties regarding the subject matter hereof. All discussions and negotiations are deemed merged in this Agreement.
- m. Headings and Captions. Headings and captions contained in this Agreement are for convenience only and are not intended to alter any of the provisions of this Agreement and shall not be used for the interpretation of the validity of the Agreement or any provision hereof.
- n. Survivability. All covenants, indemnities, guarantees, releases, representations and warranties by any party, and any undischarged obligations of the City and Recipient arising prior to the expiration of this Agreement (whether by completion or earlier termination), shall survive such expiration.
- o. Execution. This Agreement may be executed simultaneously in two or more counterparts that, when taken together, shall be deemed an original and constitute one and the same document. The signature of any party to the counterpart shall be deemed a signature to the Agreement, and may be appended to, any other counterpart. Facsimile and email transmissions of executed signature pages shall be deemed as originals and sufficient to bind the executing party

IN WITNESS WHEREOF the parties have caused these presents to be signed as of the date first above mentioned.

City of Northfield:

StrataPoint, Inc.:

By: _____
Rhonda Pownell, Its Mayor

By: _____
Dale LaFrenz, Its President

By: _____
Deb Little, Its City Clerk

SCHEDULE A
AMORTIZATION SCHEDULE

Northfield Master Development Loan - StrataPoint

\$14,999.78 principal loan; 1.00% Interest; 15-year amortization; 5-year term w/ balloon payment

Years
5

Periods per year
12

Date	PMT	Interest	Principal Paid	Balance	Annual Rate
				14,999.78	
15-Apr-18	89.77	12.50	77.27	14,922.51	1.00%
15-May-18	89.77	12.44	77.34	14,845.17	1.00%
15-Jun-18	89.77	12.37	77.40	14,767.77	1.00%
15-Jul-18	89.77	12.31	77.47	14,690.30	1.00%
15-Aug-18	89.77	12.24	77.53	14,612.77	1.00%
15-Sep-18	89.77	12.18	77.60	14,535.17	1.00%
15-Oct-18	89.77	12.11	77.66	14,457.51	1.00%
15-Nov-18	89.77	12.05	77.72	14,379.79	1.00%
15-Dec-18	89.77	11.98	77.79	14,302.00	1.00%
15-Jan-19	89.77	11.92	77.85	14,224.15	1.00%
15-Feb-19	89.77	11.85	77.92	14,146.23	1.00%
15-Mar-19	89.77	11.79	77.98	14,068.24	1.00%
15-Apr-19	89.77	11.72	78.05	13,990.19	1.00%
15-May-19	89.77	11.66	78.11	13,912.08	1.00%
15-Jun-19	89.77	11.59	78.18	13,833.90	1.00%
15-Jul-19	89.77	11.53	78.24	13,755.65	1.00%
15-Aug-19	89.77	11.46	78.31	13,677.34	1.00%
15-Sep-19	89.77	11.40	78.38	13,598.97	1.00%
15-Oct-19	89.77	11.33	78.44	13,520.53	1.00%
15-Nov-19	89.77	11.27	78.51	13,442.02	1.00%
15-Dec-19	89.77	11.20	78.57	13,363.45	1.00%
15-Jan-20	89.77	11.14	78.64	13,284.82	1.00%
15-Feb-20	89.77	11.07	78.70	13,206.11	1.00%
15-Mar-20	89.77	11.01	78.77	13,127.35	1.00%
15-Apr-20	89.77	10.94	78.83	13,048.51	1.00%
15-May-20	89.77	10.87	78.90	12,969.61	1.00%
15-Jun-20	89.77	10.81	78.96	12,890.65	1.00%
15-Jul-20	89.77	10.74	79.03	12,811.62	1.00%
15-Aug-20	89.77	10.68	79.10	12,732.52	1.00%
15-Sep-20	89.77	10.61	79.16	12,653.36	1.00%
15-Oct-20	89.77	10.54	79.23	12,574.13	1.00%
15-Nov-20	89.77	10.48	79.29	12,494.84	1.00%
15-Dec-20	89.77	10.41	79.36	12,415.47	1.00%
15-Jan-21	89.77	10.35	79.43	12,336.05	1.00%
15-Feb-21	89.77	10.28	79.49	12,256.56	1.00%
15-Mar-21	89.77	10.21	79.56	12,177.00	1.00%
15-Apr-21	89.77	10.15	79.63	12,097.37	1.00%
15-May-21	89.77	10.08	79.69	12,017.68	1.00%
15-Jun-21	89.77	10.01	79.76	11,937.92	1.00%
15-Jul-21	89.77	9.95	79.82	11,858.10	1.00%
15-Aug-21	89.77	9.88	79.89	11,778.21	1.00%

Ballon Payment

1-May-23
\$ 10,247.56

15-Sep-21	89.77	9.82	79.96	11,698.25	1.00%
15-Oct-21	89.77	9.75	80.02	11,618.22	1.00%
15-Nov-21	89.77	9.68	80.09	11,538.13	1.00%
15-Dec-21	89.77	9.62	80.16	11,457.97	1.00%
15-Jan-22	89.77	9.55	80.22	11,377.75	1.00%
15-Feb-22	89.77	9.48	80.29	11,297.46	1.00%
15-Mar-22	89.77	9.41	80.36	11,217.10	1.00%
15-Apr-22	89.77	9.35	80.43	11,136.68	1.00%
15-May-22	89.77	9.28	80.49	11,056.18	1.00%
15-Jun-22	89.77	9.21	80.56	10,975.62	1.00%
15-Jul-22	89.77	9.15	80.63	10,895.00	1.00%
15-Aug-22	89.77	9.08	80.69	10,814.30	1.00%
15-Sep-22	89.77	9.01	80.76	10,733.54	1.00%
15-Oct-22	89.77	8.94	80.83	10,652.71	1.00%
15-Nov-22	89.77	8.88	80.90	10,571.82	1.00%
15-Dec-22	89.77	8.81	80.96	10,490.86	1.00%
15-Jan-23	89.77	8.74	81.03	10,409.82	1.00%
15-Feb-23	89.77	8.67	81.10	10,328.73	1.00%
15-Mar-23	89.77	8.61	81.17	10,247.56	1.00%