

CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT (“**Agreement**”), dated as of _____, is made by and between (i) _____, with an address at _____ (“**Receiving Party**”), and (ii) _____ with an address at _____ (the “**Disclosing Party**”) (each being a “**party**” or collectively “**parties**”).

1. **Disclosure.** Receiving Party and the Disclosing Party intend to engage in discussions regarding a possible acquisition of certain real property owned by Disclosing Party on terms acceptable to Disclosing Party (the “**Purpose**”). In connection therewith, the Disclosing Party may disclose to the Receiving Party information that is considered confidential and proprietary to the Disclosing Party, or which is otherwise not generally available to the public, including the terms of leases with tenants of Disclosing Party. In order to protect such proprietary, confidential, and otherwise non-public information, the parties have agreed to the following provisions with respect to confidentiality of information.

2. **Confidential Information.** As used in this Agreement, “**Confidential Information**” means all nonpublic information disclosed by the Disclosing Party or its agents to the Receiving Party or its agents that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential, and specifically includes the terms of any and all leases between Disclosing Party and its tenants which are disclosed to Receiving Party by Disclosing Party or its agents or employees or which are otherwise learned or discovered by Receiving Party and received by Receiving Party from any source. Confidential Information also includes, without limitation (i) nonpublic information relating to the Disclosing Party’s business plans, analyses, forecasts, predictions and projections, tenant information and rent rolls, intellectual property, technology, technical information, business models, pricing and pricing strategies, marketing ideas, sales data, sales projections, financing plans, valuations, capitalization, budgets and other financial information, and (ii) third-party information that the Disclosing Party is obligated to keep confidential.

3. **Use of Confidential Information.** The Receiving Party may use Confidential Information only in connection with the Purpose and not for its own commercial advantage or the commercial or other advantage of any affiliate or principal of Receiving Party, and all Confidential Information learned or discovered by, and disclosed to, Receiving Party, shall be kept strictly confidential. The Receiving Party shall not disclose Confidential Information to anyone without the prior written consent of the Disclosing Party, unless otherwise expressly permitted pursuant to this Agreement. The Receiving Party shall take all measures to avoid disclosure, dissemination or unauthorized use of Confidential Information, whether by Receiving Party or any affiliate or principal thereof, including, at a minimum, those measures it takes to protect its own confidential and/or proprietary information of a similar nature.

4. **Receiving Party Personnel.** The Receiving Party shall restrict the possession, knowledge and use of Confidential Information to its employees, contractors, professional advisors and agents, and any other persons and entities controlled by the Receiving Party (collectively, “**Personnel**”) who have a need to know Confidential Information in connection with the Purpose. Such Personnel shall be informed by the Receiving Party of the confidential nature of such Confidential Information and shall be directed by the Receiving Party, and shall each expressly agree, to treat such information as confidential in accordance with this Agreement. The Receiving Party shall be fully responsible for any breach of this Agreement by its Personnel or other agents.

5. **No Announcements.** The Receiving Party agrees that it will not, and that it will direct its Personnel not to, disclose to any person either the fact that discussions or negotiations are taking place concerning the Purpose or any of the terms, conditions or other facts with respect to the Purpose, including the status thereof.

6. **Disclosures to Governmental Entities.** The Receiving Party may disclose Confidential Information as required to comply with binding orders of governmental entities that have jurisdiction over it, provided that the Receiving Party (i) gives the Disclosing Party reasonable notice (to the extent permitted by law) to allow the Disclosing Party to seek a protective order or other appropriate remedy, (ii) discloses only such information

as is required by the governmental entity, and (iii) uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed.

7. Ownership of Confidential Information. All Confidential Information shall remain the exclusive property of the Disclosing Party. The Disclosing Party's disclosure of Confidential Information shall not constitute an express or implied grant to the Receiving Party of any rights to or under the Disclosing Party's Confidential Information, including, without limitation, any patents, copyrights, trade secrets, trademarks or other intellectual property rights of the Disclosing Party.

8. Notice of Unauthorized Use. The Receiving Party shall notify the Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by the Receiving Party. The Receiving Party shall cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of such Confidential Information and prevent its further unauthorized use.

9. Return of Confidential Information. The Receiving Party shall return or destroy all tangible materials embodying Confidential Information (in any form and including, without limitation, all summaries, copies and excerpts of Confidential Information) promptly following the Disclosing Party's written request. At the Disclosing Party's option, the Receiving Party shall provide written sworn certification of its compliance with this Section.

10. Right to Equitable Relief. The Receiving Party acknowledges that money damages and other legal remedies may not be appropriate or sufficient to fully protect the rights of the Disclosing Party hereunder. The Receiving Party further acknowledges that the Disclosing Party will be irreparably harmed if the Receiving Party's obligations under this Agreement are not specifically enforced and that the Disclosing Party would not have an adequate remedy at law in the event of an actual or threatened violation by the Receiving Party of its obligations. Accordingly, the Disclosing Party shall have the right to obtain an injunction or other equitable or mandatory relief from any court of competent jurisdiction to compel compliance by the Receiving Party with its obligations under this Agreement, in addition to the right of the Disclosing Party to money damages and to any other relief to which the Disclosing Party may be entitled. In any legal proceeding required to enforce this Agreement, the Disclosing Party shall be entitled to recover all court costs and reasonable attorneys' fees incurred in such proceeding, through all levels of appeal, from the Receiving Party.

11. Termination. This Agreement automatically shall terminate upon the completion or termination of the parties' discussions regarding the Purpose, and otherwise upon any written notice from the Disclosing Party to the Receiving Party; provided, however, that, notwithstanding any such completion or termination of the discussions, the obligations of the Receiving Party under this Agreement with respect to the Confidential Information of the Disclosing Party shall survive for a period of five (5) years following the date of termination of this Agreement.

12. No Warranty. The Receiving Party understands that the Disclosing Party makes no representation or warranty as to the accuracy or completeness of the Confidential Information or any other information, which the Disclosing Party furnishes to, or which is learned or discovered by, the Receiving Party. The Receiving Party agrees that the Disclosing Party shall not have any liability to the Receiving Party resulting from the use of the Confidential Information by the Receiving Party or for any errors therein or omissions therefrom.

13. No Obligation. Nothing herein shall obligate the parties to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the Purpose.

14. Miscellaneous.

14.1 This Agreement shall not create a joint venture, partnership, fiduciary relationship or other formal business relationship or entity of any kind, or an obligation to form any such relationship or entity. Each party shall act as an independent contractor and not as an agent of the other party for any purpose, and neither shall have the authority to bind the other.

14.2 This Agreement constitutes the entire agreement between the parties relating to the matters discussed herein and may be amended or modified only with the mutual written consent of the parties. Each party's obligations hereunder are in addition to, and not exclusive of, any and all of its other obligations and duties to the other party, whether express, implied, in fact or in law. Subject to the limitations set forth in this Agreement, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

14.3 No failure or delay by a party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege.

14.4 If a provision of this Agreement is held invalid under any applicable law, such invalidity shall not affect any other provision of this Agreement that can be given effect without the invalid provision. Further, any such invalid or unenforceable provision or portion thereof shall be deemed, without further action on the part of the parties hereto, modified, amended or limited to the extent necessary to render the same valid and enforceable.

14.5 This Agreement shall be governed by, and shall be construed in accordance with the laws of, the Commonwealth of Kentucky. This Agreement may be executed by facsimile and in counterpart copies.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

RECEIVING PARTY:

DISCLOSING PARTY:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____