

Confidentiality Agreement for Review of Assets



Parkway Place, Memphis, TN

THIS CONFIDENTIALITY AGREEMENT FOR REVIEW OF ASSETS (the “Agreement”) is made and agreed to by the person designated as the Reviewer on the signature page hereof (the “Reviewer”).

The Bank of New York Mellon Trust Company, National Association (f/k/a The Bank of New York Trust Company, National Association), as Trustee for Morgan Stanley Capital I Inc., Commerical Mortgage Pass-Through Certificates, Series 2007-IQ14 hereinafter referred to as owner (“Owner”), has determined to provide information and material for review for the improved real property commonly known as Parkway Place Assets located at 8110 Cordova Road, Cordova, TN 38016 (the “Property”). For the purpose of the Reviewer determining whether or not to submit a non-binding letter of intent or binding offer to purchase the Property and for no other purpose, the Owner has determined to permit the Reviewer to review and inspect certain documents, files, appraisals, reports and other information and data relating to the Property (the “Confidential Information”). The Confidential Information may include economic, commercial, operating, marketing, financial, performance and valuation information that is confidential and/or proprietary in nature. Therefore, the Owner has determined to require the Reviewer to execute and deliver this Agreement as a condition precedent to Owner permitting.

In consideration of being granted the opportunity to review and inspect the Confidential Information, the Reviewer agrees with and for the benefit of the Owner as follows:

Section 1. Purpose and Indemnification

The Reviewer represents, warrants and covenants that Reviewer’s review and inspection of the Confidential Information shall be solely to conduct due diligence, on its own behalf and not as an agent, representative, finder or broker of any undisclosed or other party, for the purpose of determining whether or not Reviewer shall submit an offer to purchase the Property. The Reviewer agrees to indemnify the Owner and its partners and their respective partners, officers, directors, employees, agents, advisors, counsel and affiliates (collectively, the “Indemnified Parties”) and hold such Indemnified Parties harmless against any and all claims, causes of action, demands,

liabilities, damages, costs and expenses of any kind or nature [including, without limitation, all attorneys’ fees and costs before, at trial and at all appellate levels, as the case may be, and any claim by any party (including Reviewer or any person associated with Reviewer) of any right to any brokerage commission or fee or similar fee] incurred by or on behalf of any Indemnified Party directly or indirectly arising out of or as a result of the Reviewer’s use or disclosure of the Confidential Information other than as expressly permitted by the terms hereof or any breach or violation of any representation, warranty or agreement herein.

Section 2. Non-Disclosure and Use of Confidential Information

(a) The Reviewer agrees that, except as specifically set forth below, all Confidential Information shall be used by the Reviewer solely for the purpose stated in Section 1 hereof. The Reviewer further agrees not to disclose any of the Confidential Information without the prior written consent of the Owner, which consent can be arbitrarily withheld, to any third party (including, without limitation, any member of the brokerage community and/or the print or electronic media, whether “on” or “off” the record) other than to (i) if Reviewer is a corporation or partnership, its officers, directors, shareholders or partners (as the case may be), and (ii) Reviewer’s attorneys, accountants and financial advisors (collectively, the “Representatives”), in each case who (i) have a need to know the Confidential Information for the purpose stated in Section 1 hereof and (ii) have entered into an agreement with the Owner in the form of this Agreement prior to being delivered or disclosed any Confidential Information.

(b) The term “Confidential Information” shall not include (i) information which is required to be disclosed by law or by regulatory or judicial process, except such information which may be subject to a protective order or other similar court order, or (ii) information which is known to the Reviewer prior to Reviewer’s execution of this Agreement from non-Owner sources and which is not known to Reviewer to be subject to any confidentiality obligations to Owner, provided the general nature of such information is disclosed to Owner; or (iii) information which is generally available to the public other than as a result of a disclosure by Reviewer.

(c) In the event the Reviewer or any of its Representatives fails in any respect to comply with its representations, warranties, covenants or obligations under this Agreement, the Owner may, in its sole discretion, refuse to consider an offer or bid from the Reviewer for the Property or to allow the Reviewer to continue to conduct due diligence on the Property offered for sale by the Owner. The foregoing right shall be in addition to, and does not preclude the exercise of, any other right, power or remedy available to the Owner under this Agreement or at law or in equity, including, without limitation, the right of the Owner to apply to any court of competent jurisdiction for a temporary or permanent injunction or other appropriate decree of specific performance (without any bond or other security being required or posted) in order to enjoin any breach or threatened breach of this Agreement. No forbearance, failure or delay in exercising any such right, power or remedy shall operate as a waiver thereof or preclude its further exercise. Further, the Reviewer shall be liable to Owner for all damages (including but not limited to diminution of value in the Property as a direct or indirect result of improper disclosure by Reviewer or its Representatives), liabilities, costs and expenses for breach of this Agreement.

Section 3. Discussions and Negotiations

For all purposes of this Agreement, and notwithstanding anything to the contrary contained herein, the term “Confidential Information” shall be deemed also to include the content of any and all discussions and negotiations between Owner and Reviewer relating to the Property, including, without limitation, negotiations of any proposed sales price for the Property or any other term or element of any proposed sale of the Property.

Section 4. Review of Confidential Information

The Confidential Information will be made available to Reviewer or Representatives of the Reviewer for their review, by appointment only, at a location determined by the Owner, and subject to their compliance with Section 2 hereof.

Section 5. Duplication

The Reviewer agrees to refrain from making any reproductions, other than handwritten summaries or notes and self-generated computer records, of any item of Confidential Information, without the prior written consent of the Owner.

Section 6. Limited Access

The Reviewer shall inform each of its Representatives that receives any of the Confidential Information of the requirements of this Agreement and shall require each such Representative to comply with such requirements.

Section 7. Tenant Contact

The Reviewer agrees not to communicate with any tenant, guarantor of tenant, or any tenant’s accountant or attorney or any other person or party including the property manager, connected with, related to, or whose name is obtained from the Confidential Information with respect to the Property without the prior written consent of the Owner, which consent can be arbitrarily withheld.

Section 8. Reliance on Information

Owner does not make, nor shall Owner be deemed to have made, any representation, warranty or covenant as to the accuracy or completeness of the Confidential Information, and neither Owner nor any of its officers, directors, employees, agents, attorneys or representatives shall have any liability resulting from the use by Reviewer or its Representatives of the Confidential Information. Reviewer acknowledges and agrees to such lack of representation, warranty and covenant and hereby agrees to accept the Confidential Information on “AS IS” basis and to accept sole responsibility for verifying the completeness and accuracy of the same.

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Section 9. Termination

The restrictions in this Agreement shall terminate as to the Property is acquired by the Reviewer or upon the written waiver of the Owner which can be given or not given in its sole discretion; provided, however, that any claim by the Owner based on a breach of this Agreement occurring prior to such acquisition or waiver shall survive the acquisition or waiver unless subsequently waived by the Owner in writing. The terms and conditions of this Agreement shall remain in full force and effect for a period of three (3) years, if property is not acquired by Reviewer. At the Owner's request, the Reviewer shall destroy or, deliver to the Owner any compilations, studies, notes or other documents or records which contain or reflect Confidential Information relating to the Property not acquired by the Reviewer.

Section 10. Entire Agreement

This Agreement represents the entire agreement between the Reviewer and the Owner relating to the treatment of Confidential Information heretofore or hereafter reviewed or inspected by the Reviewer. This Agreement supersedes all other agreements relating to such matters which have previously been executed by the Reviewer in favor of the Owner or any other party.

Section 11. Litigation

In the event that the Owner institutes suit against Reviewer to enforce any of its rights hereunder, the Owner, if the prevailing party in such action, shall be entitled to recover from the other party all reasonable costs thereof, including, without limitation, all attorneys' fees and costs before, at trial and at all appellate levels, as the case may be, in addition to any other relief (at law or otherwise) to which such party may be entitled. Reviewer agrees to indemnify, defend and hold Owner harmless from and against or incurred by Owner and related to or arising out of the unauthorized disclosure of the Confidential Information by Reviewer or its Representative pursuant to this Agreement or the breach of the provisions of this Agreement by Reviewer or its Representatives. This Agreement shall be governed by and construed in accordance with the laws of Tennessee.

IN WITNESS WHEREOF, the Reviewer has executed this Agreement as of the date set forth below.

Name of Reviewer (Company)

By: _____

Print Name: _____

Title (if applicable): _____

Date: _____