

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the “Agreement”) is made and entered into effective _____, 2024 by and between 121 Broadway Property Owner LLC (“Providing Party”) and [_____] (“Receiving Party”). In connection with a potential business transaction (the “Transaction”) relating to Spreckels Theater (the “Property”), Providing Party may provide certain information regarding the Property to Receiving Party (any such information, the “Information”). As a condition to Receiving Party being furnished with the Information, Receiving Party agrees to treat the Information as confidential strictly in accordance with the provisions of the Agreement.

1. For the purposes of this Agreement, the term “Information” includes, but is not limited to, all documents, financial statements, reports, forecasts, projections, surveys, diagrams, records, engineering reports and all other written or oral information, as well as diskettes and other forms of electronically transmitted data, furnished or made available to, or at the direction of, Receiving Party, or Receiving Party's employees, trustees, directors, members, partners, subsidiaries, agents, advisors, shareholders, counsel, or representatives or any affiliate of any of the foregoing (collectively, its “Representatives”) by or on behalf of Providing Party relating to the Property, the Transaction and/or related matters, as well as any written memoranda, notes, analyses, reports, compilations, or studies prepared by Receiving Party or any of its Representatives (in whatever form of medium) that contain, or are derived from, such documents or other information furnished or made available by or on behalf of Providing Party. Notwithstanding the foregoing, the term “Information” does not include information furnished or made available by or on behalf of Providing Party if such information (a) is or becomes generally available to the public, other than as a result of a disclosure by or through Receiving Party or its Representatives in violation of this Agreement; (b) is or becomes available to Receiving Party from a source (other than Providing Party or its respective agents, representatives or advisors) not bound, to the best knowledge of Receiving Party or its Representatives, by any legal, contractual or other obligation to Providing Party prohibiting or limiting the disclosure of Information; (c) has been or is independently developed by Receiving Party or its Representatives without reference to the Information; or (d) is required to be disclosed by Applicable Law (as defined below).

2. Receiving Party agrees that neither it nor any of its Representatives shall disclose Information to any person or entity except as expressly permitted by this Agreement. Receiving Party further agrees that it and each of its Representatives will use Information exclusively in connection with the evaluating the Transaction. Notwithstanding the foregoing, Receiving Party may disclose Information to any Representative who needs to know such Information in order to evaluate the Transaction, provided that Receiving Party (i) shall inform each such Representative of the confidential nature of the Information and the restrictive terms of this Agreement and direct such Representative to abide by the terms hereof and (ii) hereby agrees to be liable subject to and in accordance with the terms hereof in the event that any such Representative discloses Information in breach of the permitted methods of disclosure under this Agreement.

3. Notwithstanding the provisions of Paragraph 2 hereof, Receiving Party or its Representatives may without liability hereunder disclose Information to the extent required or requested pursuant to Applicable Law, provided Receiving Party complies with the remainder of this Paragraph 3. For the purposes of this Agreement, “Applicable Law” means (i) any applicable present or future law, rule, order, ordinance regulation, statute, requirement, code, and/or executive or judicial order of any governmental authority or any requirement of a stock exchange or rating agency or (ii) any matters related to any legal or regulatory proceeding or criminal or civil investigation. If Receiving Party or any Representative desires to disclose any Information under the circumstances contemplated by the preceding sentences, Receiving Party will (a) provide Providing Party with prompt notice thereof (to the extent permitted by law), and (b) disclose only that portion of Information that Receiving Party is required or requested to disclose.

4. Receiving Party agrees that all written Information and all copies thereof, as well as analyses, compilations, studies or other documents prepared by or for Receiving Party (to the extent the same contain Information), will (to the extent technically practicable) be returned to Providing Party promptly or be destroyed. Notwithstanding such return or destruction, each of Receiving Party and its Representatives may retain copies of the Information for legal and/or compliance purposes, provided the obligations of confidentiality shall continue in full force and effect, subject to the terms hereof.

5. Receiving Party acknowledges that significant portions of Information are proprietary in nature and that Providing Party would suffer significant and irreparable harm in the event of the misuse or disclosure of Information. Without affecting any other rights or remedies that Providing Party may have at law or in equity, Receiving Party acknowledges and agrees that Providing Party will be entitled to the remedies of injunction, specific performance and other equitable relief for any breach, threatened breach or anticipatory breach of the provisions of this Agreement by Receiving Party. Receiving Party agrees to indemnify and hold Providing Party (as well as its officers, directors, partners, employees and/or agents) harmless from any actual and direct damages, including reasonable out-of-pocket legal fees and expenses, that are actually incurred to the extent resulting from any disclosure of the Information in breach of the permitted methods of disclosure under this Agreement.

6. For the avoidance of doubt, Receiving Party acknowledges that in connection with Provider's disclosure of Confidential Information relating to the Proposed Transactions, Receiving Party may receive material, non-public information and agrees to keep such information strictly confidential. Furthermore, Receiving Party acknowledges that it is aware, and agrees that it will advise its Representatives, that the United States securities laws restrict any person with material non-public information concerning an issuer from purchasing or selling securities on the basis of such information, or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities on the basis of such information. Receiving Party agrees to indemnify and hold Provider (as well as its officers, directors, partners, employees and/or agents) harmless against any and all claims arising out of or relating to Receiving Party's use of the Confidential Information (including any material non-public information) in violation of any Applicable Law (including any United States securities laws).

7. The parties hereto agree that until and only if Providing Party and Receiving Party execute a definitive agreement with respect to the Transaction, there shall be no obligation whatsoever on the part of any party hereto to enter into a transaction with each other or any other person or entity, and no party hereto has any rights with respect to, or obligations to, any other party hereto except as expressly set forth herein.

8. For a period of twelve (12) months from the date hereof, Receiving Party agrees that it will not, directly or indirectly, without Providing Party's prior written consent, (i) enter into, directly or indirectly, any oral or written agreement or arrangement of any kind for or in connection with the Property, (ii) initiate, maintain or respond to any contact with the owner of the Property, any obligor or borrower related to the Property, or any of the respective employees or representatives of the foregoing, or (iii) otherwise circumvent or undermine Providing Party's opportunity with respect to the Property.

9. This Agreement, and all restrictions contained therein, shall expire upon the earlier of (i) the consummation of the Transaction or (ii) the date that is twelve (12) months from the date hereof.

10. This Agreement may be executed by facsimile or PDF and in counterparts, each of which shall be deemed to an original, and both of which, taken together, shall constitute one agreement binding on both parties. If any provision of this Agreement is declared void, such provision will be deemed severed from this Agreement, which otherwise will remain in full force and effect.

11. No failure on the part of either party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver hereof by either party, nor will any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other

right. The rights and remedies of the parties hereto provided in this Agreement (x) are cumulative and are in addition to, and are not exclusive of, any rights or remedies provided by law (except as otherwise expressly set forth in this Agreement) and (y) are not conditional or contingent on any attempt by the Receiving Party or Providing Party to exercise any rights under any other related documents.

12. This Agreement and all matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of New York, without giving effect to the principles of conflict of laws that would require or permit the application of the laws of any other jurisdiction. The parties hereto agree to submit to the jurisdiction of the state and federal courts located in New York County, New York.

[The next page is the signature page.]

Very truly yours,

By: _____

Name:

Title:

Acknowledged and Agreed to:

121 Broadway Property Owner LLC

By: _____

Name: Erin Rota

Title: Authorized Representative

If in agreement with the foregoing, please return one signed copy of this agreement to:

Marc Renard - marc.renard@cushwake.com