

# CONFIDENTIALITY AGREEMENT

**Truist Office Sale**  
101 North Third Street  
Wilmington, New Hanover County, North Carolina

This Confidentiality Agreement (the "Agreement") is made and entered into effective as of the date written below by the undersigned Requestor for the benefit of **101 NORTH THIRD STREET, LLC** (together with its parent, subsidiaries and affiliates, collectively "Seller").

## RECITALS:

R-1. In order to evaluate the "Proposed Transaction" (as defined below), Requestor has requested the opportunity to review applicable "Information" (as defined below) which has been obtained or possessed by Seller.

R-2. Seller has requested that Requestor execute and deliver this Agreement as a condition of its review and inspection of the Information and Requestor has agreed to do so, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the parties hereby agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein shall have the meanings set forth below.

"Confidential Information" shall mean any Information provided to or disclosed to Requester by Seller or on its behalf, either directly or indirectly, in any form whatsoever or in or by any medium whatsoever, including without limitation: (a) all files, reports, and other information contained in Seller's files relating to or in any way pertaining to the Property; (b) all Information, written or oral, provided in response to any request from Requestor; (c) all electronically produced Information in any form relating to any of the Property; and (d) any Information, trade or business services, discoveries, ideas, concepts, know how, techniques, designs, strategies, specifications, drawings, blueprints, designs, flow-charts, data, computer programs, marketing plans, customer names that are proprietary to Seller or a third party to whom Seller has a duty of confidentiality and other technical, financial or business information obtained by Requestor pursuant to this Agreement. The term "Confidential Information" shall not include information which: (i) is already known to Requestor from sources not known by Requestor to be subject to any confidentiality obligations to Seller; (ii) is or becomes generally available to the public other than as a result of a disclosure by Requestor; or (iii) is required to be disclosed by law or by regulatory or judicial process.

"Information" shall mean any appraisals, data, environmental reports and any other information provided by Seller to Requestor in connection with the Proposed Transaction, regardless of format and regardless of whether it constitutes Confidential Information.

"Property" shall mean that real property located at **101 North Third Street, Wilmington, New Hanover County, NC** with Tax Parcel ID of **R04817-017-011-000**.

"Proposed Transaction" shall mean Requestor's proposed purchase of all the Property or some other possible transaction relating to or involving the Property.

"Term" shall mean the period commencing on the date of this Agreement and expiring on the earlier of (a) the date Seller and Requestor enter into a contract regarding the Proposed Transaction and (b) **three (3) years** from the date of this Agreement.

Section 2. Limitation on Use. Requestor agrees that its review and inspection of the Information furnished by or on behalf of Seller shall be solely for the purpose of conducting due diligence, on its own behalf, for the purpose of evaluating its interest in entering into the Proposed Transaction and for no other purpose. Requestor agrees that all Information remains the sole property of Seller and no license or other rights (including any intellectual property rights) in the Confidential Information are granted to Requestor or implied hereby.

Section 3. Non-Disclosure. Requestor shall not disseminate or divulge any Confidential Information to any person or entity other than as specifically authorized by this Agreement. Requestor shall limit access to the Confidential Information to its employees, officers, attorneys and other professional advisors who have a need to know the Confidential Information for the purpose of evaluating the suitability of the Proposed Transaction, and any such person receiving the Confidential Information must be made aware of and agree to the terms of this Agreement. Without the prior written consent of Seller, Requestor shall not, directly or indirectly, contact, seek or attempt to seek any Confidential Information from any person or entity (other than Seller), including without limitation, any person or entity identified in the Confidential Information, or any of their respective agents, employees, accountants or attorneys (unless such information is part of the public domain). It is specifically acknowledged and agreed by Requestor that all Confidential Information provided to Requestor is confidential and/or proprietary in nature and that damage to Seller may result if any of the Confidential Information is disclosed to third parties without Seller's express written consent. Requestor further specifically acknowledges and agrees that money damages would not be a sufficient remedy for any breach of this Agreement by Requestor or any person receiving Confidential Information from Requestor, and Seller will be entitled to specific performance and injunctive relief as remedies for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement by such persons but shall be in addition to all other remedies available at law or equity.

Section 4. Confidentiality; Destruction of Documents. Requestor shall take reasonable precautions and exercise due care to maintain the confidentiality of the Confidential Information, and Requestor shall ensure that all persons to whom it discloses the Confidential Information shall keep all Confidential Information confidential as required by this Agreement. In the event Requestor and Seller do not enter into a definitive agreement relating to the Proposed Transaction, Requestor shall, at the request of Seller, return or destroy the Confidential Information and any copies thereof. Notwithstanding the return or destruction of the Confidential Information, Requestor will continue to be bound by its obligations of confidentiality and other obligations under this Agreement during the Term.

Section 5. Required Disclosure. If Requestor is required to disclose any Confidential Information pursuant to a legally enforceable subpoena, court order or other legal proceeding, Requestor shall notify Seller as promptly as practicable but in any event within three (3) business days of the date of receipt of such subpoena, court order or other legal proceeding so that Seller may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. Notice shall be in writing and shall be delivered to:

**Cape Fear Commercial, LLC**  
**Attn: Hannah Warren**  
**102 Autumn Hall Drive, Suite 210**  
**Wilmington, NC 28403**  
[hannah@capefearcommercial.com](mailto:hannah@capefearcommercial.com)

Section 6. Restrictions on Contact. Without limiting other prohibitions found herein, Requestor shall not communicate with any person or entity identified in the Confidential Information, including but not limited to former owners of the Property and shall not initiate communication with any of Seller's employees, managers or attorneys relative to the Property unless Requestor reasonably believes that such employees, managers and attorneys are involved in the Proposed Transaction. In the event of a breach of this Section, Requestor shall be liable to Seller for all of its damages consequential thereto, including but not limited to its costs, including attorney's fees (whether or not suit is instituted) of defending against such breach. In addition to the foregoing, Seller shall also have recourse to all generally available legal remedies for the breach of this or any other Section of this Agreement.

Section 7. Disclaimer. To the extent that any Information provided by Seller to Requestor includes environmental, appraisal or other reports prepared by third parties, Requestor acknowledges such reports were prepared solely and exclusively for the benefit of Seller by the consultants identified therein who were engaged as independent contractors. Seller did not direct the manner or method the consultants utilized in performing their work or producing any report or other document included as part of the Information and Seller is not responsible for the content thereof. Requestor understands it should conduct its own independent investigation of all matters concerning the Proposed Transaction, utilizing such consultants and experts as it deems necessary for an independent assessment of all risk associated with the Proposed Transaction and may not rely upon the information provided by Seller.

Section 8. No Representations or Warranties. Requestor acknowledges and understands that: (a) Seller and Cape Fear Commercial make no representation or warranty whatsoever, express or implied, with respect to the content, completeness or accuracy of the Information; (b) Requestor must independently determine whether it has all information relevant for it to make that determination; and (c) none of Seller's employees or any of its officers, employees, agents, attorneys or advisors have made or make any representation or warranty as to the accuracy or completeness of the Information. Neither Seller, nor any of its officers, directors, employees, representatives or agents shall have any liability resulting from the use by Requestor of the Information. Requestor acknowledges and agrees that neither Seller nor Cape Fear Commercial has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, as to, concerning or with respect to, the Information or the Property. Requestor is relying solely on its own investigation of the Property and not on any Information provided or to be provided by Seller and/or Cape Fear Commercial. Requestor hereby releases Seller and Cape Fear Commercial and its employees (including their directors and officers), agents, attorneys, representatives and advisors from all claims, causes of action, losses, damages, liabilities, judgments, costs and expenses, including without limitation, attorney's fees (whether or not suit is instituted) asserted against or incurred by any of them contained in, arising out of or otherwise relating to the Information.

Section 9. Privilege. Requestor acknowledges that the Information disclosed by Seller does not necessarily include all of the information or materials within Seller's possession or control

and will not include, by way of example and not limitation: (a) any document or other written materials that would not be subject to discovery in a lawsuit in which Seller may be named as a party (including without limitation, materials which would be protected by work product and/or attorney-client communication privileges); or (b) any memoranda or other documents prepared by Seller or its employees that contain evaluations, opinions or analyses of information provided to Seller by any third party or agent of Seller.

Section 10. No Binding Agreement for Proposed Transaction. Requestor acknowledges and agrees that unless and until a definitive agreement between Seller and Requestor with respect to the Proposed Transaction has been executed and delivered, neither Seller nor Requestor will be under any legal obligation of any kind whatsoever with respect to the Proposed Transaction by virtue of this Agreement or any other written or oral expression with respect to the Proposed Transaction by any of the directors, officers, employees, representatives or advisors of Seller except, in the case of this Agreement, for the matters specifically agreed to herein. Requestor further acknowledges and agrees that Seller reserves the right, in its sole and absolute discretion, to reject any and all proposals and to terminate discussions and negotiations with Requestor at any time.

Section 11. No Brokers. Requestor has not engaged any broker or finder or incurred or become obligated to pay any broker's commission or finder's fee in connection with the Proposed Transaction except as disclosed on Schedule 11 attached hereto. Requestor acknowledges and agrees that in no event will Seller, any of its affiliates, or Cape Fear Commercial be obligated to pay any fee or other remuneration or reimbursement of expenses including by way of example and not imitation, finder's fees or brokerage commissions to any intermediary engaged by, or representing the interests of, Requestor or any of its principals or affiliates unless such obligation is contained in a written agreement executed by Seller. Requestor agrees to indemnify and does hereby indemnify and hold harmless Seller from any and all claims for such remuneration, compensation, commissions, fees, or rights of reimbursement.

Section 12. Liability. If Seller determines that Requestor has breached any provision of this Agreement, Seller may, in its sole discretion, exercise any or all legal or equitable rights or remedies to which it may be entitled on account of Requestor's breach. Seller shall not be deemed to have waived any rights or remedies on account of the failure, delay or forbearance in exercising any such right or remedy in a particular instance. Requestor agrees that money damages would not be a sufficient remedy for any breach of the agreements contained herein by Requestor and that Seller shall be entitled to specific performance and injunctive relief as remedies for any such breach or threatened breach and Requestor further agrees to waive and hereby waives any requirement for the security or the posting of any bond in connection with such remedies.

Section 13. Indemnification. By execution of this Agreement, Requestor hereby agrees to and does hereby indemnify, defend (through attorneys reasonably acceptable to Seller and its successors and assigns) and hold Seller and all officers, directors, employees, and agents of Seller harmless from and against any and all claims, causes of action, damages, losses, costs, including reasonable and necessary attorney's fees (whether or not suit is instituted) and liabilities of any nature, which may at any time be assessed against or suffered by any of them directly or indirectly relating to or arising out of a breach of this Agreement by Requestor.

Section 14. Governing Law. This Agreement shall be governed and construed in accordance with the internal laws of the State of North Carolina without regard to conflict of law provisions. Jurisdiction and venue for any action brought under this Agreement shall be solely in the State of North Carolina. Without limiting any rights or remedies available to Seller, upon the

violation of any provisions hereof Requestor agrees that Seller shall be entitled to specific performance of this Agreement.

Section 15. No Further Obligations. This Agreement in no way obligates Seller or Requestor to engage in negotiations or to enter into a definitive agreement for the Proposed Transaction. Requestor further acknowledges and agrees that Seller reserves the right, in its sole and absolute discretion, to reject any and all proposals and to terminate discussions and negotiations with Requestor at any time.

Section 16. Reaffirmation. Each and every delivery of Information provided by Seller and accepted by Requestor shall constitute Requestor' s reaffirmation and acceptance of all of the terms and conditions of this Agreement.

Section 17. Counterparts. This Agreement may be executed in multiple counterparts each of which shall be deemed an original hereof and all of which when taken together shall constitute one and the same document.

Section 18. Miscellaneous. This Agreement represents the entire agreement between Seller and Requestor relating to the receipt, use and disclosure of the Information. This Agreement shall apply to and be binding upon Requestor and its directors, officers, employees, agents, attorneys, successors and assigns.

[signature page follows]

IN WITNESS WHEREOF, as of the Effective Date stated below,  
\_\_\_\_\_, together with its successors and  
assigns (whether one or more collectively "Requestor") has executed this Agreement or  
caused it to be executed under seal by their duly authorized officers.

**EFFECTIVE DATE:** \_\_\_\_\_

**REQUESTOR:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Title: \_\_\_\_\_

**REQUESTOR:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Title: \_\_\_\_\_

**Schedule 11**  
Requestor's Broker

**BROKER:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Company: \_\_\_\_\_

License #: \_\_\_\_\_

Email: \_\_\_\_\_