



## ELECTRONIC CONFIDENTIALITY AGREEMENT

**Otter Creek Shopping Center ("PROPERTY")**  
200-264 S. Randall Road, Elgin, Illinois 60123

**Otter Creek, LLC ("OWNER")**  
c/o May Real Estate LLC

**May Real Estate LLC ("MAY")**  
700 Commerce Drive, Suite 500, Oak Brook, Illinois 60523

**Potential Investor ("INVESTOR")**

The party identified by the contact information noted in this Electronic Confidentiality Agreement window.

MAY has been retained by OWNER as exclusive agent in the potential sale of PROPERTY. OWNER is the owner of that certain real estate described above as PROPERTY. INVESTOR desires to review information for purposes of determining if INVESTOR will pursue an acquisition of PROPERTY. By selecting "I Agree" (below INVESTOR's contact information noted in this Electronic Confidentiality Agreement window), INVESTOR agrees to all terms of this Confidentiality Agreement ("AGREEMENT"). The effective date of the AGREEMENT is the date INVESTOR selects "I Agree" in this Electronic Confidentiality Agreement Window.

INVESTOR agrees as follows:

1. The term Confidential Information ("CI") as used herein means, collectively, all information furnished by OWNER and/or MAY regarding PROPERTY, PROPERTY's operation and/or operations of OWNER. CI includes, but is not limited to, offering literature, correspondence, documents, financial reports/forecasts, loan information, leases, easement agreements, abstracts, sales reports, property reports, environmental reports, title information and surveys. CI shall also include conversations and emails involving INVESTOR, OWNER and/or MAY. Notwithstanding the preceding, CI shall not include information which (a) was in INVESTOR's possession prior to the effective date hereof, (b) becomes publicly known, except for any such information that becomes publicly known because of disclosure by INVESTOR or its representatives in violation of this AGREEMENT, or (c) is required to be disclosed pursuant to judicial or regulatory action, law or similar legal process. At any time upon the request of

## Confidentiality Agreement

### Page 2

OWNER or MAY, INVESTOR must return to OWNER or MAY, or destroy, CI. Such return or destruction must occur within five (5) business days after OWNER's or MAY's request. If INVESTOR chooses to destroy CI, then such destruction must be certified to in writing and such certification delivered to OWNER or MAY within such five (5) business day period.

2. INVESTOR agrees that the CI will be used solely to evaluate whether the INVESTOR desires to potentially purchase PROPERTY (the "TRANSACTION"). INVESTOR and its representatives shall keep CI confidential. INVESTOR will not disclose CI or permit it to be disclosed to any other party, provided, however, that CI may be disclosed (and copies provided) to INVESTOR's directors, officers, employees, financing sources, affiliates and advisors (collectively, "REPS"), but only to the extent necessary to evaluate the TRANSACTION, and, provided further, that such REPS have agreed to be bound by the terms of this Agreement. INVESTOR shall be responsible for any disclosure by its REPS of the CI which is not expressly authorized hereby. INVESTOR agrees to be responsible for enforcing the confidentiality provisions herein with respect to its REPS. Within five (5) business days following OWNER's or MAY's request, INVESTOR will provide the names and addresses of all REPS to whom INVESTOR has provided CI. Neither INVESTOR, nor any of its REPS, shall directly or indirectly communicate with any tenants, property manager, leasing agents, service contractors, lien holders or other parties with any interest in or contractual relationship affecting PROPERTY, except in the ordinary course of business unrelated to the TRANSACTION.
3. INVESTOR for itself and on behalf of its REPS, acknowledges and agrees that, except as may be set forth in a fully executed, definitive purchase agreement, neither OWNER, MAY, nor any of OWNER's or MAY's affiliates, agents, advisors, respective officers, directors, employees, agents or controlling persons, has made or hereby makes any express or implied representations or warranties as to the accuracy or completeness of CI. Neither OWNER, MAY nor any of the foregoing persons or entities shall have any liability to INVESTOR or its REPS relating to or arising from the use of any CI or for any errors therein or omissions in the CI. INVESTOR and its REPS are not entitled to rely on the accuracy or completeness of the CI. INVESTOR and its REPS agree to rely solely on their own independent investigation, analysis, appraisal and evaluation of the facts and circumstances in connection with the TRANSACTION.
4. MAY has not made any investigation, and makes no warranty or representation, with respect to (a) the past, current and/or future financial operations of PROPERTY, (b) the size and measurements of the site and improvements of PROPERTY, (c) the presence of any environmental contaminants at PROPERTY, (d) PROPERTY's physical condition, (e) PROPERTY's compliance with federal, state and/or local regulations, and (f) the status or business condition of any tenant occupying PROPERTY. INVESTOR is solely responsible for conducting appropriate investigations to corroborate and verify all PROPERTY information.
5. OWNER and/or MAY may conduct the process that may or may not result in the TRANSACTION in such manner as OWNER and/or MAY, in its sole discretion, may determine (including, without

limitation, negotiating and entering into a definitive purchase agreement with any third party without notice to INVESTOR). OWNER and/or MAY reserve the right to change (in its sole discretion, at any time and without notice) the procedures relating to OWNER's and INVESTOR's consideration of the TRANSACTION. This AGREEMENT is not an offer to sell and shall not be construed as such. OWNER is under no obligation to sell PROPERTY by virtue of this AGREEMENT. OWNER may discontinue the marketing of PROPERTY at any time for any reason or no reason in OWNER's sole discretion and without notice to INVESTOR.

6. In the event of any breach of this Agreement by INVESTOR or its REPS, OWNER would be irreparably and immediately harmed and could not be made whole by monetary damages. Accordingly, it is agreed that, without prejudice to any rights and remedies otherwise available to OWNER, OWNER shall be entitled (a) to equitable relief by way of injunction in the event of a breach of any provision of this AGREEMENT, and (b) to compel specific performance, in each case without the need for proof of actual damages. INVESTOR agrees to indemnify OWNER and MAY for any losses, claims, damages, costs and expenses, including reasonable attorneys' fees that OWNER and MAY may incur or suffer in connection with the breach of this AGREEMENT and/or its enforcement.
7. This AGREEMENT shall be binding upon INVESTOR's successors and assigns and shall inure to the benefit of and be enforceable by the respective successors and assigns of OWNER and MAY. OWNER, MAY and their successors and assigns shall be deemed the beneficiaries of this AGREEMENT, and shall be entitled to all the rights and remedies accorded to such parties at law or in equity. This AGREEMENT shall be governed by the laws of the state in which the Property is located. This AGREEMENT may be waived, amended or modified only by a written instrument signed by both OWNER, MAY and INVESTOR, which shall set forth specifically the provisions of this AGREEMENT that are to be so waived, amended or modified. Time is of the essence in connection with the performance of the INVESTOR's and its REPS' obligations pursuant to this AGREEMENT.
8. The term of this AGREEMENT shall be two (2) years from the effective date defined in this AGREEMENT; provided, that if OWNER or MAY delivers a written notice to INVESTOR of any claim or cause of action arising hereunder during such two (2) year period, then such claim or cause of action shall survive said two (2) year period.
9. Neither the OWNER nor MAY will pay a brokerage fee to, or share a brokerage commission with the INVESTOR, REPS, a related and/or affiliated party to INVESTOR attempting to act as a cooperating broker, or any broker representing INVESTOR. All cooperating broker inquiries should be directed to the appropriate MAY representative.
10. INVESTOR understands and agrees that MAY is not representing INVESTOR in this TRANSACTION. INVESTOR understands and agrees that there is no agency or dual agency

**Confidentiality Agreement**

**Page 4**

relationship between INVESTOR and MAY. MAY is only representing the OWNER in this TRANSACTION. INVESTOR acknowledges its responsibility to inform its REPS of this provision.

**Agreed and Accepted on the effective date defined in this AGREEMENT.**

**INVESTOR SIGNATURE**

**INVESTOR HAS EXECUTED THIS AGREEMENT BY INVESTOR'S SELECTION OF "I AGREE" BELOW INVESTOR'S CONTACT INFORMATION NOTED IN THIS ELECTRONIC CONFIDENTIALITY AGREEMENT WINDOW.**