

CONFIDENTIALITY AGREEMENT

In order to induce XYZ ("XYZ") to consider the undersigned for employment or engagement as an independent contractor to provide services, including, without limitation, services with respect to XYZ's property located at, and known as, [Property Address] (the "Property"), and in consideration of any employment or engagement that the undersigned may obtain with XYZ or any of the Affiliated Companies (as hereinafter defined), whether with respect to the Property or otherwise, and any compensation or other remuneration to be hereafter paid to the undersigned in connection therewith, the undersigned, _____ (hereinafter sometimes referred to as the Applicant"), acknowledges that the Applicant has been informed of the Applicant's obligations hereunder and that such obligations are a condition to the consideration by XYZ of the Applicant's employment or engagement, and to any employment or engagement that the Applicant may obtain, and the Applicant hereby agrees as follows:

Section 1. Term of Employment; Termination. In the event that the Applicant is hereafter employed or engaged as an independent contractor by XYZ or any of the Affiliated Companies, the Applicant agrees and understands that nothing in this Agreement shall confer any right on the Applicant with respect to the grant or continuation of the Applicant's employment or engagement as an independent contractor. The Applicant further agrees and understands that, in the event that the Applicant is employed or engaged as an independent contractor, any breach of this Agreement by the Applicant will result, in addition to any and all other remedies which may then be available to XYZ, in the Applicant's immediate termination.

Section 2. Confidentiality Obligations of the Applicant.

2.1 Definition of Confidential Information. (a) For purposes of this Agreement, the term "Confidential Information" shall mean any "Business Information" (as hereinafter defined) and any "Personal Information" (as hereinafter defined) about any of: (i) the Property or any other real property owned directly or indirectly by XYZ or any Affiliated Companies; (ii) XYZ; (iii) any and all corporations, limited liability companies, trusts, limited partnerships, general partnerships or other entities owned or controlled by XYZ ("Affiliated Companies"); (iv) any of the members, managers, directors, officers, shareholders, limited partners, general partners, trustees, beneficiaries, employees, contractors or agents of any of the Affiliated Companies; (v) any person residing at, visiting or staying for any duration at the Property; and (vi) any personal associate, business associate or client of any of the persons described in the above clauses (ii) through (v), inclusive; previously or hereafter gathered or learned by the Applicant directly or indirectly during the course of the any interactions between the Applicant, on the one hand, and XYZ or any Affiliated Companies, or any representatives of XYZ or any Affiliated Companies, on the other hand, including, without limitation, during the course of Applicant's application for employment or engagement by XYZ or any Affiliated Companies and/or in connection with any employment or engagement of the Applicant by XYZ or any Affiliated Companies.

(b) For purposes of this Agreement, the term "Business Information" shall mean information of any type which is commonly considered of a confidential nature and includes, but

is not limited to, any information (whether in oral, written, photographic, electronic or other recorded form) regarding the existence, identities, contact information, and business records of; the business plans of; mechanized or nonmechanized systems of accounting of; methods of doing business of; vendor information (including, without limitation, existence, identities, contact information, records, fees, and disbursements of, and services and materials provided by, any and all vendors, contractors, consultants, and professional advisors) of; confidential business lists and other proprietary data of; proprietary property of; assets of; investment strategies, transactions, records, procedures and history of; financial records of; the skills, business activities, compensation and financial net worth of; and any other information of a similar nature about; any of the persons or entities set forth in Section 2.1(a).

(c) For purposes of this Agreement, the term “Personal Information” shall mean information of any type which is commonly considered of a personal nature and includes, but is not limited to, information (whether in oral, written, photographic, electronic or other recorded form) regarding the identities of; contact information of; personal characteristics of; physical descriptions of; non-business activities of; personal assets of; personal records of; personal plans of; personal lifestyles of; relationships of; friends of; relatives of; individuals who associate with or who are invited to associate with; and any other information of a similar nature about; any of the persons set forth in Section 2.1(a) of this Agreement (the “Classified Parties”); and shall also include, without limitation, the appearance and exterior and interior layout of, any and all improvements on, and furniture, furnishings, and other items of personal property contained anywhere in or on, the Property or any other real property directly or indirectly owned by XYZ or any of the Affiliated Companies.

2.2 Confidential Information Shall Not Be Discussed. At all times hereafter, the Applicant will hold in the strictest confidence and will not, directly or indirectly, use, communicate, publicize, lecture upon, publish or in any manner disclose any Confidential Information, unless XYZ has expressly authorized in writing such use, communication, publicizing, lecturing, publication, or disclosure. The Applicant hereby assigns to XYZ any and all rights the Applicant may have or acquire in any Confidential Information and acknowledges that all Confidential Information shall be the sole and exclusive property of XYZ. The Applicant further agrees and acknowledges that under this Agreement, the Applicant is obligated to use the Applicant’s best efforts to ensure that no Confidential Information is used, communicated, publicized, lectured upon, published or disclosed by any persons employed or engaged by the Applicant or under the Applicant’s supervision or control. To the extent that the Applicant has any doubts, either now or in the future, as to whether information the Applicant possesses is Confidential Information as defined herein, the Applicant will contact XYZ or XYZ’s designated representatives, for written clarification and approval before divulging or using such information in any manner whatsoever.

2.3 Third Party Information Shall Not Be Disclosed. The Applicant understands that the Applicant may receive Confidential Information from third parties, as well as from XYZ. The Applicant acknowledges and agrees that Confidential Information which the Applicant receives from third parties is to be treated in the same manner as Confidential Information received from XYZ and that all of the Applicant’s obligations hereunder apply to all Confidential Information received, regardless of its source.

2.4 Return of Documents. Upon demand by XYZ, and upon the expiration or termination of any employment or engagement as an independent contractor of the Applicant by XYZ or any of the Affiliated Companies, regardless of the reason or basis, if any, for such expiration or termination, the Applicant will deliver to XYZ any and all documents, written materials, notes, drawings, photographs, specifications and any other materials of any type or nature whatsoever (whether in written, photographic, electronic or other recorded form) which the Applicant has in the Applicant's possession or control, and all drafts, copies and electronic file copies of all or any part thereof, which may constitute, include, reflect or disclose any Confidential Information.

Section 3. Review of Agreement. The Applicant acknowledges that the Applicant has read this Agreement, and that the Applicant has had the opportunity to review it and consult about it with the Applicant's own counsel if the Applicant so desires, before signing it.

Section 4. Conflicts.

4.1 Avoidance of Conflict of Interest. If the Applicant is or subsequently becomes employed by XYZ or any of the Affiliated Companies (rather than being engaged as an independent contractor), the Applicant agrees that during the term of any such employment, so long as the Applicant is employed on a full-time basis, the Applicant will not, without the express written consent of XYZ, engage in any employment or other business activity other than the performance of the Applicant's duties for XYZ or any of the Affiliated Companies with which the Applicant is so employed.

4.2 No Conflicting Obligations. The Applicant warrants and represents that the Applicant has heretofore violated any provisions of this Agreement and that the Applicant has not entered into, or made, and agrees that the Applicant will not enter into or make, any written or oral agreement, undertaking, promise, or representation that conflicts with or violates the provisions of this Agreement or otherwise impairs the Applicant's ability to strictly perform the Applicant's obligations under this Agreement or to fully comply with the provisions of this Agreement. The Applicant further warrants and represents that the Applicant is not subject to any subpoena, injunction, decree, writ or order of any court or other authority or to any other duty or responsibility, legal or otherwise, which conflicts with the provisions of this Agreement or otherwise impairs the Applicant's ability to strictly perform the Applicant's obligations under this Agreement or to fully comply with the provisions of this Agreement. The Applicant shall immediately inform XYZ should the Applicant subsequently become subject to any such subpoena, injunction, decree, writ, order, duty or responsibility.

Section 5. Remedies.

5.1 Equitable Relief. The Applicant acknowledges that the Confidential Information constitutes unique and confidential information of XYZ and in the event of a breach or a threatened breach of this Agreement, XYZ will be irreparably harmed and there will be no adequate remedy at law. Therefore, in addition to any and all other rights and remedies XYZ

may have, XYZ shall be entitled to injunctive or other equitable relief in the event of a breach or threatened breach hereof and the Applicant hereby waives any right to assert as a defense that there is an adequate remedy at law.

5.2 Liquidated Damages. In addition to any and all other rights, remedies or damages available at law or in equity, the Applicant agrees that if any court of competent jurisdiction finds that the Applicant has breached any of the provisions of this Agreement, the Applicant will pay XYZ the sum of One Hundred Thousand (\$100,000.00) Dollars, as liquidated damages and not as a penalty. The Applicant recognizes and understands that it would be difficult or impossible to calculate the actual amount of damages resulting from such a breach, and acknowledges that the sum of One Hundred Thousand (\$100,000.00) Dollars would be reasonable under the circumstances.

Section 6. General Provisions.

6.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of _____ applicable to contracts executed, delivered and to be fully performed in such jurisdiction, without giving effect to the principles of conflicts of law.

6.2 Severability. If one or more of the provisions of this Agreement are deemed invalid or unenforceable by law, then the remaining provisions hereof will continue in full force and effect, without regard to the invalid or unenforceable provision or provisions hereof, as the provisions of this agreement are intended to be and shall be deemed severable.

6.3 Survival. The provisions of this Agreement shall continue in full force and effect, regardless of whether the Applicant is ultimately employed or engaged by XYZ or any Affiliated Companies, and if the Applicant is so employed or engaged, the provisions hereof shall survive the expiration or termination of any such employment or engagement of the Applicant, regardless of the reason or basis, if any, for such expiration or termination.

6.4 Binding Effect. This Agreement and all of the provisions hereof shall inure to the benefit of, and be enforceable by, XYZ, his heirs, personal representatives, successors and assigns, and shall be binding upon the Applicant and the Applicant's heirs, personal representatives, successors and assigns.

6.5 Waiver. No waiver of any provision of this Agreement shall be valid unless expressly given in writing, signed by the party against whom such waiver is sought to be enforced, and specifying the specific instance and the specific purpose for which such waiver is given. Each such waiver, if any, shall be effective only for the specific instance and for the specific purpose for which it is given. No waiver by XYZ of any breach of this Agreement shall be a waiver of any preceding or succeeding breach. No waiver by XYZ of any right under this Agreement shall be construed as a waiver of any other right. XYZ shall not be required to give notice to enforce strict adherence to all of the terms and provisions of this Agreement.

6.6 Headings. The headings contained herein are for convenience only and shall not control or effect in any way the meaning or interpretation of the provisions hereof.

6.7 Entire Agreement. This Agreement sets forth the entire agreement and understanding between XYZ and the Applicant relating to the subject matter hereof and supersedes and merges all prior discussions between them relating to the subject matter hereof. No modification of, or amendment to, this Agreement will be effective unless in writing signed by the party to be charged therewith. If the Applicant is hereafter employed or engaged by XYZ or any Affiliated Company, any subsequent change or changes in the Applicant's duties, salary or other remuneration will not affect the validity or scope of this Agreement.

Signed: _____

Print
Name: _____

Date: _____

Address: _____
