



NON-DISCLOSURE, NON-CIRCUMVENTION AND NON-SOLICITATION AGREEMENT

THIS NON-DISCLOSURE, NON-CIRCUMVENTION AND NON-SOLICITATION AGREEMENT (this "Agreement") is made as of this _____ day of _____, 2018, by and between REAL MIAMI COMMERCIAL REAL ESTATE, LLC residing at 1450 Madruga Avenue, Suite 303 (the "Discloser") and _____ Each sometimes referred to herein singularly as a "Party" and collectively as the "Parties", who are signatories hereto.

Property: Airport Warehouses

WITNESSETH:

WHEREAS, the Discloser has valuable and proprietary information critical to its projects and success in the marketplace; and

WHEREAS, the Discloser is willing to provide Confidential Information (as defined below) on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual undertakings herein contained, the Parties, intending to be legally bound hereto agree as follows:

1. Non-Disclosure. Confidential Information shall be held by Principal in the strictest confidence and shall not, without the prior written consent of the Discloser, be disclosed to any person other than in connection with Principal's relationship with the Discloser. Principal further acknowledges that such Confidential Information as is acquired and used by the Discloser is a special, valuable and unique asset. Principal shall exercise all due and diligence precautions to protect the integrity of the Confidential Information and to keep it proprietary and confidential whether it is in written form, on electronic media or oral. Principal shall not copy any Confidential Information except to the extent necessary to its relationship with the Discloser and then only with the authorization of an officer of the Discloser. All records, files, materials and other Confidential Information obtained by Principal in the course of its relationship with the Discloser are confidential and proprietary and shall remain the exclusive property of the Discloser or its Customers (as defined below), as the case may be. Principal shall not, except in connection with and as required by his performance of his duties under this Agreement, for any reason, use for its own benefit or the benefit of any person or entity with which he may be associated or disclose any such Confidential Information to any person, firm, corporation, association or other entity for any reason or purpose whatsoever without the prior written consent of the Discloser.

For purposes of this Agreement, the term "Customer" means any person, firm, corporation, partnership, association, fund or other entity (i) which the Discloser provides or provided services to, (ii) which is the subject of any Confidential Information disclosed by the Discloser to Principal, or (iii) which the Discloser is in active discussion and/or negotiations with to provide future services (of any kind) to.

For purposes of this Agreement, the term "Confidential Information" includes, but is not limited to, trade secrets as defined by the common law and Chapter 757 of the Restatement of Torts or the New York Statutes or any future applicable New York statute, processes, policies, procedures, techniques, designs, drawings, know-how, show-how, technical information, financial/financing contacts, investors, contractors, marketing agents, construction managers, specifications, information and data relating to the development, research, testing, costs, marketing and uses of the Discloser's business, or proposed or contemplated business, the Discloser's budgets and strategic plans, and the identity and special needs of the Customers, databases, data, all technology relating to the Discloser's or Customer's current, proposed or contemplated businesses, systems, methods of operation, client or Customer lists, Customer information, solicitation leads, marketing and advertising materials, methods and manuals and forms, all of which pertain to the activities or operations of the Discloser or Customers, as applicable. In addition, Confidential Information also includes the identity of the Customers and the identity of and telephone numbers, e-mail addresses and other addresses of executives or agents of such Customers. For purposes of this Agreement, the following will not constitute Confidential Information (i) information which is or subsequently becomes generally available to the public through no act of, (ii) information set forth in the written records of Principal prior to disclosure to Principal by or on behalf of the Discloser which information is given to the Discloser in writing dated as of prior to the date of this Agreement, and (iii) information which is lawfully obtained by Principal in writing from a third party (excluding any affiliates of Principal) who did not acquire such confidential information or trade secret, directly or indirectly, from Principal or the Discloser without breach of this Agreement.

In the event Principal is required by law, regulation, or court order to disclose any of the Confidential Information, Principal will promptly notify Discloser in writing prior to making any such disclosure in order to facilitate Discloser seeking a protective order or other appropriate remedy from the proper authority. Principal agrees to cooperate with Discloser in seeking such order or other remedy. Principal further agrees that if Discloser is not successful in precluding the requesting legal body from requiring the disclosure of the Confidential Information, it will furnish only that portion of the Confidential Information which it is legally required to disclose and will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be afforded the disclosed Confidential Information.

2. Non-Circumvention. Notwithstanding anything to the contrary in this Agreement, Principal agrees for itself and its affiliates and related parties that it will not engage in any action that will bypass, circumvent, avoid or obviate the Discloser, either directly or indirectly, to avoid the payment of fees, participation, equity or commissions to Discloser, whether by Principal, Customer or any other third party, in connection with any project, transaction or information introduced to Principal by the Discloser. Principal (and its affiliates and related parties) shall not interfere with, or deprive the Discloser of any business opportunities disclosed pursuant to this Agreement or its relationship with the Customer. Further, this Agreement shall be binding for any rollovers (i.e. any related agreements in connection with the main purchase or investment agreement. For example, licensing agreements for the Customer's use of intellectual properties), extensions, re-negotiation, new contracts or third party assignments (i.e. should Customer assign any rights and/or ownership related to any of the subject projects to any party introduced to Principal by the Discloser).

3. Non-Solicitation. During the term of this Agreement, Principal shall not in any manner contact, solicit nor accept any business from any Customer or any sources or such sources' affiliates that are directly or indirectly introduced to Principal by the Discloser or as a result of its relationship with the Discloser at any time, without the express prior written permission of the Discloser.

4. Term. This Agreement shall become effective as of the date first written above, and the Principal's obligations hereunder shall survive for a period lasting the longer of: (i) five (5) years from the date of this Agreement, or (ii) three (3) years after the disclosure of any Confidential Information from the Discloser to Principal; provided, however, with respect to any trade secrets disclosed hereunder, the Principal's obligations hereunder shall survive so long as they remain trade secrets.

5. Return of Confidential Information. Principal agrees to return to the Disclosing Party upon request, all documents, contracts, technical information, product information, business and/or marketing plans, materials, equipment, blueprints, prototypes, samples, customer lists, databases, sources of contact, and the like which in any way relate to the Disclosing Party's Confidential Information.

6. Restrictive Covenants and Enforcement.

A. Stipulations. The Parties stipulate and agree that: (i) adequate consideration exists for the restrictive covenants set forth in Paragraphs 1, 2 and 3 of this Agreement (the "Restrictive Covenants"); (ii) the Restrictive Covenants are necessary to insure the preservation and continuity of the Discloser's business and goodwill; (iii) the time period(s) of the respective Restrictive Covenants are reasonable temporal restraints; (iv) the scope of the activities restricted by the Restrictive Covenants is reasonable; and (v) the enforcement of any of the Restrictive Covenants will not interfere with Principal's livelihood.

B. Reformation. The Parties hereto intend all provisions of the Restrictive Covenants to be enforced to the fullest extent permitted by law. Accordingly, should a court of competent jurisdiction determine that the scope of any provision of the Restrictive Covenants is too broad to be enforced as written, based on their duration, geographic limitations, scope of activities, or otherwise, the Parties intend that the court reform the provision to such narrower scope as it

determines to be reasonable and enforceable. The Parties agree that each of the agreements set forth in the Restrictive Covenants constitutes a separate agreement independently supported by good and adequate consideration, shall be severable from the other provisions of this Agreement, and (with this Paragraph 5) shall survive the expiration or termination of this Agreement or Principal's relationship with the Discloser.

C. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, (i) such provision shall be fully severable, (ii) this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision never constituted a part of this Agreement, and (iii) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added as part of this Agreement a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

D. **Injunctive Relief.** The Parties recognize that the obligations of Principal under this Agreement are special, unique and of extraordinary character and Principal acknowledges the difficulty in forecasting damages arising from the breach of any of the Restrictive Covenants and that the Discloser may be irreparably harmed thereby. Therefore, Principal agrees that the Discloser shall be entitled to elect to enforce each of the Restrictive Covenants by means of injunctive relief or an order of specific performance and that such remedy shall be available in addition to all other remedies available at law or in equity to the Discloser, including the recovery of damages from Principal's agents or affiliates involved in such breach. In such action, the Discloser shall not be required to plead or prove irreparable harm or lack of an adequate remedy at law or post a bond or any security.

7. **Liquidated Damages; Remedies.** In the event the Principal breaches the Non-Circumvention, Non-Solicitation and/or Non-Disclosure provisions hereof, the Principal agrees and guarantees that it will pay a legal monetary penalty equal to the greater of \$500,000.00 or the amount of profit realized directly or indirectly in any transaction resulting from such Non-Circumvention, Non-Solicitation or Non-Disclosure (which ever is higher). In addition, the Principal acknowledges that monetary damages may not be sufficient remedy for a breach of this Agreement, and that Discloser shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

8. **Headings.** The headings in this Agreement are used for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

9. **Integration.** This Agreement constitutes the final understanding and entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the parties, whether written or oral. This Agreement may be amended, supplemented or changed only by an agreement in writing signed by both of the parties.

10. **Notices.** Any notice required to be given or otherwise given pursuant to this Agreement shall be in writing and shall be hand delivered, mailed by certified mail, return receipt requested or sent via nationally (U.S.) or globally recognized overnight courier service to the address listed on the signature page of this Agreement.

11. **Counterparts.** This Agreement may be executed in any number of counterparts (including facsimile or scanned versions), each of which shall be an original but all of which together will constitute one instrument, binding upon all parties hereto, and notwithstanding that all of such parties may not have executed the same counterpart.

12. **Governing Law, Jurisdiction, Venue and Waiver of Jury Trial.** Any suit involving any dispute or matter arising under this Agreement may only be brought in State or Federal Court of New York City, New York, which shall have jurisdiction over the subject matter of the dispute or matter. Principal and the Discloser irrevocably and unconditionally submit to the personal jurisdiction of such courts and agree to take any and all future action necessary to submit to the jurisdiction of such courts. Principal and the Discloser irrevocably waive any objection that they now have or hereafter irrevocably waive any objection that they now have or hereafter may have to the laying of venue of any suit, action or proceeding brought in any such court and further irrevocably waive any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Final judgment against Principal or the Discloser in any such suit shall be conclusive and may be enforced in other jurisdictions by suit on the judgment, a certified or true copy of which shall be conclusive evidence of the fact and the amount of any liability of Principal or the Discloser therein described, or by appropriate proceedings under any applicable treaty or otherwise. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER AGREEMENT OR INSTRUMENT DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

13. **Payment of Costs and Legal Fees Upon Breach.** In the event of a breach by Principal of the terms of this Agreement, Principal shall be responsible to pay all costs, fees and expenses (including reasonable attorney fees) incurred in connection with the exercise or enforcement of any of the Discloser's rights, powers or remedies pursuant to this Agreement (including in all trial, bankruptcy and appellate proceedings) regardless of whether or not suit is filed. In the event suit is filed, Principal shall be required to pay the Discloser's costs and legal fees for breach if the Discloser's claim and/or claims is/are upheld by an order of a court of competent jurisdiction prior or subsequent to trial or by stipulation or other settlement document whereby the Discloser prevails on any and/or all of its claims against Principal

14. **No Third Party Benefit.** The provisions and covenants set forth in this Agreement are made solely for the benefit of the Parties to this Agreement and are not for the benefit of any other person, and no other person shall have any right to enforce these provisions and covenants against any party to this Agreement.

15. **No Waiver.** The waiver by any Party to this Agreement of a breach of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach by any party.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date and year first hereinabove written.

DISCLOSER:

Real Miami Commercial Real Estate LLC

Name:

Signature: _____

CO-BROKER:

Company:

Name:

Signature

PRINCIPAL:

Company Name:

Address: _____

Name:

Phone: _____

Signature: _____

Date: _____