

## **CONFIDENTIALITY AGREEMENT**

In connection with the undersigned's consideration of a possible transaction (the "**Transaction**") involving the properties located at 3686 South Central Avenue, Rockford, Illinois and 749 Southrock Drive, Rockford, Illinois (collectively, the "**Properties**" and individually, a "**Property**") owned by NK-Rockford Property LLC, a Delaware limited liability company (together with its subsidiaries, the "**Company**"), the undersigned ("**Recipient**") has requested from the Company and Cushman & Wakefield of Illinois, Inc. (the "**Broker**") certain confidential and other information concerning the Properties and the Company. As a condition to Recipient's receipt of such information, Recipient agrees to the terms and conditions of this Confidentiality Agreement (this "**Agreement**").

1. **Definitions.** As used in this Agreement.

**"Confidential Information"** includes:

(i). all information furnished by the Company or any of the Company's Related Parties, whether furnished before or after the date hereof, whether oral or written, and regardless of the manner in which it is furnished, regarding the Properties (including any tenant thereof), the Company, the Company Affiliates (as hereinafter defined) or the Transaction;

(ii). all analyses, compilations, forecasts, studies, interpretations or other documents prepared by Recipient or its Representatives (as hereinafter defined) (collectively, "**Underwriting Information**") in connection with its evaluation of the Transaction that reflects or is based upon, in whole or part, the information furnished to Recipient or its Representatives pursuant hereto; and

(iii). the fact that the Company is marketing a possible Transaction or that discussions or negotiations are taking place concerning a possible Transaction between the Company and Recipient, and any of the terms, conditions or other facts with respect to any such possible Transaction, including the status thereof.

The term "Confidential Information" does not include any information which (i) at the time of disclosure or thereafter is generally available to and known by the public (other than as a result of its disclosure by Recipient or its Representatives in breach of this Agreement), (ii) was available to Recipient on a non-confidential basis prior to disclosure by the Company, or (iii) becomes available to Recipient on a non-confidential basis from a person who is not bound by a confidentiality agreement with the Company, or is not otherwise prohibited from transmitting the information to Recipient, in each case to Recipient's knowledge. The Confidential Information shall remain the property of the Company. Except as expressly set forth in this Agreement, no rights to use, license or otherwise exploit the Confidential Information are granted to Recipient or its Representatives, by implication or otherwise. Neither Recipient nor its Representatives will acquire any rights with respect to the Confidential Information, all of which rights shall remain exclusively with the Company.

**"Representatives"** includes Recipient's officers, directors, employees, agents, accountants, and lawyers, who are actually engaged in and need to know the Confidential Information for the purpose of evaluating the Transaction, who have been informed of the confidential nature of the

Confidential Information, and who have agreed to observe the terms of this Agreement in writing (and such writing is provided to the Company upon request) or are obligated to keep information confidential pursuant to Recipient's written policies or professional standards and are directed to abide by the terms hereof; provided, further, that the term "Representatives" shall not, without the Company's prior written consent, be deemed to include any of Recipient's (or any of its affiliates') potential or existing financing sources.

***"Related Parties"*** includes the Company's Affiliates and the Company's and any such Affiliate's respective officers, directors, members, managers, trustees, partners, employees, shareholders, accountants, attorneys, financial advisors, consultants or other agents or representatives, including without limitation, Broker.

***"Company Affiliates"*** shall mean an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the Company.

2. Recipient hereby agrees that the Confidential Information will be used solely for the purpose of evaluating the Transaction, that all of the Confidential Information will be kept strictly confidential, and that Recipient shall not disclose the Confidential Information directly or indirectly without the prior written consent of the Company; provided that any such information may be disclosed only to the limited group of Recipient's Representatives. Recipient agrees that it shall be responsible for any breach of this Agreement by any of its Representatives, provided that Recipient shall not be responsible for breaches by any Representatives that have executed a separate confidentiality agreement with the Company with respect to the Transaction.

3. Given the nature of the Confidential Information and the current or potential discussions involving the Company and the Properties, the Company may be irreparably damaged by any unauthorized disclosure or use of any Confidential Information or of such discussions or by any breach of this Agreement by Recipient or its Representatives. Without prejudice to the rights and remedies otherwise available to the Company, Recipient, therefore, agrees that the Company shall be entitled, without the requirement of posting a bond or other security, to equitable relief, including an injunction or specific performance, in the event of any breach or threatened breach of the provisions of this Agreement by Recipient or its Representatives. Such remedies shall not be deemed to be exclusive remedies but shall be in addition to all other remedies available at law or in equity to the Company. In the event of any litigation or other proceedings brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred in connection therewith, including legal fees from the non-prevailing party.

4. In the event Recipient or any of its Representatives become legally required (by deposition, interrogatory, request for documents, subpoena, civil investigation, demand, order or other legal process), through no fault of Recipient or any of its Representatives, to disclose any of the contents of the Confidential Information, the Company agrees that Recipient and its Representatives may do so without liability, provided Recipient (i) promptly notifies the Company prior to any such disclosure to the extent practicable, (ii) cooperates with the Company, at the Company's expense, in any attempts the Company may make to obtain a protective order or other appropriate assurance that confidential treatment will be afforded the Confidential Information, and (iii) if no protective order is obtained and disclosure is required, (a) furnish only that portion of the Confidential Information that, in Recipient's counsel's advice, Recipient is legally compelled to disclose, and

(b) take all reasonable measures, at the Company's expense, to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

5. The Company may elect at any time to terminate further access by Recipient to the Confidential Information. At any time Recipient determines not to proceed with the Transaction, Recipient will promptly notify the Company. Following any request by the Company or any of its Related Parties, Recipient agrees (i) to promptly either destroy or redeliver to the Company all written Confidential Information and any other written material containing or reflecting any of the Confidential Information in Recipient's possession or its Representatives' possession, (ii) Recipient and its Representatives will not retain any copies, extracts or other reproductions in whole or in part, mechanical or electronic, of such written material, and (iii) all computer records, documents, memoranda, notes and other writings whatsoever prepared by Recipient or its Representatives based on the Confidential Information will be destroyed, and that any such destruction shall be confirmed to the Company in writing. Notwithstanding anything to the contrary herein and subject to the confidentiality obligations herein, Recipient and its Representatives may retain (i) Confidential Information to the extent required to comply with legal, regulatory, or bona fide document retention policy requirements, (ii) any and all (a) emails and any attachments contained in such emails and (b) any electronic files, in each case, to the extent required to comply with, and automatically saved pursuant to, legal, regulatory, or bona fide document retention policy requirements, as well as (iii) electronic back-up copies of Confidential Information retained on servers that would be impractical to delete; provided, that any such retained information shall remain confidential in accordance with the terms hereof regardless of any termination or expiration date set forth herein until such retained information is no longer Confidential Information. Notwithstanding anything to the contrary, any tenant or guarantor financial information is proprietary to such tenant or guarantor, is subject to a restriction on disclosure and such tenant or guarantor financial information shall remain confidential indefinitely.

6. Recipient understands and acknowledges that neither the Company nor any of the Company Affiliates nor their Related Parties, makes any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information. Any Underwriting Information included with the Confidential Information should be independently verified by Recipient, and no obligation by the Company or of its Related Parties shall arise by virtue of Recipient or its Representatives receiving such information, including any obligation to inform Recipient or its Representatives of any changes to the information contained therein. Recipient agrees that neither the Company nor any of its Related Parties shall have any liability to Recipient or any of Recipient's Representatives relating to or resulting from Recipient's or any of Recipient's Representatives' use of the Confidential Information or any errors therein or omissions therefrom, except as may otherwise be agreed in a definitive binding agreement relating to the Transaction. Recipient understands and agrees that the Company (i) shall be free to conduct the process for a Transaction as the Company, in the Company's sole discretion shall determine and (ii) shall be free at the Company's sole discretion to at any time to accept or reject any proposal relating to a Transaction for any reason without notice to Recipient or any other person.

7. Recipient understands and acknowledges that one or more of the Company's Related Parties has outstanding publicly held securities and the Confidential Information may contain material non-public information. Recipient acknowledges that (i) it is aware, and has advised or

will advise its Representatives that the United States securities laws prohibit any person in possession of material non-public information about a company from purchasing or selling securities of such company, and from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person may purchase or sell such securities and (ii) Recipient agrees that it will not use any Confidential Information in violation of the United States securities laws.

8. Recipient hereby represents and warrants that it is not bound by the terms of a confidentiality agreement or other agreement with a third party that would conflict with any of the obligations under this Agreement. Recipient hereby represents and warrants that it is not acting as a broker for or on behalf of any person and is considering the Transaction only for its own account. Recipient agrees to indemnify and hold harmless the Company and its Related Parties against any and all costs, loss, liability or expense, including attorney's fees, arising from claims by any other broker or other parties claiming to have had dealings with Recipient in connection with a Transaction, excluding Broker.

9. Recipient agrees that, unless and until a binding agreement is entered into between the Company and Recipient with respect to the Transaction, neither the Company nor the Company's Related Parties nor Recipient will be under any legal obligation of any kind whatsoever with respect to the Transaction by virtue of this or any other written or oral expression, except with respect to the matters specifically agreed to herein. Except for the matters set forth in this Agreement or in any such binding agreement, neither party shall be entitled to rely on any statement, promise, agreement or understanding, whether oral or written, any custom, usage of trade, course of dealing or conduct.

10. Recipient agrees that all communications regarding the Transaction will be submitted or directed only to the Broker. Without the Company's prior written consent, Recipient shall not, and Recipient shall direct its Representatives not to make any contact of any nature regarding the Transaction with any other person, including any employee, supplier, customer, bank or other lender of or to the Company, any tenant of the Properties or any governmental or quasi-government authority.

11. The parties hereto stipulate and agree that Confidential Information provided to Recipient by the Company (or pursuant to the Company's direction) may include Confidential Information of one or more Company Affiliates. Therefore, each Company Affiliate is an intended third-party beneficiary of this Agreement as to the subject matter of this Agreement, including without limitation, its Confidential Information and its employees, and shall be entitled to enforce the rights and remedies set forth in this Agreement as if such Company Affiliates were parties to this Agreement.

12. This Agreement, the rights and obligations of the parties under this Agreement, and any claim or controversy directly or indirectly based upon, arising out of, or leading to, this Agreement or the transactions contemplated by this Agreement (whether based upon contract, tort or any other theory), including all matters of construction, validity and performance, shall be governed and construed in accordance with the laws of the State of New York without regard to conflict of laws principles. Recipient hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the State of New York and of the United States of America located in

the County of New York in the State of New York for any action, suit or proceeding arising out of or relating to this Agreement and the transactions contemplated hereby, and Recipient agrees not to commence any action, suit, or proceeding relating thereto except in such courts. Recipient hereby irrevocably waives any right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) related to or arising out of this Agreement.

13. The provisions of this Agreement shall be binding solely upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, expressly including any acquirer of all or any portion of the Properties, provided that Recipient's obligations are personal to Recipient and may not be assigned to another party. For the avoidance of doubt, the Company may assign any or all of its rights, powers, privileges, and obligations under this Agreement to an acquirer of all or any portion of the Properties to which the Confidential Information relates without Recipient's consent.

14. This Agreement represents the entire understanding and agreement of the parties hereto and may be modified only by a separate written agreement executed by the Recipient and the Company expressly modifying this Agreement. This Agreement supersedes and cancels any and all prior agreements between the parties hereto, express or implied, relating to the Transaction.

15. In the event that any provision or portion of this Agreement is determined to be invalid or unenforceable for any reason, in whole or in part, the remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law, and such term or provision shall be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the Company's intention.

16. The failure or refusal of the Company to insist upon strict performance of any provision of this Agreement or to exercise any right in any one or more instances or circumstances shall not be construed as a waiver or relinquishment of such provision or right.

17. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed an original, and shall together constitute one and the same Agreement.

18. Subject to Section 5 hereof, the obligation to keep Confidential Information confidential shall expire three (3) years after the date hereof.

Any person entering the Properties under this Agreement shall not interfere with the Company's business or the business of any tenants at the Properties. Notwithstanding anything to the contrary, Recipient shall cause each person entering the Properties under this Agreement to comply in all respects with the entry/access protocols and requirements of the tenant of the Properties, including, without limitation, any security clearances and any restricted areas that cannot be accessed.

By virtue of the execution and delivery of this letter, Recipient hereby agrees with the foregoing and acknowledges the sufficiency of consideration.

**RECIPIENT:**

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

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

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

Date: \_\_\_\_\_