

CONFIDENTIALITY AND CONDITIONS OFFERING AGREEMENT

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Property: 7800 S Fairplay

Location: Englewood, CO

Owner: BPG Dove Valley II LLC

Potential Investor:

Potential Investor's Representative:

**Upon execution of this Agreement (defined below), please remit
entire Agreement as a scanned image via email to:**

**Attention: Rose Adrian
Email Address: rose.adrian@jll.com**

- 1. General Terms.** Jones Lang LaSalle Americas, Inc., a Maryland corporation ("**JLL**"), represents Owner as Owner's exclusive agent or broker for the potential sale of the Property (the "**Transaction**"). This Confidentiality and Conditions of Offering Agreement (the "**Agreement**") will confirm the mutual understandings of Potential Investor, JLL, and Owner in connection with the disclosure and review of any and all information regarding the Owner or the Property that is provided to Potential Investor or any Related Party (as defined in Section 3) by Owner, JLL or any representative of Owner or JLL, including, but not limited to, any offering memorandum, documents, data, financial statements, reports, forecasts, projections, surveys, diagrams, records, engineering reports, and other documents, electronic transmittals or conversations concerning the Property or the Owner (the "**Offering Materials**"). Owner and/or JLL may make the Offering Materials available in written, electronic, or verbal form to the Potential Investor following JLL's receipt of this Agreement, duly executed by Potential Investor. The Offering Materials shall not include information that (i) is or becomes generally available to the public, (ii) was in the possession of or available to the Potential Investor or any Related Party prior to the date of the Agreement (and is not known by Potential Investor to be subject to any pre-existing confidentiality agreement in favor of Owner), (iii) was, is, or becomes obtained by the Potential Investor and/or any Related Party from a third party who, to the knowledge of the Potential Investor and the Related Party(ies), is not subject to any confidentiality agreement regarding such information, or (iv) is independently developed by the Potential Investor or any Related Party without reliance on the Offering Materials. The terms of the Agreement follow.
- 2. Ownership, Use and Return of Offering Materials.** The Offering Materials shall continue to be the property of the Owner and JLL, exclusively. The Offering Materials will be used by the Potential Investor solely for the purpose of evaluating the Transaction and not for any purpose unrelated to Transaction. The Offering Materials may not be copied or duplicated without the Owner's and JLL's prior written consent, except as otherwise permitted herein, and must be returned to JLL (or at Potential Investor's sole option, destroyed by Potential Investor and any Related Party, and in such instance Potential Investor shall confirm in writing (e-mail being sufficient so long as recipient of such e-mail acknowledges receipt or sender receives an electronic delivery confirmation) to JLL and Owner that such information has been so destroyed) as soon as reasonably practicable upon written request. Notwithstanding the foregoing on this Section 2, Potential Investor and its Related Party may retain copies of the Offering Materials (a) as may be required by law subject to the terms of Section 4 herein, (b) in accordance with internal document retention policies, and (c) that are saved to automatic electronic back-up or archive systems that: (i) cannot be deleted with reasonable efforts and is not readily accessible, and (ii) is secured in a commercially reasonable manner. Any such retained documents shall continue to be kept in confidence pursuant to Section 3.
- 3. Confidentiality and Disclosure of Offering Materials by Potential Investor.** Potential Investor acknowledges on behalf of itself and any Related Party that the Offering Materials are considered confidential and proprietary information of Owner and/or JLL, and Potential Investor will not make (or cause or permit any Related Party to make) any Offering Materials available, or disclose any of the contents thereof, to any person without Owner's or JLL's prior written consent; provided, however, that the Offering Materials may be disclosed to the Potential Investor's affiliates, directors, managers, officers, partners, agents, representatives, consultants, employees, legal counsel, advisors (including financial advisors, accountants, and consultants), potential institutional lenders and other capital sources (such parties actually receiving Offering Materials from Potential Investor or at Potential Investors' direction each, and collectively, a "**Related Party**") as reasonably required for an evaluation of the Property/the Transaction. Such Related Party shall be informed by Potential Investor of the confidential nature of the Offering Materials under the terms of this Agreement and shall be directed by Potential Investor to keep the Offering Materials and related information strictly confidential in accordance with this Agreement and to otherwise comply with the terms of this Agreement as if such party was the Potential Investor hereunder. In the event any Related Party shall take or omit to take any action which if taken or omitted to be taken by Potential Investor would constitute a breach of or a default under the terms hereof, such act or omission by such Related Party shall be deemed to be a breach of the terms hereof by Potential Investor.

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4. **Mandatory Disclosure.** Notwithstanding anything to the contrary in this Agreement, in the event that Potential Investor (or a Related Party) is required by legal process to disclose any of the Offering Materials, Potential Investor and a Related Party, as applicable, shall give notice as soon as reasonably practicable to JLL and Owner of any such requirement prior to disclosing such information so that Owner and/or JLL may seek a protective order or other appropriate relief and Potential Investor and a Related Party, as applicable, shall use commercially reasonable efforts to cooperate with JLL and/or Owner in connection with the same, with the protective order or other relief being at the sole cost and expense of Owner and/or JLL. In the event that such protective order is not obtained, Potential Investor or a Related Party, as applicable, shall disclose only that portion of the Offering Materials, which its counsel advises that it is legally required to disclose. Notwithstanding the foregoing in this [Section 4](#), Potential Investor and its Related Parties may, without notice to Owner, disclose the Offering Materials in connection with any routine inspection, investigation, examination or inquiry (not specifically targeting the Owner) by a regulatory or self-regulatory authority having jurisdiction over Potential Investor or such Related Party.
5. **Potential Investor as Principal and Other Brokers or Agents.** Potential Investor is a principal and not an agent of or acting on behalf of any other party in connection with the purchase of the Property. Potential Investor will not look to JLL or to Owner for any brokerage commission, finder's fee, or other compensation in connection with the sale of the Property or any interest therein. In the event of any litigation concerning this Agreement, the prevailing party as determined by a court of competent jurisdiction in a final non-appealable order or judgment shall be entitled to be reimbursed by the non-prevailing party for its reasonable, documented and out-of-pocket legal fees and expenses incurred in connection with such litigation.
6. **No Representations as to Offering Materials or Condition of Property.** Potential Investor understands and acknowledges that neither Owner, JLL nor any of their respective partners and affiliates and their respective, directors, managers, officers, members, agents, representatives, consultants, employees, legal counsel, advisors, institutional lenders and other capital sources, shareholders and any successor or assign thereof (each, and collectively, a "**Owner/JLL Related Party**"), makes any representation or warranty as to the accuracy or completeness of the Offering Materials or the condition of the Property in any manner and information relating to the same is not guaranteed as to completeness or accuracy. Potential Investor agrees that neither Owner, JLL, nor any Owner/JLL Related Party shall have any liability for any reason to the Potential Investor or a Related Party resulting from the use of the Offering Materials by any person in connection with the sale of, or other investments by Potential Investor in the Property arising under this Agreement. Neither Owner, JLL nor any Owner/JLL Related Party is under any obligation to notify or provide any further information to Potential Investor or any Related Party if either Owner or JLL becomes aware of any inaccuracy, incompleteness or change in the Offering Materials. The Potential Investor acknowledges that neither Owner, JLL nor any Owner/JLL Related Party, has made any representation or warranty as to the suitability of the information contained in the Offering Materials for any purpose whatever, and any representation or warranty in connection therewith is hereby expressly excluded. Potential Investor agrees that neither Owner, JLL, nor any Owner/JLL Related Party shall have any liability to Potential Investor and/or any Related Party resulting from the delivery to, or use by the Potential Investor or a Related Party of the Offering Materials or otherwise with respect thereto under this Agreement. Potential Investor and each Related Party shall rely only on their own due diligence and investigation of the Property, including but not limited to any financial, title, environmental, physical, tenant or any other matters.
7. **Withdrawal of Property from Market or Termination of Discussions.** Potential Investor acknowledges that the Property has been offered for sale subject to withdrawal of the Property from the market at any time or rejection of any offer because of the terms thereof, or for any other reason whatsoever, without notice, as well as the termination of discussions with any party at any time without notice for any reason whatsoever. Such market withdrawal, rejection of any offer, or termination of discussions with any party shall all be in Owner's sole discretion.
8. **Term of Agreement.** The terms and conditions of this Agreement shall remain in full force and effect until the earlier of (a) a period of one year from the Effective Date., or (b) the execution of a definitive agreement with respect to the Transaction to which Potential Investor and Owner are each a party.
9. **Remedies.** In the event that Potential Investor and/or any Related Party fails to comply with the terms and conditions of this Agreement, Potential Investor will be liable to Owner for such breach and Owner shall be entitled to exercise any right, power,

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or remedy available at law or in equity for such breach. Without prejudice to any other rights or remedies that Owner and/or JLL may have with respect to any breach by Potential Investor and/or any Related Party, Potential Investor, hereby acknowledges and agrees that (a) damages may not be an adequate remedy for any breach of the terms of this Agreement by Potential Investor and/or any Related Party, and (b) no proof of special damages shall be necessary for the enforcement of the terms of this Agreement. Notwithstanding the foregoing, in no event shall Potential Investor or its Related Parties be liable for any exemplary or punitive damages arising from or in connection with this Agreement.

10. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located without reference to its conflicts of law provisions.
11. **Access to Property, Property's Management, Property Lender, and Property Tenants.** Potential Investor agrees to not seek to gain access to any non-public areas of the Property or communicate with any persons known, after reasonable internal investigation and/or inquiry by Potential Investor and/or a Related Party, by Potential Investor to be the Property's management, employees, the current holder of any financing encumbering the Property, the Property's tenants, and the Owner's partners in the ownership of the Property, without the prior consent of Owner or JLL, which consent may be withheld in the Owner's sole discretion provided that nothing in the foregoing shall prohibit communications unrelated to the Transaction and in the ordinary course of Potential Investor's business.
12. **Entire Agreement, Waiver or Modification.** This Agreement contains the entire understanding between the parties with respect to the subject matter hereof, and may not be altered, varied, revised or amended, except by an instrument in writing signed by the parties subsequent to the date of this Agreement.

[Signature page follows]

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**Signature Page to
Confidentiality and Conditions of Offering Agreement**

Potential Investor:

By: _____

Name:

Title:

Signed this ____ day of _____, 2024 (the "**Effective Date**")