

CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This **Confidentiality and Nondisclosure Agreement** (“Agreement”) is made as of ____ day of _____, 2023 (the “Effective Date”) between _____ (“**Recipient**”), and **CRG Acquisition, LLC**, a Missouri limited liability company (“**CRG**”; **CRG** and **Recipient** are collectively referred to as “the parties” and, separately, a “party”).

CRG has development, operational, leasing, economic, conceptual, and/or business information that it considers proprietary and confidential but is willing to disclose to **Recipient** in confidence solely for the purpose of permitting **Recipient**’s consideration opportunity possible transaction with **CRG** regarding the property located at 15301 West Northern Avenue, Glendale, AZ 85307 (the “**Project**”). To properly facilitate a thorough review of such **Project**, it will be necessary for **CRG** to provide **Recipient** with certain Confidential Information (as defined below) on a protected basis on or after the date hereof. In order to avoid confusion with respect to the identification of, and rights in, Confidential Information that may be disclosed by **CRG** to **Recipient**, the parties hereto desire to enter into this Agreement prior to any such disclosure.

Therefore, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

1.0 Confidential Information

Each party acknowledges and agrees (a) all information disclosed by **CRG** to **Recipient** which is legibly marked “Confidential” or with words of similar meaning or which are shared with **Recipient** by **CRG** verbally or in writing with a statement that such information is “private” or “confidential”, and (b) all information disclosed by **CRG** in the course of an oral exchange or in a writing not containing a confidential legend, but which contemplates confidential business information concerning the **Project**, including information related to the acquisition, municipal requirements or incentives, construction costs, financing, leasing, underwriting, operating, marketing or other information pertaining to the **Project**, is confidential to **CRG** (“**Confidential Information**”). **Recipient** covenants and agrees to retain in confidence and prevent the unauthorized duplication, use and disclosure of Confidential Information in whole or in part. Confidential Information, for purposes of this Agreement includes, without limitation, any information disclosed by **CRG** to **Recipient** on or after the Effective Date in connection with the **Project**. Confidential Information shall be used and duplicated (as is reasonably required) only for the purpose of this Agreement or in connection with a contemplated and/or mutually executed business transaction between the parties. **Recipient** will not disclose Confidential Information to third parties unless authorized by the terms of this Agreement. **Recipient** shall, upon demand, destroy Confidential Information. Notwithstanding the foregoing, **Recipient** shall retain Confidential Information (a) that may be required for the purposes of defending or maintaining any litigation (including any administrative proceeding) relating to this Agreement or any potential transaction, (b) that may be found in analyses, compilations, models, studies or other documents produced by **Recipient** or its Authorized Recipients (defined below), (c) that is found pursuant to **Recipient** or its Authorized Recipients’ automatic back-up and archiving systems or the ordinary operation of electronic devices, (d) that is retained in order to comply with any legal, regulatory or compliance policies or procedures, and (e) that is released from confidential treatment by **CRG**. Any retained Confidential Information shall continue to be held confidential in accordance with the terms of this Agreement.

Recipient further agrees to keep the terms of any business dealings between the parties confidential and, prior to or after the consummation of a formal development or business agreement between the parties, not to make any public announcements or disclosures with respect to the subject matter thereof without the prior written consent of the other party in each and every instance.

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In the event Recipient is requested or required, by subpoena, oral deposition, interrogatories, request for production of documents, administrative order or otherwise, to disclose any Confidential Information, that Confidential Information has been made available to Recipient, or the fact or substance of any discussion about any possible transaction or business relationships, Recipient shall provide CRG with prompt notice of any such request so that it may seek, at its expense, an appropriate protective order or waiver of compliance with the terms of this Agreement. If, in the absence of a protective order or waiver, Recipient is compelled to disclose any Confidential Information, Recipient may make such disclosure after notice to CRG.

2.0 Limited Access

Recipient will limit access to the Confidential Information to only those of its affiliates and its and their partners, directors, officers, investors, members, employees, agents or advisors, who have a “need-to-know” such Confidential Information for the purpose for which it is disclosed (“Authorized Recipients”). When Recipient discloses Confidential Information to any Authorized Recipient, it shall be Recipient’s responsibility to ensure that all Authorized Recipients recognize CRG’s claim of confidential status for all Confidential Information, together with the restrictions on duplication, use and disclosure contained in this Agreement.

3.0 Expiration and Exclusions

Confidential Information will cease to be considered as such, and all protections will cease to be required, when, as and if it (or any portion of it):

- 3.1 is or becomes publicly available without breach of this Agreement by Recipient;
- 3.2 is released by CRG to any other person, firm or entity without any restriction except release to CRG’s affiliates;
- 3.3 is within the public domain without breach of this Agreement by Recipient;
- 3.4 is rightfully obtained by Recipient from third parties not known to Recipient to owe any duty of confidentiality to CRG;
- 3.5 is disclosed by CRG to others on a non-restricted basis; or
- 3.6 is independently developed by Recipient or its Representatives without use of Confidential Information.

4.0 Non-Circumvent

Recipient agrees not to, directly or indirectly, circumvent or bypass CRG or its affiliates, to invest, acquire or provide financing to the Project without CRG’s permission.

5.0 Notification of Unauthorized Duplication, Use or Disclosure

Recipient shall advise CRG in writing if it learns of any unauthorized duplication, use or disclosure of Confidential Information, as soon as reasonably practicable.

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6.0 No Reliance; Rights Reserved

6.1 CRG makes no representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information and shall have no liability as a result of Recipient's use of or reliance upon the Confidential Information, except as set forth in a future written definitive agreement signed by both parties ("Definitive Agreement").

6.2 Each party acknowledges and agrees that all rights to Confidential Information are reserved by CRG or the original owner thereof, if not CRG, and that no license to Recipient, under any trade secret right, trademark, patent or copyright, or applications which are now or may thereafter be owned by Recipient is either granted or implied by the sharing of Confidential Information with Recipient.

7.0 Business Relationships

This Agreement is not intended by the parties to constitute or create a joint venture, partnership, or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth herein. Neither party shall have authority to bind the other except to the extent authorized herein. Both parties shall remain as independent contractors at all times and neither party shall act as the agent for the other. Similarly, each party acknowledges that this Agreement is not intended to and does not obligate either party to enter into any further discussions, negotiations or agreements or to otherwise proceed with any potential business relationship or other transaction. Nothing herein shall imply or create any exclusive relationship between the parties or otherwise restrict either party from pursuing any business opportunities provided it complies at all times with the non-disclosure obligations set forth herein.

8.0 Remedy

Recipient agrees that the covenants contained herein are reasonable and necessary to protect CRG's legitimate business interests and that any violation by Recipient may result in damage and irreparable injury to CRG. Recipient, therefore, acknowledges that, in the event of Recipient's violation of these covenants, CRG may be entitled to seek from any court of competent jurisdiction, preliminary and permanent injunctive relief. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement by Recipient but shall be in addition to all other remedies available at a law or in equity to CRG. Notwithstanding anything to the contrary set forth herein, any damages awarded on account of a breach of this Agreement shall be equal to, at minimum, actual, out-of-pocket monetary damages and may include consequential, indirect, special or punitive damages.

9.0 Notice

All notices required to be given hereunder shall be given by personal delivery or by a reputable private carrier of same day or overnight mail. In the event notice is given by personal delivery, notice shall be deemed given when delivered; if notice is given by private carrier of overnight mail (with instructions to deliver on the next business day), it shall be deemed made on the business day after such sending. Notices to the respective parties shall be to the address written below or such other address as notified to the other parties:

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If to CRG

c/o CRG Acquisition, LLC
7800 Forsyth Blvd, 3rd Floor
St. Louis, Missouri 63105
Attn: Christopher P. McKee

If to Recipient:

Any party may, by like written notice (and without amending this Agreement or recording any document or instrument), designate a new address to which such notices shall be directed to such party.

10.0 Entire Agreement and Amendments

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. For the convenience of the parties, copies of this Agreement may be executed in counterparts and signature pages exchanged by mail or electronically in portable document format (a/k/a pdf). The parties intend that counterpart copies signed and exchanged as provided in the preceding sentence shall be fully binding as an original handwritten executed copy hereof and all of such copies together shall constitute one instrument. This Agreement may only be modified or amended by a writing signed by both parties. Both parties explicitly acknowledge and agree that all subsequent oral agreements, oral understandings and oral proposals are null and void. The terms of this Agreement shall control over any additional confidentiality requirements imposed by an offering memorandum, web-based database or similar repository of Confidential Information to which the Recipient or its Authorized Recipients are granted access in connection with this Agreement, notwithstanding acceptance of such an offering memorandum or submission of an electronic signature, “clicking” on an “I Agree” icon or other indication of assent to such additional confidentiality conditions, it being understood and agreed that Recipient’s confidentiality obligations with respect to the Confidential Information may not be enlarged except by an agreement executed by the parties hereto in traditional written format.

11.0 Waiver and Severability

No provision of this Agreement will be waived and no breach excused unless the waiver or consent is in writing and is signed by the party that is claimed to have waived or consented. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, the remaining provisions will continue in full force and effect as if this Agreement had been executed without the invalid portion.

12.0 Applicable Law

The parties hereby expressly agree that all of the terms and provisions hereof shall be construed in accordance with and governed by the laws of the State of Missouri. The parties hereby agree that any dispute which may arise between them arising out of or in connection with this Agreement shall be adjudicated before a court located in St. Louis County, Missouri and they hereby submit to the exclusive jurisdiction of the courts of the State of Missouri located in St. Louis County, Missouri, and/or the federal courts in the Eastern District of Missouri located in the City of St. Louis, Missouri, with respect to any action or legal proceeding commenced by any party, and irrevocably waive any objection they now or hereafter may have respecting the venue of any action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum.

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13.0 Term

The parties will continue to be bound by the terms of this Agreement for a period of the earlier of: one (1) year from the date hereof, or upon the execution of a Definitive Agreement.

[Signature page follows]

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IN WITNESS WHEREOF, the parties through their duly authorized representatives intending to be bound by this Agreement have set forth their hands as of the Effective Date indicated above.

[_____]

CRG Acquisition, LLC

By: CRG Services Management, LLC, its Manager

By: _____

Name: _____

Title: _____

By: _____

Name: Christopher P. McKee

Title: Chief Development Officer