

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (“Agreement”) is made and agreed to for the benefit of 1420 3rd Avenue Partners, LLC “Sellers” and Cushman & Wakefield U.S., Inc. (“Agent”) by the undersigned party (“Receiving Party”).

NOW, THEREFORE, in consideration of the privileges granted to Receiving Party with respect to receiving certain confidential information, and for other good and valuable consideration, Receiving Party hereby agrees with Seller and Agent as follows:

I. CONFIDENTIAL MATERIALS:

Receiving Party has requested from Agent an information package (“Offering Memorandum”), and Agent is willing to provide Receiving Party with the requested Offering Memorandum for Receiving Party’s use, provided that Receiving Party executes and delivers this Agreement as a condition to the release of the Offering Memorandum to Receiving Party. The Offering Memorandum contains documents, reports and other confidential and/or proprietary information in Seller’s possession (collectively, the “Confidential Materials”) with respect to the Seller’s interest in 1420 3rd Ave South, Nashville, TN 37210 (“Interests”).

However, the Confidential Materials shall not be deemed to include information available in public records, information that is or will become generally available to the public because of release by Seller or information that must be released pursuant to applicable law or a valid, final judicial or administrative order.

II. INSPECTION OF THE CONFIDENTIAL MATERIALS:

The Confidential Materials shall be received for use by Receiving Party only in accordance with the following procedures: (a) Receiving Party shall keep the Confidential Materials confidential and shall use the Confidential Materials solely for the purpose of (i) evaluating the suitability of the Interests for purchase and/or (ii) interesting the prospective bidder indicated below in the Interests to be offered for sale and for no other purpose; (b) neither Receiving Party nor its affiliates directors, officers, partners, employees, agents, advisors, attorneys, accountants, consultants, bankers, financial advisors or clients (collectively, “Representatives”) shall make any reproduction of the Confidential Materials (other than handwritten summaries or notes or self-generated computer records) except for the express purpose of evaluating the Interests for purchase or interesting the prospective Principal indicated below in the Interests; and (c) Receiving Party may disclose the Confidential Materials only to Representatives (including those of its affiliates) on a “need to know” basis only. Prior to receipt of any Confidential Materials, Receiving Party shall require its Representatives to agree to be bound by the terms of this Agreement. Receiving Party shall be responsible for any breach of this Agreement by any of its Representatives.

III. NO REPRESENTATIONS OR WARRANTIES:

Receiving Party acknowledges and understands that the Confidential Materials may have been prepared by parties other than the Seller and that neither Seller nor its Agent makes any representation or warranty whatsoever, express or implied, with respect to the content, completeness, or accuracy of the Confidential Materials. Receiving Party hereby releases Seller and Agent acting in their corporate or any other capacity, and Seller’s and Agent’s respective agents, employees, contractors, officers, directors, and representatives, from all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including attorneys’ fees, whether suit is instituted) assessed against or incurred by Receiving Party in its reliance on or taking action based on the Confidential Materials.

IV. INDEMNIFICATION:

Receiving Party shall defend, indemnify and hold harmless Agent from and against any and all claims, demands, causes of action, losses, damages, liabilities, judgments, costs and expenses (including attorneys’ fees, whether suit is instituted) asserted against or incurred by Seller, as a result of any violation of, or failure to comply with, the provisions of this Agreement by Receiving Party or its Representatives.

V. DEFAULT:

If Seller determines that Receiving Party or any of its Representatives has defaulted under or has breached any provision of this Agreement, Seller may in its sole and absolute discretion, refuse to consider a bid from Receiving Party (or any client or affiliate of Receiving Party). This right shall be available in addition to, not in lieu of, any other legal or equitable right or remedy to which Seller is entitled on account of Receiving Party’s default of any of the provisions of this Agreement, including, without limitation, the seeking of an injunction to prevent breaches of this Agreement and an order compelling specific performance of this Agreement. Seller shall not be deemed to have waived any rights or remedies on account of its failure, delay, or forbearance in exercising any such right or remedy in a particular instance.

VI. ACTING AS PRINCIPAL:

Receiving Party herewith stipulates that it is acting as a principal only, and not as a broker, in the contemplated transaction. Receiving Party acknowledges Seller has retained Agent as its sole broker in connection with the sale of the Interests and will not recognize any other broker as a subagent of Seller. If Receiving Party is to be represented by a Buyer’s Broker in the contemplated transaction, then such Buyer’s Broker shall also sign this Agreement, acknowledging and agreeing to be bound by the terms and conditions hereof.

VII. NOTICES:

All notices, waivers, demands, requests or other communications required or permitted by this Agreement (collectively, “Notices”), to be effective shall be in writing, properly addressed, and shall be given as follows by (a) personal delivery, (b) established overnight commercial courier with delivery charges prepaid or duly charged, or (c) registered or certified mail, return receipt requested, first class postage prepaid, as follows:

To Seller’s Agent:

Cushman & Wakefield U.S., Inc.
C/O Charlie Gibson
1033 Demonbreun Street, Suite 600
Nashville, TN 37203

To Receiving Party:

or to any other address or addressee as any party entitled to receive notice under this Agreement shall designate, from time to time, by notice given to the others in the manner provided in this Section VII. Notices thus given by personal delivery shall be deemed to have been received upon tender to the respective natural person named above. Notice thus given by overnight courier shall be deemed to have been received the next business day after delivery to such overnight commercial courier. Notice thus given by mail shall be deemed to have been received on the second (2nd) day after deposit into the United States Postal System. All copies to the respective persons or entity(ies) listed above to receive copies shall be given in the same manner as the original Notice, and such giving shall be a prerequisite to the effectiveness of any Notice.

VIII. TERMINATION:

The confidentiality restrictions in this Agreement shall terminate only in the instance that the Receiving Party purchases the Property. Regardless of any purchase, however, any claim by Seller based on (a) a breach of or default under any provision of the Agreement or (b) the indemnification in Section IV shall not be extinguished unless waived by Seller in writing.

IX. ENTIRE AGREEMENT; COUNTERPARTS:

This Agreement represents the entire agreement between Receiving Party, Seller and Agent relating to the receipt and use of any Confidential Materials which Receiving Party may have obtained, whether prior to or after the execution of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Receiving Party and Broker (if applicable) have delivered this Agreement of their own free act and deed.

RECEIVING PARTY:

Company _____
Street _____
City, State, Zip _____
Phone No. _____
Fax No. _____
Email _____
Principal _____
(Print Name)
Title _____
Signature _____

BROKER (if applicable):

Company _____
Street _____
City, State, Zip _____
Phone No. _____
Fax No. _____
Email _____
Broker _____
(Print Name)
Title _____
Signature _____