

# CONFIDENTIALITY AGREEMENT

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

To: Kotis Holdings, LLC.

This letter confirms our agreement concerning certain material, data and information (which, as further defined below, is called the “Confidential Information”) which we want you to make available to us for review in connection with the property known as 501 Village (the “Property”).

We understand that you will furnish us with the Confidential Information in connection with discussions and negotiations about the Property only on the condition that we treat such Confidential Information as confidential and that we confirm certain representations and agreement to you. Therefore, as a prerequisite to your furnishing to us the Confidential Information, we make the representations and agreements as follows:

## **1. USE**

The Confidential Information furnished to us will be used by us solely for evaluating a possible transaction exclusively for our own account, as principal in the transaction, and not as a broker or agent for any other person.

## **2. CONFIDENTIALITY**

### **2.1 General**

We acknowledge that the Confidential Information constitutes valuable proprietary and trade secret information. We will keep all Confidential Information strictly confidential.

### **2.2 Disclosure to Reviewing Parties**

We can disclose the Confidential Information on only a “need to know” basis to our directors, officers, employees, attorneys, accountants and lenders (the “Reviewing Parties”) to assist us with our evaluation. We agree to inform Reviewing Parties of the restrictions on disclosure and limitation on use of the Confidential Information and to require the Reviewing Parties to treat the Confidential Information under the same terms that bind us in this agreement. We also will be responsible for any breach of this agreement by the Reviewing Parties.

### **2.3 No duplication**

We will not copy or reproduce the Confidential Information except to distribute it to the Reviewing Parties.

### **2.4 Return of materials**

We will return the Confidential Information (including any copies or other reproductions made by us or the Reviewing Parties) to you promptly (1) if we decide not to go forward with discussions; (2) if requested by you, whether or not we proceed to enter into any transaction, except to the extent expressly agreed in

writing to the contrary in connection with such transaction. Or, at your option, we will destroy all Confidential Information in written or documentary form and will certify to you in writing that it has been destroyed. Of course, we also may return the Confidential Information, or any of it, to you at any time.

## **2.5 Existence of negotiations**

The fact that the Confidential Information has been made available to us and that you may consider or that we are discussing a transaction involving the Property is itself Confidential Information.

## **2.6 Definition**

“Confidential Information” means all documents or other information received at any time before, at, or after we sign this agreement by us or a Reviewing Party, verbally or in writing from you or sent on to us on your behalf. However, “Confidential Information” does not include (i) documents or information generally and legally either known to the public or available in public records, documents, or reports, (ii) documents or information that were already in our lawful possession, as documented in our written records, (iii) documents or information that we lawfully can obtain from third parties without your consent given to such third parties, or (iv) documents or information that we independently develop without use of the Confidential Information so long as we can clearly document and verify such independent development .

## **3. MISCELLANEOUS**

### **3.1 Effect of Delivery of Confidential Information**

Our receipt, review, or other dealings with the Confidential Information gives us no expectations or other rights as to the Property or even as to any sale or other disposition of the Property. You have no obligation to consider any offer from us or to negotiate or discuss the Property with us at all, and you may withdraw the Property from the market without notice to us.

### **3.2 Changes to be Written**

No change to this agreement binds you unless in writing and signed by you.

### **3.3 Execution by Facsimile**

If we sign and transmitted this agreement to you by telecopy or other facsimile method, that facsimile is deemed an original document, and our signature is deemed an original signature, and the facsimile has the same binding legal effect as an original signature on an original document. At your request, we will re-execute and deliver to you any facsimile in original form.

### **3.4 Not Construed Against Drafter**

We have had full opportunity to understand and consider the terms of this agreement, and we intend that this agreement not be construed against you because you drafted it.

### **3.5 Governing Law**

North Carolina law, excluding its conflict of laws provisions, governs this Agreement.

### **3.6 Survival of Terms**

Our obligations under this agreement continue after and survive the termination of this agreement, the return of the Confidential Information, the end of negotiation, and the consummation of the sale of the Property (except a sale to us).

### **3.7 No Assignment**

We have no right to assign or transfer the Confidential Information or any of our rights under this agreement, and any attempted assignment or transfer is null and void from the outset.

### **3.8 Remedies**

#### **a. Equitable**

You will have no adequate remedy at law if we violate this agreement. In that event, you can seek injunctive relief to restrain any breach or threatened breach by us or see specific enforcement of such terms, in addition to your other rights

#### **b. Recovery of Fees and Expenses**

If we breach this agreement and you file suit, we will pay your costs and expenses connected with the suit, including attorneys' fees and court costs.

#### **c. Waiver**

Your delay or failure to exercise any right under this agreement does not impair or waive any of your rights.

### **3.9 No Representations**

You have taken the time and effort to assemble the Confidential Information to help us evaluate the Property more quickly, and although you have no knowledge of any information that is materially inaccurate, you do not guarantee the accuracy or completeness of any of the Confidential Information that either you have prepared or that has been prepared by third parties. We will have the opportunity to evaluate the accuracy and completeness of the Confidential Information ourselves.

Very truly yours,

By: \_\_\_\_\_  
Name printed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Organization: \_\_\_\_\_