

Santa Anna Office/Warehouse

CONFIDENTIALITY & NONDISCLOSURE AGREEMENT

This agreement (“Agreement”) is entered into as of _____, 2017 (the “Effective Date”) by and between **ICBP IIFI Holdings 3, LLC.**, a Delaware limited liability company limited liability company (collectively “Seller”), and _____, a _____ (“Prospective Purchaser”). Seller and the Prospective Purchaser are hereinafter referred to as the “Parties”.

WHEREAS, ICBP IIFI Holdings 3, LLC, is the owner of that certain real property located in Dallas, TX, known as 2351 & 2353 Santa Anna Ave., Dallas, TX 75228 (collectively the “Property”); and

WHEREAS, it is the mutual desire of the Parties that each may disclose certain Confidential Information to each other regarding the Property; and

WHEREAS, the Parties both recognize that careful protection and non-disclosure by the Party receiving Confidential Information (the “Receiving Party”) from the Party disclosing such Confidential Information (the “Disclosing Party”) is of vital importance to the prosperity of the Parties.

NOW THEREFORE, in consideration of the promises made herein, each Party may, but is under no obligation to, disclose information to another Party or receive Confidential Information from another Party. If such Confidential Information is disclosed / received, it shall be so under the following terms and conditions:

1. CONFIDENTIAL INFORMATION.

1.1. Definition. As used herein, “Confidential Information” of a Disclosing Party shall mean any information and data disclosed by Disclosing Party to Receiving Party and any of its related parties (as defined in Section 2.2 below) concerning the Disclosing Party’s operations, financial condition, past, present and prospective assets managed and all information pertaining to the Property thereto, whether in data base form or otherwise, and all record bearing media containing or disclosing such information which are disclosed pursuant to this Agreement. In addition, “Confidential Information” of a Disclosing Party shall include any information and data disclosed by Disclosing Party to Receiving Party and any of its related parties (as defined in Section 2.2 below) concerning the Disclosing Party’s business, planning, know-how, joint ventures, joint venture partners, clients and prospects in data base form or otherwise and in connection with both existing and prospective products, and all record bearing media containing or disclosing such information which are disclosed pursuant to this Agreement. The terms and existence of this Agreement, the fact that Confidential Information has been made available hereunder, that discussions or negotiations are taking place concerning potential business relationships involving the Parties and all of the terms, conditions and other facts with respect thereto (including the status thereof) shall also be considered Confidential Information that is subject to the provisions of this Agreement. Confidential Information shall also include the third party confidential information that a Disclosing Party possesses if the Disclosing Party has a duty of confidentiality with respect to that third party information.

1.2. Purpose. The purpose of the disclosure of Confidential Information is to enable the Parties to advance their efforts in evaluating the potential purchase and sale of the Property from Seller to Prospective Purchaser. Receiving Party shall use the Confidential Information for this purpose only. Any Party may be a Receiving Party and/or a Disclosing Party under the terms hereof.

1.3 Ownership. The Confidential Information shall be considered valuable trade secrets, owned by the Disclosing Party. The Disclosing Party retains all right, title, and interest in the Confidential Information. No license to the Receiving Party, under any trademark, patent or copyright, or applications for same which are now or may thereafter be obtained by such Receiving Party, is either granted or implied by the conveying of Confidential Information to the Receiving Party.

1.4 No Warranties. THE DISCLOSING PARTY ASSUMES NO RESPONSIBILITY FOR ANY LOSS OR DAMAGES TO THE RECEIVING PARTY, ITS CUSTOMERS OR ANY THIRD PARTIES CAUSED BY OR ARISING FROM THE CONFIDENTIAL INFORMATION. THE DISCLOSING PARTY MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF THE CONFIDENTIAL INFORMATION. ONLY THOSE REPRESENTATIONS OR WARRANTIES WHICH ARE MADE IN OR PURSUANT TO ONE OR MORE FINAL AGREEMENTS REGARDING A TRANSACTION INVOLVING THE PARTIES WILL HAVE ANY LEGAL EFFECT.

2. NONDISCLOSURE.

2.1. Use of Confidential Information. The Receiving Party may only use the Confidential Information for the purposes stated above. The Receiving Party recognizes that this Agreement imposes an affirmative duty to hold such information in confidence and protect it from dissemination to and use by unauthorized persons. In the absence of the Disclosing Party's prior written consent, the Receiving Party shall not reproduce nor disclose the Confidential Information to any third party.

2.2. Further Responsibility. The Receiving Party agrees to use the same degree of care to protect the confidentiality of the Confidential Information as it would exercise to protect its own trade secrets, but in no case less than a reasonable degree of care. Receiving Party will grant access to the Confidential Information only to its directors, officers, employees, affiliates, agents, advisors and consultants ("related parties") who have a clear need to know for purposes of this Agreement and shall advise those related parties of the existence and terms of this Agreement and of the obligations of confidentiality herein. Each Party shall be responsible for the breach of the terms of this Agreement by such Party, or its related parties. The Receiving Party shall not enter the Property or contact any tenants, tenant representatives, Seller's lenders or managers without the express written permission of Seller.

2.3. Return of Confidential Information. Promptly following the request of the Disclosing Party, the Receiving Party will deliver to the Disclosing Party, or certify in writing to the Disclosing Party as to the destruction of (without retaining any copy), all Confidential Information (and copies and extracts thereof) furnished to, or created by or on behalf of, the Receiving Party. Notwithstanding the return or destruction of the Confidential Information, the Receiving Party will continue to be bound by its obligations of confidentiality and other obligations hereunder.

2.4. General Exceptions. The foregoing notwithstanding, except as set forth in the last sentence of this section, no information shall be considered Confidential Information if such information: (a) was in the Receiving Party's possession before execution of this Agreement (as proven by the Receiving Party), provided that the source of such information, to the knowledge of the Receiving Party after due inquiry,

was not bound by an obligation of confidentiality with respect to such information; or (b) is or becomes generally available to the public through no fault of, or without violation of any duty of confidentiality of the Receiving Party; or (c) is received by the Receiving Party from a third party without, to the knowledge of the Receiving Party after due inquiry, violation of a duty of confidentiality. Neither Party shall be liable for disclosure of Confidential Information if disclosure was required by law, regulation, securities exchange or association requirement, or was in response to an order of a court or authorized agency of government or other legal process, provided that prior written notice first be given to the Disclosing Party so that a protective order or other relief, if appropriate, may be sought by the Disclosing Party.

2.5. Remedies. The Parties recognize and acknowledge that Confidential Information is of a special, unique and extraordinary character to the Disclosing Party and that disclosure, misappropriation or unauthorized use of such Confidential Information by the Receiving Party cannot be fully compensated and that, further, any such disclosure, misappropriation or unauthorized use of the Confidential Information shall cause irreparable injury to the Disclosing Party. The Receiving Party expressly agrees, therefore, that the Disclosing Party, in addition to any rights and remedies it may have under this Agreement or at law or in equity, shall be entitled to seek injunctive and other equitable relief to prevent the breach, or the further breach, of any of the terms and provisions hereof.

3. GENERAL.

3.1. Term and Termination. Subject to Section 2.4 above, the Receiving Party shall maintain the Confidential Information in confidence in accordance with the terms of this Agreement for a period of two (2) years from the date of execution. Either Party may terminate this Agreement upon written notice to the other, provided that the duties set forth in Section 2 of this Agreement survive any termination of the Agreement.

3.2. No Further Rights. No license to the Receiving Party, under any trademark, patent or copyright, or applications for same which are now or may thereafter be obtained by such Receiving Party, is either granted or implied by the conveying of Confidential Information to the Receiving Party.

3.3. No Obligation to Complete Transaction. Unless and until a final agreement with respect to a transaction involving the Parties has been executed and delivered, neither Party will be under any legal obligation of any kind whatsoever with respect to any such a transaction by virtue of this Agreement except for the matters expressly agreed to herein.

3.4. No Conflicts. Each of the Parties represents and warrants that its actions with respect to this Agreement do not conflict with any prior obligations to any third party. The Parties further agree not to disclose or to use on behalf of the other Party any Confidential Information belonging to any third party unless sufficient written authorization from the third party is provided.

3.5. General Terms. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns. The waiver or failure of either Party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law or otherwise unenforceable, it shall be enforced to the extent legally permissible and as necessary to reflect the intent of the Parties and shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect. This Agreement may only be amended by a writing executed by both Parties. This Agreement is binding upon each Party and their respective affiliates. This Agreement shall be deemed to be a contract made under the laws of the State of Texas

and shall be governed by the laws thereof without reference to its principles of conflicts of law. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement represents the entire agreement between the Parties with respect to the subject matter herein.

SELLER: ICBP IIFI Holdings 3, LLC
A Delaware Limited Liability Company

By: _____

Its: _____

PROSPECTIVE PURCHASER:

By: _____

Its: _____

Name Printed

Address: _____

PURCHASER'S BROKER

Address _____

Email: _____

NOTICE INFORMATION:

Seller's Address:
ICBP IIFI Holdings 3, LLC

c/o Berkeley Partners, LLC
1 Sansome St., 15th Floor
San Francisco, CA 94104
Attn: Joe Goldsmith – Acquisitions Associate
jgoldsmith@berkeleypartners.com

Prospective Purchaser's Address:

