

CONFIDENTIALITY AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is entered into and effective as of _____ (“Effective Date”), by and between Florida Valuation & Consultants, Inc. a Florida Real Estate Brokerage Corporation representing the (“Seller”), and _____ (“Buyer”) (Seller and Buyer each referred to herein as a “Party” and together as “the Parties”) with reference to Seller’s property located at _____ (“Property”).

RECITALS

WHEREAS, Seller retains Confidential Information including materials related to trade secrets, studies, surveys, compilations, and other matters related thereto, and wherein Seller desires to enter into a purchase and sale agreement with Buyer wherein Buyer may be exposed to such trade secrets, studies, surveys, compilations, and other matters related thereto during the course of its due diligence process; and

WHEREAS, Buyer desires to engage with Seller for the purpose of evaluating a possible acquisition of the Property by means of obtaining and analyzing surveys, studies, compilations, accounting records, business plans and memoranda, and other documents pertaining to the Property and Seller’s interest in and to the Property (“Evaluation Materials”) which may contain, reflect, or otherwise reference Seller’s Confidential Information;

NOW, THEREFORE, in consideration of the premises, mutual promises and covenants contained herein, the Parties agree as follows:

- A. **“CONFIDENTIAL INFORMATION”** is any non-public information that relates to the actual or anticipated business, research, or development of the Property or Seller’s interest therein and any proprietary information, processes, records, strategies, technical data, trade secrets, and know-how of Seller disclosed to Buyer by Seller, directly or indirectly, in writing, orally, or by inspection or observation of tangible items. Confidential information includes, but is not limited to, Seller’s research, product or acquisition plans and strategies, customers, customer lists, marketing, any potential transactions, the existence of this Agreement, finances and other business information. Confidential Information will not include any information subject to the following, provided that such information is not subject to another confidentiality agreement with or other contractual, legal or fiduciary obligation of secrecy or confidentiality to the Seller:
1. The information was publicly known or made generally available in the public domain prior to the time Seller disclosed the information to Buyer;
 2. the information became publicly known and made generally available, after disclosure to Buyer by Seller, through no wrongful action or inaction by Buyer or by others who were under confidentiality obligations; or
 3. the information was in Buyer’s possession without confidentiality restrictions, at the time of disclosure by Seller, as shown by Buyer’s files and records.

- B. **USE OF CONFIDENTIAL INFORMATION.** At all times during the term of this Agreement and after this Agreement terminates, Buyer will hold all Confidential Information in strictest confidence and not use it for any purpose except that Purpose defined hereunder. Buyer will not copy, transmit, summarize, quote, or make any use of Evaluation Materials, except as allowed with Seller's written consent. Evaluation Materials will not be used in any way detrimental or disadvantageous to Seller. Buyer will not disclose Confidential Information to any third party without the prior written authorization of Seller. All Evaluation Materials and Confidential Information will remain the sole property of Seller, and neither the execution of this Agreement, nor the furnishing of any Evaluation Materials or Confidential Information hereunder shall be construed as granting any license or other right or title to Buyer with respect to Evaluation Materials or Confidential Information.
- C. **REMOVAL AND RETURN OF CONFIDENTIAL INFORMATION.** Should this Agreement terminate as the result of failed negotiations pursuant to Section F below, Buyer shall deliver to Seller (and not keep in his or her possession, recreate, or deliver to anyone else) any and all Evaluation Materials and other documents or property, or reproductions of these items delivered to Buyer pursuant hereto.
- D. **NO DISCLOSURE REQUIREMENT.** The extent of any disclosure of Confidential Information, whether by dissemination of Evaluation Materials or otherwise, made under this Agreement shall be at the sole discretion of Seller. Buyer will not disclose to any person either the existence of this Agreement, the fact that the Evaluation Materials have been made available, or the fact that discussions or negotiations are or may be taking place, or that Seller is contemplating, evaluating, or pursuing a transaction or negotiation. Buyer acknowledges that any disclosure of Confidential Information will cause substantial and irreparable harm to Seller, and Buyer agrees to take all reasonable precautions to prevent any unauthorized disclosure of Confidential Information;. Buyer will cause its employees, successors, affiliates, and assigns to use all reasonable and prudent efforts to protect and safeguard the Evaluation Materials from misuse, loss, theft, publication, or similar dissemination, exposure, or exhibition. Buyer will inform Seller immediately of any improper disclosure of any of the Evaluation Materials which may come to its attention.
- E. **OWNERSHIP OF CONFIDENTIAL INFORMATION.** Seller shall remain, before, during, and after disclosure to Buyer, the exclusive owner of all Confidential Information and Evaluation Materials without limitation, including all copyright, trade secret, trademark and other intellectual property rights included therein. No license, title, or any other right, including any right of ownership, is conveyed to Buyer or any other party by this Agreement or by any disclosure under this Agreement.
- F. **TERMINATION AND CONTINUING OBLIGATIONS.** This Agreement shall terminate either at the date of closing on the sale of the Property to Buyer, or as Buyer and Seller may mutually agree, in writing, for reasons including but not limited to failure to negotiate and fully execute a purchase and sale agreement for the Property, or failure to close on a fully executed purchase and sale agreement for the Property.


- G. **RELATIONSHIP OF PARTIES.** Nothing in this Agreement shall be deemed or construed so as to create the relationship of principal and agent, partnership, joint venture or of any association between the Parties, it being understood that the Parties' sole relationship hereunder is that of Seller and Buyer.
- H. **INDEMNITIES.** Buyer shall defend, indemnify, and hold harmless Seller from and against any and all claims, demands, causes of action, losses, damages, liabilities, judgments, costs, and expenses (including attorneys' fees) asserted against or incurred by Seller as a result of any violation of, or failure to comply with, the provisions of this Agreement by Buyer, its representatives, or any person or entity to who Buyer or its representatives disclosed the Evaluation Materials.
- I. **PROVISIONS BINDING.** Except as otherwise expressly provided, all provisions herein shall be binding upon and shall inure to the benefit of the Parties, their legal representatives, successors, and assigns. Each provision to be performed by Buyer shall be construed to be both a covenant and a condition, and if there shall be more than one employee, affiliate, subsidiary, representative or principal of Buyer, they shall all be bound, jointly and severally, by all provisions contained in this Agreement.
- J. **SEVERABILITY.** If any provision of this Agreement or application thereof to any persons or circumstance shall to any extent be invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- K. **NO WAIVER.** Failure of Seller to insist upon the strict performance of any provision or to exercise any option or any rules and regulations shall not be construed as a waiver for the future of any such provision, rule or option. No provision of this Agreement shall be deemed to have been waived unless such waiver is in writing and signed by Seller.
- L. **ENTIRE AGREEMENT.** This Agreement and any exhibits attached hereto set forth the entire agreement between the Parties. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Agreement shall be binding upon Seller or Buyer unless reduced to writing and signed by both Parties. If any provision contained in a rider is inconsistent with the printed provisions of this Agreement, the provision contained in said rider shall supersede said printed provision. The captions appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of any paragraph, nor in any way affect this Agreement.
- M. **APPLICABLE LAW.** This Agreement shall be construed according to the laws of the State of Florida.
- N. **COUNTERPARTS; FACSIMILE SIGNATURES.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of

which shall constitute one agreement, and the signature of any Party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart. Delivery of an executed counterpart of this Agreement by facsimile shall be equally as effective as delivery of a manually executed counterpart of this Agreement. Any Party delivering an executed counterpart of this Agreement by facsimile also shall deliver a manually executed counterpart of this Agreement, but failure to deliver a manually executed counterpart shall not affect the validity, enforceability and binding effect of this Agreement. Buyer and any representative of Buyer executing this Agreement acknowledge that it is acting only as a purchaser of the Property, and is not entitled to any commission resulting from a sale of the Property to Buyer.

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed, effective as of the Effective Date of this Agreement.

Selling Broker

Buyer

By:  _____

By: _____

Name: Florida Valuation & Consultants, Inc.

Name: _____

Title: President _____

Title: _____

Dated: 2/12/2019 _____

Dated: _____