



NON-CIRCUMVENTION AND NON-DISCLOSURE AGREEMENT
Between all of the following parties

R & F Associates, LLC
And

RE: PROPERTY LOCATION:

**Mixed-use project on approx 100 acres – I-485 Outer Loop
Mallard Creek Rd at Odell School Road
NW Charlotte**

Whereas, the parties hereto are mutually desirous of transacting various business transactions related to the purchase and or joint venture of certain real estate projects in cooperation with one another and for each others mutual benefit, and

Whereas, all parties have protective and actual relationships with clients and others which each hold to be essential to the conduct and profitability of its enterprise, and

Whereas, all parties recognize that mutual benefit may be derived when one party is introduced to or becomes acquainted with a third party first identified to it by the other party, and

Whereas, all parties recognize that any such identification or location or introduction is a trade secret and is the exclusive and sole property of the initiating party, and

Whereas, all parties desire to be bound legally as to the requirement for maintaining the privacy and security of the aforementioned relationships;

Now, therefore, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, it is mutually agreed as follows:

I. CONFIDENTIALITY

1.1 The following definitions apply to this agreement:

Third Party. For the purposes of this agreement, a **third party** is defined as any employee not having a specific **Need To Know**, any existing or prospective competitor, contractor or professional, associate, friend or relative of either party.

Source. A **source** is intended to include, but is not limited to, a named principal, client, buyer, seller, broker, bank, or agent of either party.

Contact. This term includes, but is not limited to, informal or formal communication, meeting, presentation, negotiation, service or other contractual activity for the term specified herein below.

Need to Know. This refers to the requirement to know specific information in the performance of work initiated with respect to transactions involving either party.

1.2 The parties hereby mutually and irrevocably agree not to divulge to any **third party** any information whatsoever regarding each other's named **sources** without receiving the expressed written consent of the other party.

1.3 The parties agree each will not circumvent either directly or indirectly the relationships that each party has with such persons or entities.

1.4 Each party agrees that, without the expressed written consent of the other party, it will not initiate, respond or otherwise abide any **contact** with any person, company, institution, professional association, or other entity to which it has been introduced or with whom it has become acquainted in the course of doing business with the other party.

1.5 The parties hereto agree to hold completely confidential the name, address, telephone, telex, facsimile number, account or other business numbers of such contacts as these constitute trade secrets the disclosure of which may be useful to an existing or prospective competitor.

1.6 Each party agrees that the provisions protecting each other's sources and prohibiting contacts with the same apply to all employees, professional consultants, contractors, and agents of each party whose responsibilities require knowledge of such information.

1.7 The above restrictions with respect to contact apply to any subsequent follow-ups, repeated or extended or renegotiated transactions regardless of the outcome to the initiating party of the relationship itself.

II. PROVISIONS FOR INFORMATION SECURITY

2.1 The parties agree to take other reasonable precautions in protecting the privacy and security of these business contacts, associated documents, contacts, proposals and communications by taking

administrative actions such as labeling of information, secure storing, restricted copying to reduce risk of loss or compromise through theft or accident or act of nature.

2.2 Each party agrees to use its best efforts to prevent disclosure of proprietary information to persons outside its organization.

2.3 Further, each party agrees to limit dissemination within its organization of information regarding sources, contacts and financial or technical factors to those persons with a ***Need to Know***.

2.4 Each party agrees to designate in writing, within its own organization, a representative as the person responsible to transmit or receive all information circulated between the parties.

III. NON-CIRCUMVENTION

3.1 The parties agree to provisions set forth in the following paragraphs which provide both parties with legal recourse in the event circumvention of this agreement occurs.

3.2 This agreement applies to transactions which involve parent or subsidiary companies or entities or other brokers involved in these transactions.

3.3 Each party agrees it will advise any person having access to proprietary information of the existence of the protection against circumvention.

3.4 The parties agree that no effort shall be made to circumvent the terms and conditions of this agreement to gain a fee, commission, remuneration, consideration or benefit.

3.5 With respect to any attempt at circumvention of this agreement, the injured party is entitled to seek any and all legal remedies, fees or compensation equal to that received or committed or agreed to be paid in the agreement governing the transaction between the parties and the same are due and payable to the circumvented party under the terms of this agreement.

IV. RESOLUTION OF CONTROVERSY

4.1 This Agreement shall be governed by the laws of the State of North Carolina, without regard to the conflicts of law only thereof.

V. GOOD FAITH

5.1 The parties hereto understand this agreement is a reciprocal and mutual on both warrant, covenant, and promise that it will act in good faith toward each other in the performance of this agreement and in other matters.

VI. INVOLUNTARY LOSS, COMPROMISE, OR DISCLOSURE

6.1 The parties agree that, notwithstanding implementation of the reasonable and customary measures for attending to the privacy and security of sources and information covered under this agreement, it is not a violation of this agreement when loss or compromise or disclosure results from an involuntary event (such as fire, theft, or natural disaster).

6.2 The parties agree that, when either believes such an event has occurred which may have directly or indirectly resulted in loss or compromise or inadvertent disclosure of information of the kind compromising this agreement, notification of the other party is required within the ensuing forty eight (48) hours or two (2) business days.

VII. RIGHTS OF ASSIGNMENT

7.1 Each party agrees this agreement is not assignable by either to any third party without the prior written consent of the other.

7.2 Restriction against assignment of this agreement is binding also on employees, agents, assigns, successors in interest, personal representatives, estates, heirs and legatees of each of the parties.

VIII. EXCLUSION WITH RESPECT TO PARTNERSHIP

8.1 The parties agree that, in no way, shall either construe this agreement as being an act of partnership between the parties and that neither shall have, as a result of the execution of this agreement, any liability for the other's commitments of any type or sort.

IX. REMEDY OF LAW

9.1 All questions with respect to the construction of this agreement, and the rights and liabilities of the parties hereto, shall be as in effect in the State of North Carolina.

9.2 Remedy at law for any breach or threatened breach of this agreement being inadequate, either party hereto is entitled to enforce the specific performance of this agreement and to seek both temporary and permanent injunctive relief without the necessity of proving actual damages outside of the term of this agreement.

X. WAIVER OF BREACH

10.1 The waiver by either party of a breach of any provision of this agreement shall not be construed as a waiver of any subsequent breach hereof.

XI. UNENFORCEABILITY

11.1 If any provision of this agreement is held to be void, invalid or unenforceable, the remaining provisions of this agreement shall remain in full force and effect.

XII. TERM OF AGREEMENT

12.1 This agreement will remain in effect for 24 months from the date of its execution or 24 months from final settlement of the last transaction involving both parties whichever is later.

XIII. BINDING AGREEMENT

13.1 This agreement shall be binding upon and inure to the benefit of the principals, proprietors, officers, directors and successors of the companies of both parties.

XIV. OFFICIAL ORIGINAL

14.1 The fully executed telecopy (facsimile) version of this agreement shall be construed by both parties as an original version of the agreement.

XV. ENTIRE AGREEMENT

16.1 This agreement constitutes the entire agreement between the parties and supersedes any prior written or oral agreement between the two.

R & F Associates, LLC

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____