

NON-DISCLOSURE AGREEMENT FOR SALES/PURCHASES

DATE

PARTIES

- (1) [NAME OF COMPANY] (incorporated and registered in [England and Wales] under company registration number [COMPANY NUMBER]), the registered office of which is at [REGISTERED OFFICE ADDRESS]; and
- (2) [NAME OF COMPANY] (incorporated and registered in [England and Wales] under company registration number [COMPANY NUMBER]), the registered office of which is at [REGISTERED OFFICE ADDRESS].

1. DISCLOSURE

- 1.1 The parties wish to exchange information with each other relating to a direct or indirect interest in [DESCRIBE PROPERTY] (the **"Proposed Transaction"**).
- 1.2 In this agreement:
 - 1.2.1 **"Confidential Information"** means all information in whatever form (including, without limitation, in written, documentary or electronic form) relating to the Proposed Transaction which is, whether before or after the date of this agreement, supplied or made available, directly or indirectly, to the Recipient or its Professional Advisers;
 - 1.2.2 **"Professional Advisers"** means a party's lawyers, surveyors, accountants and other professional advisers;
 - 1.2.3 **"Provider"** means a party to this agreement which discloses or makes available directly or indirectly Confidential Information;
 - 1.2.4 **"Recipient"** means a party to this agreement which receives or obtains directly or indirectly Confidential Information.
- 1.3 In consideration of the Provider agreeing to disclose Confidential Information to the Recipient, the Recipient undertakes to the Provider that it shall:
 - 1.3.1 subject to clauses 3 and 4, hold the Confidential Information in strict confidence and accept that the Confidential Information is commercially sensitive and that its release otherwise than in accordance with the terms of this agreement may be detrimental to the Provider;
 - 1.3.2 not disclose or permit to be disclosed any of the Confidential Information to any person or make any announcement other than as permitted by this agreement and not to use the Confidential Information in any way, except for or in connection with, the Proposed Transaction; and
 - 1.3.3 keep confidential the existence and contents of this agreement and of any discussions or negotiations between the Recipient and the Provider in respect of the Proposed Transaction save where disclosure is permitted by this agreement.

2. TERM AND TERMINATION

- 2.1 The parties' obligations under this agreement shall terminate (save in respect of the obligations in clause 1.3 which shall continue in respect of any Confidential Information retained pursuant to clause 5.2) on the earlier of:
 - 2.1.1 two years after the date of this agreement; and

2.1.2 exchange of an agreement containing confidentiality provisions relating to the Proposed Transaction,

such termination shall be without prejudice to any antecedent breach of either party of its obligations in this agreement.

2.2 Clause 2.1 shall apply whether or not the Proposed Transaction proceeds.

3. PERMITTED DISCLOSURE

3.1 The Recipient may disclose or permit to be disclosed Confidential Information to:

3.1.1 where necessary in connection with the Proposed Transaction, any subsidiary or parent undertaking of the Recipient (whether direct or indirect), any subsidiary undertaking of such parent, any partnership interest in or of the Recipient (the "**Recipient Group**"), any partner, trustee, nominee, operator, funder or arranger of equity or debt or investment manager or investment adviser to and/or of the Recipient or the Recipient Group or any funds managed or advised by, or clients of, the Recipient or the Recipient Group in each case from time to time;

3.1.2 the Professional Advisers engaged by the Recipient or the Recipient Group in respect of the Proposed Transaction; and

3.1.3 any of its or any member of the Recipient Group's officers, directors and necessary employees in connection with the Proposed Transaction,

provided that it procures that each such person to whom the Confidential Information is disclosed complies with the obligations set out in this agreement as if they were the Recipient.

3.2 The Recipient shall inform the Provider as soon as reasonably practicable upon becoming aware that a person to whom disclosure of Confidential Information is not permitted under this agreement, has become aware of Confidential Information.

3.3 Each party may disclose the Confidential Information to the minimum extent required by:

3.3.1 any order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or taxation authority of competent jurisdiction;

3.3.2 the rules of any listing authority or stock exchange on which its shares or the shares of any member of the Recipient Group are listed; or

3.3.3 the laws or regulations of any country to which its affairs are subject,

provided always that the Recipient informs the Provider of the disclosure, to the extent legally permissible, as soon as reasonably practicable.

4. EXCLUSIONS

The obligations set out in clause 1 shall not apply, or shall cease to apply, to Confidential Information which the Recipient can show to the Provider's reasonable satisfaction:

4.1 is or becomes generally available to the public other than as a direct or indirect result of the information being disclosed by the Recipient in breach of this agreement; or

4.2 was in the Recipient's or any member of the Recipient Group's or any of its or their Professional Advisers' actual possession prior to the time of disclosure to the Recipient and which was lawfully acquired other than from the Provider or on behalf of it and that such source was not under any obligation of confidence in respect of that information; or

4.3 has been received or developed by the Recipient or any member of the Recipient Group or any of its or their Professional Advisers from a third party source that is not connected with the Provider and that such source was not under any obligation of confidence in respect of that information.

5. RETURN OF THE CONFIDENTIAL INFORMATION

- 5.1 The Recipient shall as soon as reasonably practicable on receipt of a written request from the Provider return any Confidential Information received in hard copy to the Provider.
- 5.2 Nothing in clause 5.1 shall require the Recipient or any member of the Recipient Group or any of its or their Professional Advisers to destroy or, prohibit it from keeping a copy of, any Confidential Information:
 - 5.2.1 which is held on any back-ups or archives of any computer system containing or previously containing the Confidential Information where such back-up or archiving occurs in the usual course of operating that computer system and where it is not reasonably practicable to delete the Confidential Information so held;
 - 5.2.2 which the Recipient or any member of the Recipient Group or any of its or their Professional Advisers are required to retain for professional indemnity insurance purposes, internal audit processes or internal governance purposes; and
 - 5.2.3 which the Recipient or any member of the Recipient Group or any of its or their Professional Advisers are required to retain by any competent judicial, governmental, regulatory or similar body or the rules or regulations of any listing authority or stock exchange on which the securities of the Recipient are listed or traded or for the purposes of any audit, provided always that nothing in this clause 5 shall prejudice the Recipient's obligation contained in clause 1.3.

6. NO REPRESENTATION OR WARRANTY

- 6.1 Each party acknowledges that the Confidential Information may not be accurate or complete and neither the Provider nor its Professional Advisers accept responsibility or liability for (or make any warranty or representation, express or implied, with respect to) the accuracy or completeness of the Confidential Information.
- 6.2 The Recipient acknowledges that damages alone may not be an adequate remedy for any breach of its obligations under this agreement and, accordingly, without prejudice to any other rights or remedies that the Provider might seek, the Provider shall be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of the provisions of this agreement.

7. MISCELLANEOUS

- 7.1 The terms of this agreement may only be amended or modified by written agreement between the parties.
- 7.2 This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- 7.3 This agreement is personal to the parties and neither party shall assign, transfer, charge or deal in any other manner with this agreement or any of its rights under it nor purport to do any of the same.
- 7.4 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by the law of England.
- 7.5 The Provider and the Recipient irrevocably agree that the courts of England have exclusive jurisdiction to determine any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

Signed by [FULL NAME OF INDIVIDUAL],)
a duly authorised signatory for and on)
behalf of [NAME OF COMPANY])

.....

Position (in BLOCK CAPITALS)

Signed by [FULL NAME OF INDIVIDUAL],)
a duly authorised signatory for and on)
behalf of [NAME OF COMPANY])

.....

Position (in BLOCK CAPITALS)

Agreement to be dated once signed by both parties

Please refer to the IPF Non-Disclosure Agreement Guidance Note at:

<http://www.ipf.org.uk/industry-involvement/non-disclosure-agreement-and-exclusivity-agreement.html>