

## CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2008 by and between \_\_\_\_\_ ("Proposed Buyer") in favor of \_\_\_\_\_ and Sherman Associates, Inc., a Minnesota Corporation (collectively, "Seller").

WHEREAS, Proposed Buyer is interested in purchasing from Seller certain real property commonly known as \_\_\_\_\_ (the "Property"); and

WHEREAS, Proposed Buyer desires to obtain certain information regarding the Property from Seller and Proposed Buyer understands that Seller will provide such information only if Proposed Buyer enters into this Agreement with respect to such information.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Proposed Buyer covenants and agrees as follows:

1. Confidential Information. For purposes of this Agreement, the term "Confidential Information" shall mean all information disclosed, distributed or presented to Proposed Buyer by Seller, whether in writing, electronic form or at oral presentations or interviews, in connection with the Property, including financial, technical, tenant, marketing, and strategic information, and any supplements or updates to any of the foregoing. The term Confidential Information does not include any information which becomes generally available to and known by the public (other than as a result of a disclosure in violation of this Agreement).

2. Use/Nondisclosure of Information. Proposed Buyer agrees that it shall not, without the express written consent of the Seller: (i) disclose, furnish or deliver any of the Confidential Information or communicate any of the Confidential Information, in any manner, to any person, company, corporation, entity, institution, cooperative, venture, limited liability company, partnership, individual or any consultant, or (ii) utilize the Confidential Information, whether directly or indirectly, to compete against the Seller or utilize such information in conjunction with any other venture or business combination to compete against the Seller.

Proposed Buyer may disclose the Confidential Information to its legal counsel and accountants utilized by it for purposes of conducting its due diligence review of the Property ("Representatives"); provided, however, that Proposed Buyer shall: (i) inform each of the Representatives receiving the Confidential Information of the confidential nature of the Confidential Information and of this Agreement, (ii) direct the Representatives to treat the information confidentially, (iii) use reasonable efforts to take appropriate precautions (including but not limited to) ensuring that the Representatives are under confidentiality restrictions sufficient to protect Seller, and (iv) have the Representatives acknowledge and agree to the terms of this Agreement in writing.

3. Compelled Disclosure. Proposed Buyer shall not disclose to any person that the Confidential Information has been made available to Proposed Buyer. If Proposed Buyer or any of its Representatives are requested, subpoenaed or ordered in a judicial proceeding, in any other governmental proceeding, or before any other tribunal to disclose any Confidential Information, then the Proposed Buyer shall promptly notify the Seller in order to permit Seller to seek a protective order or take other appropriate action to limit the dissemination of the Confidential Information. Proposed Buyer shall cooperate in the efforts of the Seller to obtain a protective

order or other reasonable assurance that confidential treatment shall be accorded the Confidential Information.

4. Treatment of Information. Upon the written request of Seller, Proposed Buyer shall return to Seller all tangible Confidential Information and copies thereof and shall use commercially reasonable efforts to destroy all tangible materials and copies thereof prepared by the Proposed Buyer or its Representatives containing or referring to the Confidential Information. Any Confidential Information not so returned or destroyed shall remain subject to the terms and conditions of this Agreement.

5. Enforcement. Proposed Buyer agrees that breach of this Agreement will produce severe damage and injury to Seller and that money damages may be inadequate to fully compensate the other resulting from such breach. In the event of breach of this Agreement by Proposed Buyer, the Seller shall be entitled to seek equitable and other relief, in the form of injunctive relief, both preliminary and permanent, enjoining and restraining such breach or threatened breach. Such remedies shall be in addition to all other remedies available at law or in equity. In addition, Proposed Buyer agrees to compensate Seller for any and all reasonable attorney's fees and costs incurred by Seller in enforcing its obligations under this Agreement. If any term, provision, covenant or restriction of this Agreement is unenforceable, the remainder of the terms, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or in any way invalidated by such court action.

6. General Provisions. Proposed Buyer shall be responsible for any breach of this Agreement by its Representatives. No failure or delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, without giving effect to the principles of conflict of laws thereof.

7. Term. This Agreement will begin on the date specified above and will remain in effect unless terminated by mutual agreement of the parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this Confidentiality and Non-Disclosure Agreement as of the date first above written.

**PROPOSED BUYER:**

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_