

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This **CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT** (this “*Agreement*”) is made on the ____ day of _____, 2018, by _____, hereinafter referred to as Prospect.

WHEREAS, TCB/Marina Del Sol, LLC, a Texas limited liability company (“*Owner*”), for itself and for a syndicate of lenders (the “*Lender Group*”), is the seller of certain property located in San Antonio, Bexar County, Texas, consisting of an approximately 150,000 square foot specialty hospital building, an adjacent structured parking garage, and an approximately 80,000 square foot professional office building located at 5510 Presidio Parkway, San Antonio TX (collectively, the “*Property*”).

WHEREAS, Prospect is a(n) _____ (individual, corporation, limited liability corporation);

WHEREAS, Owner wishes to disclose certain information to Prospect and allow Prospect to enter the Property and Prospect wishes to receive the information and enter the Property and considers this information and any information obtained from such entry confidential.

NOW THEREFORE, in consideration of the mutual promises herein set forth, the parties agree as follows:

1. **CONFIDENTIAL INFORMATION.** For the purposes of this Agreement, “*Confidential Information*” shall mean all information concerning the Property, Owner, its affiliates, subsidiaries and employees, and Lender Group received by Prospect and/or Prospect’s employees or agents in connection with Prospect’s receipt of information from Owner, Owner’s representatives or agents or from Prospect’s entry on the Property. All Confidential Information shall be held in confidence by Prospect and/or Prospect’s employees or agents and shall not be disclosed through any third party, and shall be protected with the same degree of care as Prospect normally uses in the protection of its own confidential and proprietary information. Prospect further agrees not to use Confidential Information received from Owner for any purpose except as is necessary for the purpose of fulfilling Prospect’s Agreement with Owner and shall only disclose the Confidential Information to such of its representatives with a “need to know” such information. The restrictions herein shall not apply with respect to Confidential Information which (a) is already available to the public; (b) becomes available to the public other than as a result of unauthorized disclosure by Prospect; (c) is already known to Prospect as shown by written records in Prospect’s possession at the time that the Confidential Information was received from Owner; (d) is received by Prospect on a non-confidential basis from a third party lawfully entitled to disclose such information; or (e) disclosure of such Confidential Information is required by court order, regulation, or other legal process.

2. **PROPRIETARY INTEREST.** Nothing in this Agreement shall be construed to grant Prospect a license to any Confidential Information disclosed.

3. **ORDERLY TERMINATION.** Upon the termination or expiration of this Agreement, Prospect shall immediately return to Owner upon request; all papers, programs, materials, documents and other properties of the Owner, including, without limitation, all written and electronic copies thereof, all storage devices on which any Confidential Information is stored, and all other materials containing or incorporating Confidential Information, including any and all excerpts, parts, portions, transcriptions, copies, facsimiles, and reproductions of Confidential Information.

4. **GOVERNING LAW.** In the event that any dispute arises hereunder, it is specifically stipulated that this Agreement is executed, and therefore shall be construed, in accordance with and governed by the laws of the State of Texas and the United States of America. Any breach hereof by Prospect, Prospect’s employees and/or agents shall entitle Owner to all remedies available pursuant to such laws.

5. **TITLES.** The titles used herein are for convenience only and shall not be construed or interpreted in any of the provisions of this Agreement.

6. **OFFERS.** No offer is considered accepted until the offer has been approved by Owner and the Lender Group. Offers are not binding unless and until a fully negotiated agreement has been executed and delivered to both Prospect and Owner.

7. **COMMISSIONS.** Prospect acknowledges that no commissions will be paid by Owner or the Lender Group to a prospective buyer who also holds a real estate license, to real estate brokers who are participating as principals in the purchase of the Property or to real estate brokers or agents representing Prospect.

8. **INDEMNITY.** Please read this section carefully:

Prospect agrees to indemnify, defend and hold harmless Owner from and against any and all losses, damages, cost and expenses, including reasonable attorneys' fees, arising out of or in connection with any claim or suit asserted or brought by any broker, finder, agent or representatives, for commissions, fees or other compensation, to the extent such claim or suit is based in whole or in part on dealings with or through Prospect, its directors, officers, employees, partners, agents or advisors.

Prospect further agrees to indemnify, defend and hold harmless Owner from and against any and all liability or claims, causes of action, liabilities, damages, losses, costs, and expenses (including, but not limited to, reasonable attorneys' fees) arising out of the activities of Prospect, its agents, independent contractors, and employees on the Property.

The indemnities contained herein shall survive the termination or expiration of this Agreement;

Prospect hereby waives and releases any claims, causes of action, or other remedies against Owner for property damages or bodily or personal injuries to Prospect, independent contractors, and employees arising out of its activities on the Property (but not including any claims to the extent attributable to Owner's gross negligence or willful misconduct).

9. **NO SUBSTITUTE FOR DUE DILIGENCE AND NO RELIANCE.** Neither Owner nor any of its representatives has made or makes any representation or warranty as to the accuracy or completeness of any of the Confidential Information furnished in connection with this Agreement. The parties agree that Owner and its representatives shall not have liability to Prospect or its representatives resulting from the provision of or use of the Confidential Information, and the Confidential Information does not reduce or limit the duty of Prospect to perform independent due diligence. Prospect and its representatives shall not rely on any portion of the Confidential Information in conducting Prospect's due diligence.

10. Each lender in the Lender Group is expressly intended third-party beneficiary of this Agreement. Prospect agrees that any party's status as intended third-party beneficiary does not constitute or create a contractual relationship between Prospect and such party.

(Signature Page follows)

THIS CONFIDENTIALITY AGREEMENT IS TO BE EXECUTED BY THE PROSPECTIVE BUYER. It is not intended for brokers who may represent a client.

OWNER:

TCB/Marina Del Sol, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

AGREED AND ACKNOWLEDGED TO BY “PROSPECT:”

Prospect’s Signature: _____
Print Prospect Name: _____
Title: _____
Company Name: _____
Address: _____
City/ST/Zip: _____
Telephone: _____
Fax: _____
E-mail: _____