

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

(Prospective Purchaser: Review of Offering Materials)

This Confidentiality and Non-Disclosure Agreement (this “Agreement”) is entered into as of _____, 20__ (the “Effective Date”), by and among **176 M LLC** and **113 M LLC**, each a Colorado limited liability company (together, the “Owners”); **Better Homes and Gardens Real Estate Neuhaus** (together with its brokers and agents, including Roger Kelley and April Neuhaus, the “Brokers”); and the undersigned prospective purchaser, _____ (“Recipient”). The Owners, the Brokers, and Recipient are each a “Party” and together the “Parties.”

RECITALS

A. The Owners and certain related parties own or hold interests in real property in and near the Town of Castle Rock, County of Douglas, State of Colorado, including: (i) approximately 175.714 acres in four (4) parcels owned by 176 M LLC, identified by Douglas County Assessor account numbers R0327425, R0337658, R0479102, and R0057621 (the “176 Property”); (ii) approximately 113 acres owned by 113 M LLC (the “113 Property”); and (iii) an approximately 5-acre parcel located at 667 N. Ridge Rd. (the “Lincoln Property”). The 176 Property, the 113 Property, the Lincoln Property, and any other real property that the Owners or their members or affiliated entities may from time to time offer for sale are referred to collectively as the “Properties,” together in each case with all improvements, water and mineral rights, entitlements, and appurtenances.

B. The Owners have retained the Brokers to market the 176 Property for sale. The 113 Property and the Lincoln Property are not currently being offered for sale but may be offered in the future. Recipient has expressed interest in acquiring one or more of the Properties and, for the purpose of evaluating a possible purchase (each, a “Transaction”), has requested access to an offering memorandum and other information regarding the Properties.

C. Recipient acknowledges that the 113 Property and the Lincoln Property are not currently available for sale, that the Lincoln Property is owned by a third party and may be subject to existing contractual rights, and that nothing in this Agreement constitutes an offer to sell, or an agreement to offer for sale, any of the Properties.

D. As a condition to receiving the information described above, Recipient agrees to be bound by the terms of this Agreement.

NOW, THEREFORE, in consideration of the disclosure of the Confidential Information and the mutual covenants below, the Parties agree as follows:

- 1. Confidential Information.** “Confidential Information” means the offering memorandum and any and all information regarding any of the Properties or any Transaction that is furnished to Recipient or its Representatives (defined below) by the Owners or the Brokers, in any form (written, oral, electronic, or visual), whether furnished before or after the Effective Date, including without limitation purchase price and pricing guidance, appraisals, title commitments and exception documents, surveys, legal descriptions, zoning and entitlement materials, the status of related parcels and agreements, environmental and engineering reports, water and mineral rights information, tax and assessment data, leases and the Crown Castle cell-tower lease, correspondence, and any notes, analyses, or compilations prepared by Recipient or its Representatives that contain or are derived from such information.

2. **Exclusions.** Confidential Information does not include information that Recipient can demonstrate by written record:
 - (a) is or becomes generally available to the public other than as a result of a disclosure by Recipient or its Representatives in breach of this Agreement;
 - (b) was lawfully in Recipient's possession on a non-confidential basis before disclosure by the Owners or the Brokers;
 - (c) becomes available to Recipient on a non-confidential basis from a source other than the Owners or the Brokers that is not, to Recipient's knowledge, bound by a duty of confidentiality; or
 - (d) is independently developed by Recipient without use of or reference to the Confidential Information.
3. **Use of Confidential Information.** Recipient shall use the Confidential Information solely to evaluate a possible Transaction and for no other purpose. Recipient shall not use the Confidential Information in any way detrimental to the Owners or the Brokers, or for any competitive or commercial purpose unrelated to a Transaction.
4. **Non-Disclosure.** Recipient shall keep the Confidential Information strictly confidential and shall not disclose it to any person, except to Recipient's directors, officers, members, partners, employees, attorneys, accountants, lenders, prospective equity partners, and other consultants or advisors who (i) have a need to know the information to evaluate a Transaction and (ii) are informed of the confidential nature of the information and agree to be bound by, or are otherwise obligated to observe, terms substantially the same as those of this Agreement (collectively, "Representatives"). Recipient shall be responsible for any breach of this Agreement by its Representatives as if it were a breach by Recipient.
5. **No Direct Contact; Non-Circumvention.** All inquiries, requests for information, and communications regarding any of the Properties or any Transaction shall be directed solely to the Brokers. Recipient shall not, without the Brokers' prior written consent, contact or attempt to contact the Owners, the Memmen family or any member or manager of the Owners, the owner of the Lincoln Property, any tenant or occupant of any of the Properties, the Town of Castle Rock or any governmental authority regarding any of the Properties, any metropolitan or special district, any adjacent owner, or any other person involved with any of the Properties, in connection with a Transaction. Recipient shall not attempt to circumvent the Brokers or interfere with the Brokers' right to compensation in connection with any transaction involving any of the Properties.
6. **No Representation or Warranty; Reliance on Own Investigation.** The Confidential Information is provided for Recipient's convenience only. Neither the Owners nor the Brokers makes any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information, and the Confidential Information may include estimates, projections, summaries, and third-party materials that have not been independently verified and that are subject to change. Recipient acknowledges that the entitlement, zoning, title, appraisal, and related matters affecting the Properties may be in flux. Recipient shall rely solely on its own independent investigation and due diligence and on the representations and warranties, if any, contained in a fully executed definitive purchase and sale agreement. Neither the Owners nor the Brokers shall have any liability to Recipient or its Representatives arising from the use of the Confidential Information.

- 7. No Obligation; No Agreement Until Signed.** Nothing in this Agreement obligates any Owner to sell or offer for sale any of the Properties, obligates Recipient to purchase any of the Properties, or obligates any Party to negotiate or continue negotiations. No agreement providing for a Transaction shall be deemed to exist unless and until a definitive written purchase and sale agreement has been executed and delivered by the applicable Owner and Recipient. The Owners reserve the right, in their sole discretion, to conduct any sale process as they determine, to negotiate with any party, to reject any proposal, to determine whether and when to offer the 113 Property or the Lincoln Property for sale, and to terminate discussions at any time.
- 8. Brokerage Relationship.** Recipient acknowledges that the Brokers represent the Owners as seller's agents in connection with the 176 Property and do not represent Recipient. This Agreement does not create any agency, brokerage, or fiduciary relationship between the Brokers and Recipient.
- 9. Return or Destruction.** Upon the written request of the Owners or the Brokers, or upon Recipient's decision not to proceed, Recipient shall promptly return or destroy all Confidential Information, including all copies and any materials derived from it, and, if requested, certify such destruction in writing. Recipient may retain one archival copy and copies created by automatic electronic backup, in each case subject to the continuing obligations of this Agreement, and may retain copies to the extent required by law or bona fide internal document-retention policy.
- 10. Compelled Disclosure.** If Recipient or its Representatives are legally compelled (by subpoena, court order, or similar process) to disclose any Confidential Information, Recipient shall, to the extent legally permitted, give the Owners and the Brokers prompt prior written notice so that they may seek a protective order or other appropriate relief, and shall disclose only that portion of the Confidential Information that it is legally required to disclose.
- 11. Remedies.** Recipient acknowledges that a breach of this Agreement may cause irreparable harm to the Owners and the Brokers for which monetary damages would be an inadequate remedy. Accordingly, the Owners and the Brokers shall be entitled to seek injunctive relief and specific performance, in addition to all other remedies available at law or in equity, without the necessity of posting a bond. The Brokers are intended third-party beneficiaries of this Agreement and may enforce it directly.
- 12. Attorneys' Fees.** In any action or proceeding brought to enforce or interpret this Agreement, or arising out of a breach of it, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred.
- 13. Term.** This Agreement shall remain in effect until the earlier of (a) two (2) years from the Effective Date, or (b) the closing of a Transaction between an Owner and Recipient; provided that the obligations of confidentiality and non-circumvention shall survive any termination with respect to Confidential Information then held by Recipient or its Representatives.
- 14. Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to its conflict-of-laws principles. The Parties consent to exclusive venue and jurisdiction in the District Court for Douglas County, Colorado, for any dispute arising under this Agreement.
- 15. Miscellaneous.** This Agreement constitutes the entire agreement of the Parties regarding the Confidential Information and supersedes all prior understandings on that subject. It may be amended

only in a writing signed by the Parties. If any provision is held unenforceable, the remaining provisions shall continue in full force, and the unenforceable provision shall be modified to the minimum extent necessary to make it enforceable. No waiver is effective unless in writing, and no waiver of one breach is a waiver of any other. Recipient may not assign its rights or obligations under this Agreement without the prior written consent of the Owners, except to an affiliated entity or successor by merger or acquisition. This Agreement binds and benefits the Parties and their respective successors and permitted assigns. This Agreement may be executed in counterparts, and a facsimile, scanned, or electronic signature shall have the same effect as an original.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

RECIPIENT (PROSPECTIVE PURCHASER):

Entity / individual name: _____

Signature _____

Printed name: _____ Title: _____

Address: _____

Email: _____ Phone: _____

Date: _____

OWNERS:

176 M LLC, a Colorado limited liability company

By _____

Name: _____ Title: Manager Date: _____

113 M LLC, a Colorado limited liability company

By _____

Name: _____ Title: Manager Date: _____

BROKERS:

By _____

Name: Roger Kelley, Better Homes and Gardens Real Estate Neuhaus Date: _____

By _____

Name: April Neuhaus, Better Homes and Gardens Real Estate Neuhaus Date: _____