

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the “Agreement”) is made in connection with the consideration by _____, and its affiliates (the “Recipient”), of a possible purchase of property Panera Bread and Mattress Firm (1807 22nd Ave SW, Minot, ND) hereto and incorporated thereby (the “Property”) and HANLEY INVESTMENT GROUP, INC. (“Broker”) who has been retained by the Owner in connection with the potential sale of the Property. As a condition to Owner and Broker’s agreement to furnish and/or disclose Confidential Information, as defined herein, to the Recipient for its review, the Recipient agrees to be bound by the terms set forth in this Agreement. Recipient understands and agrees that any Confidential Information provided herein shall not be disclosed to any third party or used other than as contemplated herein.

1. “Confidential Information” shall include all documents, and other written or oral information, as well as forms of electronically transmitted data, furnished to the Recipient, or its officers, directors, employees, agents, advisors, prospective lenders, or representatives (collectively “Representatives”) by Broker relating to the Property, as well as written memoranda, notes, analyses, reports, compilations, or studies prepared by or for the Recipient (in whatever form of medium) that contain, or are derived from such information provided by Broker. “Confidential Information” shall not include any of the foregoing information if obtained from third parties or if generally available to the public.

2. Recipient agrees that it will use the Confidential Information exclusively for the purpose of evaluating the merits of a possible purchase of the Property and not for any other purpose whatsoever. Recipient further agrees that it will not disclose any Confidential Information or use it to the detriment of Broker, Owner or any of its affiliates, agents or representatives; provided, however, that the Recipient may disclose Confidential Information (i) to any Representative of the Recipient who needs to know such Confidential Information solely for the purpose of evaluating the Property for Recipient (provided that such Representative shall keep all information confidential pursuant to the terms hereof, it being understood and agreed that the Recipient shall be fully responsible for any disclosures by such person, and (ii) as required by law (see Paragraph 5).

3. Recipient agrees that all written Confidential Information and all copies thereof will be returned or destroyed promptly upon request of Broker. All digitally produce Confidential Information shall be deleted from all storage, backups and computers. Recipient acknowledges and agrees that neither Owner, Broker, or any other person has made any representations or warranties whatsoever, including, without limitation, any representations as to the accuracy or completeness of any Confidential Information provided hereunder and that no such person will have any liability relating to the Confidential Information or for any errors therein or omissions therefrom. Recipient further agrees that it is not entitled to rely on the accuracy or completeness of the Confidential Information, that it will not make any claim against Broker, Owner or any other person based on or relating to the Confidential Information. Analysis and verification of the Confidential Information is solely the responsibility of the Recipient.

4. Recipient acknowledges that significant portions of the Confidential Information are proprietary in nature and that Broker and Owner would suffer significant and irreparable harm in the event of the misuse or disclosure of the Confidential Information. Without affecting any other rights or remedies that either party may have, the Recipient acknowledges and agrees that Broker or Owner shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any breach, threatened breach or anticipatory breach of the provisions of this Agreement by the Recipient or its Representatives.

5. In the event Recipient is required by law, regulation, self regulatory organization requirement or legal process to disclose any of the Confidential Information, Recipient may, in an effort to comply with such requirement, disclose any such Confidential Information without incurring any liability hereunder; provided, however, that Recipient shall (i) use commercially reasonable efforts to give the Broker and Owner, to the extent legally permissible, advance notice of any such requirement prior to disclosure so the Broker or Owner may contest the disclosure or seek a protective order, and (ii) limit the disclosure to the minimum amount that is required to be disclosed.

6. Recipient agrees not to contact or initiate contact at any time for any purpose, either directly or indirectly, the Owner, its officers, agents, employees or tenants, of affiliates of any Property presented to Recipient by Broker, unless such approval is specifically granted in writing by Broker. Recipient further agrees not to undertake any transaction of any kind with the Owner which has been presented by Broker, without the express written agreement of Broker, which may be withheld in Broker's sole discretion.

7. Nothing in this Agreement shall be construed to grant to Recipient a license to any Confidential Information disclosed or to any patents, trademarks, copyrights or any other intellectual property derived from the Confidential Information disclosed.

8. Nothing in this Agreement shall be construed as an agreement or offer to enter into a sale of the Property. There shall be no binding agreement unless and until a purchase and sale agreement is mutually executed by Owner and buyer.

9. This Agreement represents the entire agreement between the Parties concerning the subject matter hereof. No modifications of this Agreement or waiver of the terms and conditions hereof will be binding upon a Party unless approved in writing by the Parties.

10. The Parties shall not have the right to assign or transfer this Agreement or any rights or obligations hereunder to any other party without prior written consent of the other Party.

11. Owner is a beneficiary of this Agreement and shall have the rights and remedies listed herein, as well as any other remedies available in law or equity.

12. The terms of this agreement shall expire two (2) years from the date of execution.

Please indicate your agreement by signing below, whereupon this Agreement shall become a binding agreement governed by and construed in accordance with the laws of the state of California.

AGREED TO AND ACCEPTED:

Signature: _____

Recipient Name: _____

Company: _____

Address: _____

Phone: _____

Email Address: _____

Date of Execution: _____