

CONFIDENTIAL INFORMATION AGREEMENT-BUYER 100

This Confidential Information Agreement (“Agreement”) is made effective the date this document is executed below, between the Equity Group of Michigan, LLC., with its mailing address as PO Box 240, Byron Center, MI, which operates as a Merger & Acquisition, Consulting and Commercial Real Estate Firm (“Company” and/or “Equity”) and the companies and clients represented by Equity, AND _____ (“Prospect”) (collectively, the “Parties”).

Recitals

This Agreement is made with reference to the following facts and circumstances, all of which are true and are incorporated into the Agreement of the Parties:

- A. The Company’s client (“Business”) wishes to pursue a merger or sale.
- B. Prospect potentially desires to acquire the Business and wishes to conduct a study to analyze factors that will assist Prospect in determining whether to make an offer to either purchase the Business or enter into any other transaction regarding the Business.
- C. To conduct the study, Prospect requires Information possessed by the Company in relation to the Business.
- D. Prospect agrees to the terms and conditions set forth in this Agreement as a precondition to the release of any Information pertaining to the Business.

Agreement

The Parties agree as follows:

1. *Confidentiality.* Prospect shall at all times during the term of the study and thereafter hold any Information in the strictest confidence. Prospect shall not directly or indirectly disclose any Information to any person, firm, or company or use any of the Information for any purpose except in the course of work for conducting the study (for the avoidance of doubt, the Prospect shall be entitled to disclose Information to: (i) any governmental authority, as required by law or in relation to any court order; and (ii) to its professional advisors, contractors, capital providers and parties who need to know the information in relation to the Prospect’s evaluation of the study).

2. *Definitions.*

2.1 “Information” means any confidential knowledge or material property of the Business that:

- A. Prospect develops or obtains knowledge of or access to as a direct result of conducting the study and review pertaining to the operation and profitability of the Business.
- B. Company releases to Prospect in connection with the study (including any knowledge conceived, originated, discovered, or developed in whole or in part as a result of the release of such Information).

The Information includes but is not limited to the following types of confidential knowledge or similar data (whether or not reduced to writing):

- A. Plans and materials, marketing surveys and plans, purchasing information, price lists, pricing policies, quoting procedures, financial information, or other information relating to the manner in which Business conducts business.
- B. Discoveries, inventions, concepts, and ideas, whether patentable or not, including, without limitation, the nature and results of research and development activities, techniques, know-how, and related documents and manuals
- C. Any other materials or knowledge related to the services or activities of Business that are not generally known to others engaged in a similar activity.
- D. Any knowledge described above that Company treats as confidential or proprietary or designates as such.
- E. The existence of talks for the potential purchase of the Business by Prospect.

Notwithstanding anything in this Agreement to the contrary, the Information excludes the following:

- A. Any knowledge publicly available or in the possession of Prospect at the time of the disclosure of the Information
- B. Any knowledge developed independently or after disclosure under this Agreement.
- C. Any knowledge obtained from a third party without any obligation or confidentiality or limitation of use regarding such knowledge and which Prospect had no actual or constructive knowledge that such knowledge was wrongfully obtained by or disclosed to the third party.

2.2 "Prospect" includes Prospect as well as its subsidiaries, officers, directors, shareholders, agents, employees, and assigns.

3. *Remedy.* Prospect acknowledges that by reason of conducting the study and having access to the Information pertaining to the Business, Prospect has access to information that is not known to anyone other than any officer, shareholder, director, accountant, and/or attorney of the Business and / or the Company. As a result of the unique nature of the Information, Prospect acknowledges and agrees that the Business and the Company may suffer harm if Prospect fails to comply with any of the obligations under this Agreement that may not be adequately compensated through monetary damages. As such, Prospect consents to the entry of an order for equitable remedies, including, but not limited to, injunctions to remedy any actual or threatened breach of its obligations under this Agreement. These remedies are cumulative and in addition to all other remedies available at law or in equity. Additionally, both parties agree that in the event of a dispute in which a legal action is taken, the prevailing party shall be entitled to its attorney fees and directly incurred costs from the non-prevailing party.

4. *Termination of Study.* After completion of the study, Prospect will destroy or deliver to Company all documents, electronic records, and electronic storage devices relating to the study without making copies or summaries of any such Information. Notwithstanding the foregoing, if the Parties enter into a binding purchase agreement the Prospect may retain the Information, subject to the terms of the purchase agreement.

5. *Term of Study.* The term of the study shall commence as of this Agreement's effective date and terminate one year from the date of this agreement or upon written notice of termination by Prospect or Company. The Agreement may be extended for 90-day terms upon written agreement of the parties.

6. *Offer/Non-Offer.* Nothing in this agreement shall be construed to be an acceptance of an offer to purchase and Company is free to engage in discussions with any other party it deems appropriate. Nothing in this agreement shall bind the Prospect to make any offer (whether binding or non-binding) in relation to the Business. The Prospect shall notify Equity as to whether or not it intends to make a non-binding offer in relation to the study after its evaluation of the Information and completion of its study.

7. *Non-Solicitation of Employees.* To the fullest extent permitted under applicable law, from the date of this Agreement until twelve (12) months after the termination of this Agreement, Prospect will not directly or indirectly solicit any of Business' employees to leave their employment, or attempt to solicit employees of the Business, either for Prospect or for any other person or entity. For the avoidance of doubt, any response by any of the Business' employees to a bona fide, generally circulated, advertisement for employment which results in the Business' employees moving employment to the Prospect shall not be deemed to constitute solicitation by the Prospect for the purposes of this clause.

8. *Non-Solicitation of Company's Clients.* Prospect shall not, from the date of this Agreement until twenty-four (24) months after the termination of this Agreement, directly and/or indirectly attempt to solicit or enter into a transaction with the Business without the direct involvement or the written consent of the Company.

9. *Miscellaneous.*

9.1 This Agreement shall not be construed as an agreement by Company to provide continuous Information to Prospect or to continue the release of Information for any specific period.

9.2 This Agreement cannot be modified except by a writing that is signed by the Parties.

9.3 This Agreement shall be binding on the heirs, legal representatives, and assigns of the Parties.

9.4 This Agreement shall survive the Termination Date.

9.5 This Agreement shall be governed by the laws of the State of Michigan.

9.6 The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions had not been contained herein.

9.7 Notwithstanding anything to the contrary, nothing in this Agreement shall limit any rights Company has under any preexisting master services agreement with Prospect.

9.8 All information is provided by the Business or other sources and is not verified in any way. Equity is relying on the Business or such other sources for the accuracy of said information; has no knowledge of the accuracy of said information, and makes no warranty, expressed or implied, as to the accuracy of such information. Understanding that, prior to potentially entering into any agreement to purchase the Business, the Prospect shall conduct its own independent verification as deemed necessary of said information. Prospect agrees and acknowledges that Equity is not, and shall not be held, responsible for the accuracy of any of the information received, or not received, in relation to the Business.

9.9 The Prospect acknowledges that as part of any agreement that may exist between the Business and the Company, that the Company may receive a fee from the Business in respect of any potential sale or transaction consummated by the Business.

I CERTIFY THAT I AM NOT A BROKER AND/OR REPRESENTING A 3RD PARTY. IF REPRESENTING A 3RD PARTY, EQUITY REQUIRES FULL DISCLOSURE AND 3RD PARTY TO EXECUTE A SEPARATE AGREEMENT.

By way of execution of this document below, prospect agrees to adhere to the terms and conditions set forth in this agreement.

**Please fax back to Equity at 1.616.369.1173 | or
e-mail to taylor@equitygroupmi.com**

Prospect

Date: _____

By: /s/ _____

Signature

It's: _____ (title)

Name-Printed: _____

Company Represented: _____

Address: _____

City/State/Zip: _____

Phone Number: _____ E-mail _____
