

## NON-DISCLOSURE AGREEMENT

This Nondisclosure Agreement (this "Agreement") is made as of \_\_\_\_\_, by and between Harbor Commercial Partners, LLC, a South Carolina limited liability company ("Company"), and \_\_\_\_\_ ("Recipient").

1. **Purpose.** The Company desires to explore a possible business opportunity, or enter into a potential agreement with, Recipient (the "Relationship") in relation to the following: \_\_\_\_\_ as well as all tenant financial information ("Project"). This Agreement is intended to facilitate the Relationship and/or the Project while protecting Confidential Information of the Company (including Confidential Information previously disclosed to Recipient) against unauthorized use or disclosure.

2. **Confidential Information.** The Company will disclose confidential information (the "Confidential Information") to Recipient. Confidential Information is all data, information or technology relating to or arising from the Project, regardless of the source or origination, which is disclosed to the Recipient, its affiliates, subcontractors, and/or subconsultants, whether tangible or intangible, written or unwritten form, obtained visually, audibly, or other means, including, but not limited to the following: business information and plans, marketing plans, samples, specimens, formulas, prototypes, products and product features, plans, drawings, databases, software, code, user interfaces, blueprints, shop drawings, financial information, testing, performance or cost information, equipment or fixture information, or any other information or data from which Confidential Information could be derived. Confidential Information does not include information which (a) was already known to the Recipient prior to the time that it was disclosed to the Recipient hereunder; (b) is in or has entered the public domain through no breach of this Agreement or other wrongful act of the Recipient; (c) has been rightfully received from a third party without breach of this Agreement; or (d) has been approved for release by written authorization of the Company.

3. **Nondisclosure of Confidential Information.** Recipient agrees not to use any Confidential Information disclosed to it for its own use or for any purpose other than to carry out discussions with the Company concerning, and the undertaking of, the Relationship. Recipient shall not disclose or permit disclosure of any Confidential Information to third parties or to employees of Recipient, other than directors, officers, employees, consultants and agents of Recipient who are required to have the information in order to carry out the discussions regarding the Relationship. Recipient has had or will have any other employees, consultants and agents who have access to Confidential Information abide by the terms of this nondisclosure agreement. Recipient agrees that it shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. Such measures shall include, but not be limited to, the same degree of care that Recipient utilizes to protect its own Confidential Information of a similar nature, which shall be no less than reasonable care. Recipient further agrees to notify the Company in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of the Confidential Information, which may come to Recipient's attention.

4. **No Duplication; Return of Materials.** Recipient agrees, except as otherwise expressly authorized by the Company, not to make any copies or duplicates of any Confidential Information. Any materials or documents that have been furnished to Recipient in connection with the Relationship shall be promptly returned by Recipient at its sole cost and expense along with all copies of such documentation, within ten (10) days after the receipt of the written request of the Company.

5. **Requests for Confidential Information.** In the event that Recipient is requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process) to disclose any of the Confidential Information, Recipient shall provide Company with prompt written notice of any such request or requirement so that Company may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. If, in the absence of a protective order or other remedy or the receipt of a waiver Recipient is required to disclose such Confidential Information to any tribunal, Recipient may, without liability hereunder, disclose to such tribunal

only that portion of the Confidential Information which Recipient is required to disclose provided that Recipient exercises reasonable efforts to preserve the confidentiality of the Confidential Information, including, without limitation, by cooperating with the Company to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information by such tribunal, with all such efforts to be undertaken at Company's cost and expense.

6. **Term.** The foregoing commitments of each party shall survive any termination of the Relationship between the parties, and shall continue for a period terminating on the date that is one (1) year from the date on which Confidential Information is last disclosed under this Agreement.

7. **Successors and Assigns.** The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties, provided that the Confidential Information may not be assigned without the prior written consent of the Company. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

8. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of the Agreement shall be interpreted as if such provision were so excluded and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

9. **Governing Law; Jurisdiction.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of South Carolina, without giving effect to principles of conflicts of law. Each of the parties hereto consents to the exclusive jurisdiction and venue of the federal or state courts of South Carolina.

10. **Third Party Beneficiary.** Recipient acknowledges and agrees that Company, or its Affiliate, may disclose Confidential Information to the Recipient and that such Affiliates are intended third party beneficiaries to this agreement. "Affiliate" means (a) Parent (if any) that majority-owns, directly or indirectly, the Company, and (b) any other entity majority-owned, directly or indirectly, by the Company or its Parent. Recipient acknowledges it is liable for its compliance with the terms of this Agreement as well as the compliance of any members, officers, parents, and subsidiaries. Confidential Information received from the Company's Affiliates is the same as Confidential Information received from the Company.

11. **Remedies; Indemnification.** The Company and Recipient each agree that the obligations of Recipient set forth in this Agreement are necessary and reasonable in order to protect the Confidential Information. The Company and Recipient each expressly agree that due to the unique nature of the Confidential Information, monetary damages would be inadequate to compensate the Company or the Third Party Beneficiaries for any breach by Recipient of its covenants and agreements set forth in this Agreement. Accordingly, the Recipient agrees and acknowledges that any such violation or threatened violation shall cause irreparable injury to the Company and/or the Third Party Beneficiaries, and that in addition to any other remedies that may be available in law, in equity or otherwise, the Company and/or Third Party Beneficiaries shall be entitled (a) to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by Recipient, without the necessity of proving actual damages, and (b) to be indemnified by Recipient from any loss or harm, including but not limited to attorneys' fees, arising out of or in connection with any breach or enforcement of Recipient's obligations under this Agreement or the unauthorized use or disclosure of the Confidential Information.

12. **Amendment and Waiver.** Any term of this Agreement may be amended only with the written consent of the Company and Recipient. Any amendment or waiver effected in accordance with this Section shall be binding upon the parties and their respective successors and assigns. Failure to enforce any provision of this Agreement by a party shall not constitute a waiver of any term hereof by such party.

**13.     Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

The parties have executed this Nondisclosure Agreement as of the date first above written.

**COMPANY:**

Harbor Commercial Partners, LLC

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

Name:

Title:

Address: 146 Williman St, Unit 300  
Charleston, SC 29403

**RECIPIENT:**

\_\_\_\_\_

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

Name: \_

Title: \_

Address: \_