

## CONFIDENTIALITY AGREEMENT

{{Dte\_es\_:signer1:date}}

\_\_\_\_\_  
Date

Name:

\_\_\_\_\_  
{{\*Name1\_es\_:signer1:fullname.....}}

By

Address:

\_\_\_\_\_  
{{Address\_es\_:signer1:address.....}}

Address

City, State and Zip Code

\_\_\_\_\_  
{{CityState\_es\_:signer1:citystatezip.....}}

City, State and Zip Code

Ladies and Gentlemen:

In connection with your interest in a potential, negotiated acquisition of that certain property commonly known as 1740 Broadway, New York, NY 10019 (the “Property”) from BRE 1740 Broadway LLC, a Delaware limited liability company (the “Company”), you have requested certain information concerning the Property from the Company and its affiliates and its and their respective directors, officers, members, partners, employees, representatives, agents and/or advisors (including without limitation, attorneys, accountants, consultants and financial advisors) (the Company’s “Representatives”). In consideration of furnishing you with the Evaluation Material (as defined herein), the Company requests your agreement to the following:

1. Representatives. For purposes of this letter agreement, your “Representatives” include your affiliates and your and their respective directors, officers, employees, accountants, legal advisors and, subject to the following paragraph, Financing Sources (as defined herein).

Notwithstanding anything to the contrary herein, the term “Representatives” does not include, and you shall not, directly or indirectly, disclose any Evaluation Material and/or Transaction Information (as defined herein) to, any person acting as a potential or actual joint bidder, equity investor or other debt or equity financing source with respect to a possible Transaction (as defined herein) (any such person, a “Financing Source”), unless you have received the Company’s prior written consent (it being understood that once such consent is delivered, such Financing Source shall be deemed your Representative).

2. Definition of Evaluation Material. The term “Evaluation Material” means all information concerning the Company and/or the Property, including but not limited to any of the Property’s ownership structures (whether prepared by the Company, the Company’s

Representatives, their respective advisors or otherwise and irrespective of the form of communication), that is furnished to you or to your Representatives now or in the future by or on behalf of the Company. “Evaluation Material” also shall be deemed to include all analyses, compilations, forecasts, studies, summaries, notes, data and/or other documents prepared by you, or your Representatives containing, reflecting or generated from, in whole or in part, the information furnished to you or your Representatives pursuant hereto. The term Evaluation Material does not include any information which (i) is or becomes publicly available other than as a result of a disclosure by you or your Representatives, (ii) is already in your possession, on a non-confidential basis, provided that such information is not actually known by you, after due inquiry, to be subject to any legal or contractual obligation of confidentiality owed to the Company or its Representatives, (iii) becomes available to you on a non-confidential basis from a source other than the Company or its Representatives, provided that such source is not known by you, after due inquiry, to be subject to any legal, contractual or fiduciary obligation to the Company or its Representatives or another party reasonably known to have an obligation to the Company or its affiliates to keep such information confidential, or (iv) is independently developed by you without use of or reference to the Evaluation Material or otherwise violating any of your obligations hereunder.

3. Your Obligations. The Evaluation Material will be used solely for the purpose of evaluating your potential purchase of the Property from the Company or its affiliates (the “Transaction”) and not for any other purpose. You will protect the Evaluation Material with the same degree of care that you use to prevent the unauthorized use, access or disclosure of your own confidential and proprietary information, which will be not less than a reasonable degree of care. The Evaluation Material will be kept strictly confidential in accordance with the terms hereof by you and your Representatives and will not be disclosed by you or your Representatives to any other person except (i) as may be consented to by the Company in writing, (ii) if required by law, regulation or legal or judicial process, subject to paragraph 4 below, and (iii) that you may disclose the Evaluation Material or portions thereof to those of your Representatives who need to know such Evaluation Material for the purpose of evaluating the Transaction, but only to the extent necessary to evaluate the Transaction and only if such Representatives are advised of the confidential nature of such Evaluation Material and the terms of this letter agreement. You will be responsible for any failure to comply with the terms of this letter agreement by you or your Representatives, and you agree at your sole commercially reasonable expense, to take all commercially reasonable measures to restrain your Representatives from prohibited or unauthorized disclosure or use of the Evaluation Material.

4. Compelled Disclosure. In the event that you or your Representatives are requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or other process) to disclose any Evaluation Material, you will provide the Company, to the extent permissible under applicable law or regulation, with prompt written notice of such request or requirement so that the Company or its affiliates may seek an appropriate protective order or waive compliance with the provisions of this letter agreement. If a protective order or the receipt of a waiver is not obtained, and you or your Representatives are, in the opinion of your or their legal counsel, compelled to disclose Evaluation Material, you and/or your Representatives, as applicable, may disclose that portion of the Evaluation Material that your or their legal counsel advises that you or your Representatives are compelled to disclose, provided that you shall give the Company written notice of the information to be disclosed as far in advance

of its disclosure as practicable. You also agree to use your commercially reasonable efforts to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Evaluation Material. Notwithstanding any such compelled disclosure by you or your Representatives, such compelled disclosure will not otherwise affect your and your Representatives' obligations hereunder with respect to Evaluation Material so disclosed.

5. Transaction Information. Except with regard to your Representatives, you agree that, without the prior written consent of the Company, neither you nor any of your Representatives will disclose to any other person (i) the fact that any investigations, discussions or negotiations are taking place concerning the Transaction, (ii) that you and/or any of your Representatives have received Evaluation Material from the Company or that Evaluation Material has been made available by or on behalf of the Company, or (iii) any of the terms, conditions or other facts with respect to the Transaction, including the status thereof (the information in clauses (i) through (iii) being "Transaction Information"), except that you may make such disclosure if your legal counsel advises such disclosure is required by applicable law, regulation or legal process but only after compliance with the procedures set forth in paragraph 4 above. The term "person" as used in this letter agreement will be interpreted broadly to include the media and any corporation, company, group, partnership or other entity or individual, as well as, for the avoidance of doubt, any third party with whom the Company, its affiliates or any person acting on the Company's or its affiliates behalf has initiated or will be initiating discussions regarding participation in a Transaction in the same or similar capacity as you or your affiliates will potentially participate.

6. Ownership; Return or Destruction of Evaluation Material. All Evaluation Material shall be and remain the property of the Company and its Representatives, as applicable, and no right or license is granted to you with respect to any Evaluation Material or any other intellectual property of the Company or its affiliates. At any time upon the request of the Company for any reason, you will promptly deliver to the Company all Evaluation Material (and all copies thereof) furnished to you or your Representatives by or on behalf of the Company pursuant hereto, as well as promptly destroy all other Evaluation Material prepared by you or your Representatives; provided, that, you and your Representatives may retain copies of Evaluation Material if required to comply with applicable law or regulation; provided, further, that, any retained Evaluation Material remains subject to the terms and conditions of this letter agreement. Notwithstanding the return or destruction or permitted retention of the Evaluation Material, you and your Representatives will continue to be bound by your obligations of confidentiality and other obligations hereunder.

7. No Other Obligation. Each party hereto understands and agrees that no contract or agreement providing for the Transaction shall be deemed to exist between you and the Company unless and until a final, legally binding definitive agreement has been executed and delivered. Each party hereto also agrees that unless and until a final, legally binding definitive agreement between you and the Company with respect to the Transaction has been executed and delivered, neither you nor the Company has any legal obligation of any kind whatsoever with respect to the Transaction by virtue of this letter agreement, except for the matters specifically agreed to herein. You acknowledge that the Company expressly reserves the right to terminate negotiations regarding the Transaction at any time, without providing you with the reasons. The Company is free to refuse any offer you may make, and the Company may provide the same or similar information to other parties and enter into agreements with other parties.

8. No Representations or Warranties. Although the Company has endeavored to include in the Evaluation Material all of the information which is relevant for the purposes of your investigation, you understand and acknowledge that neither the Company nor any of its Representatives make any representation or warranty, express or implied, as to the accuracy or completeness of the Evaluation Material. You agree that neither the Company nor any of its Representatives shall have any liability to you or any of your Representatives relating to or resulting from the use of the Evaluation Material or any errors therein or omissions therefrom. Only those representations and warranties which are made in a final, legally binding definitive agreement regarding the Transaction, when, as and if executed and delivered, and subject to such limitations and restrictions as may be specified therein, will have any legal effect.

9. Restricted Communication and Access. Without the prior written consent of the Company, and except for communications in the ordinary course of business unrelated to the Transaction, neither you nor your Representatives will initiate or cause to be initiated any (i) communication concerning the Evaluation Material or Transaction Information, (ii) requests for additional information on any of the Property, or (iii) requests for (a) visits or tours of the Property, or (b) management meetings in connection with the Transaction, except, in each case, with the Company or its designee. You also agree that neither you nor any of your Representatives will, without the prior written consent of the Company, initiate or maintain contact (except in the ordinary course of business unrelated to the Transaction) with any tenant, lender, servicer, special servicer, investor, partner, employee or ground lessor of, or agent for, the Property.

10. Non-Solicitation. You agree that neither you nor any of your affiliates nor any of your Representatives acting on your behalf will, without the prior written consent of the Company, directly or indirectly, solicit for employment or hire any employee of the Company or any of its affiliates or subsidiaries, as well as any employee who works at the Property, with whom you have had contact or who became known to you in connection with your consideration of the Transaction; provided, however, that the foregoing shall not restrict you or your affiliates from (i) placing general advertisements for employment not specifically directed at any particular individual or at employees of the Company or any of its affiliates or subsidiaries or those who work at the Property or (ii) hiring any person who responds to such general advertisements.

11. Principal. You hereby acknowledge that you are a principal or investment advisor in connection with the Transaction and you agree that you will not look to the Company or its Representatives for any fees or commissions in connection with the Transaction.

12. Remedies. You agree that money damages would not be a sufficient remedy for any breach of this letter agreement by you or your Representatives and that the Company or its affiliates shall be entitled to equitable relief, including injunction and specific performance, in the event of any such breach, in addition to all other remedies available to the Company or its affiliates at law or in equity. You further agree to waive any requirement for the securing or posting of any bond in connection with such remedy.

13. Governing Law; Jurisdiction. This letter agreement shall be governed by and construed in accordance with the internal laws of the State of New York. You hereby irrevocably and unconditionally consent to submit to the exclusive jurisdiction of the courts of the State of New York and of the United States of America located in the Southern District of the State of New York

for any actions, suits or proceedings arising out of or relating to this letter agreement (and you agree not to commence any action, suit or proceeding relating thereto except in such courts, and further agree that service of any process, summons, notice or document by U.S. registered mail to your address set forth above shall be effective service of process for any action, suit or proceeding brought against you in any such court). You hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this letter agreement in the courts of the State of New York or the United States of America located in the State of New York, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

14. U.S. Securities Laws. You hereby acknowledge that you are aware, and that you will advise your Representatives who are informed as to the matters which are the subject of this letter agreement, that the United States securities laws prohibit any person who has received from an issuer material, non-public information concerning the matters which are the subject of this letter agreement from purchasing or selling securities of such issuer or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities.

15. Waivers. Each party hereto agrees that no failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

16. Severability. If any provision of this letter agreement is found to violate any statute, regulation, rule, order or decree of any governmental authority, court, agency or exchange, such invalidity shall not be deemed to affect any other provision hereof or the validity of the remainder of this letter agreement, and such invalid provision shall be deemed deleted herefrom to the minimum extent necessary to cure such violation.

17. Assignment. This letter agreement and each party's obligations hereunder shall be binding on the representatives, assigns and successors of such party and shall inure to the benefit of the assigns and successors of such party, provided, however, that your rights and obligations hereunder are not assignable, except to your Representatives, as provided herein.

18. Entire Agreement; Amendment; Delivery as Acceptance. This letter agreement (i) constitutes the entire agreement between the parties hereto relating to the subject matter hereof and supersedes any prior communications, understandings and agreements between the parties; and (ii) may not be waived, amended or modified except by a written instrument executed by the parties hereto. Following your execution of this letter agreement, the delivery to you of Evaluation Material by or on behalf of the Company shall confirm the agreement of the Company to the terms and conditions of this letter agreement.

19. Term. The provisions of this letter agreement shall continue in full force and effect at all times until three (3) years from the date hereof.

*[signatures to follow]*

If you agree with the foregoing, please sign and return a copy of this letter agreement to the Company, which will constitute your agreement with respect to the subject matter of this letter agreement.

ACCEPTED AND AGREED  
as of the date first above written: