

Confidential Offering Agreement

RE: **APN: 018-281-45 1895-1985 Main Street, Watsonville, CA 95076** (the “Property”)

This Confidential Offering Agreement (“**Agreement**”), between and among **Crossroads Seagulls LLC dba Watsonville Crossroads Shopping Center** (“**Owner**”), by and through Owner’s exclusive agent Cushman & Wakefield U.S., Inc. (“**Broker**”), and (“**Prospective Buyer**”) on behalf of itself and its agents and employees, sets forth the terms and conditions under which Owner and Broker will make available information to Prospective Buyer regarding the Property. Prospective Buyer understands that neither Owner nor Broker would make available such information but for Prospective Buyer’s express agreement to the terms of this Agreement.

1. **Confidential Information.** As used herein, the term “**Confidential Information**” means any and all documents, materials, brochures, and other information (“**Materials**”) provided to Prospective Buyer in connection with its interest in acquiring the Property. The terms and conditions herein shall apply to all Materials supplied by Owner or Broker, except for such information which Prospective Buyer can demonstrate is a matter of public record or otherwise available to Prospective Buyer from public sources other than through a breach of the provisions of this or any similar Agreement affecting the Property.
2. **Maintenance of Confidentiality.** Prospective Buyer shall maintain all of the Materials in strict confidence and will not copy, reproduce, duplicate, distribute, or otherwise disclose the Materials except in compliance with this Agreement or as may be compelled by law. Prospective Buyer may, however, disclose the Materials to such of its officers, employees, agents, consultants, lender, legal counsel and representatives (collectively, “**Prospective Buyer’s Agents**”) who require access thereto for purposes of assisting Prospective Buyer in evaluating the Property for possible acquisition, provided that Prospective Buyer shall accompany such disclosure with a copy of this Agreement and shall secure the express agreement of all Prospective Buyer’s Agents to comply with the terms hereof. To effectuate such strict confidentiality, Prospective Buyer shall maintain the Materials in a separate file prominently marked “**CONFIDENTIAL**.” Prospective Buyer shall not divulge the existence, contents or provisions of this Agreement, or the fact that Prospective Buyer is engaged in discussions concerning the Property, except as provided herein, without the prior written consent of Owner, which may be granted or withheld in Owner’s sole discretion.
3. **Use of Materials.** Prospective Buyer shall use the Materials solely for the purpose of evaluating the Property in connection with its potential acquisition by Prospective Buyer. Neither Prospective Buyer nor Prospective Buyer’s Agents shall use or disclose the Materials for any other purpose whatsoever.
4. **Enforcement.** Prospective Buyer shall, at all times, be responsible for the enforcement of this Agreement and for ensuring the compliance of Prospective Buyer’s Agents, and that the Materials are not disclosed, published or otherwise disseminated to third parties, regulatory agencies or any other entity, person or governing body, except as expressly permitted herein.
5. **Return of Materials.** Prospective Buyer shall return all Materials to Broker immediately upon determining not to pursue acquisition of the Property, or upon request by Broker or Owner. Prospective Buyer shall not retain any copies, extracts or other reproductions, in whole or in part, of such Materials or any other written material containing or reflecting any information within the Materials. Prospective Buyer shall destroy all documents, memoranda, notes, other writings and recordings whatsoever.



prepared by Prospective Buyer or Prospective Buyer's Agents based on the Materials, and shall direct each of Prospective Buyer's Agents to do the same. Such destruction shall be certified in writing to Owner by an authorized officer of Prospective Buyer supervising such destruction.

6. **Remedies.** Prospective Buyer acknowledges that the breach of this Agreement will cause Owner and Broker irreparable damage which is not fully compensable by monetary damages, and that Broker and Owner therefore may have no adequate remedy at law if Prospective Buyer or Prospective Buyer's Agents violate any of the terms of this Agreement. Therefore, in addition to any other rights or remedies Owner and/or Broker may have, each shall be entitled to seek injunctive relief to restrain any breach or threatened breach and/or specific enforcement of such terms in the event of any breach of the provisions of this Agreement. Neither Prospective Buyer nor Prospective Buyer's Agent's shall oppose the granting of such relief.

7. **No Warranty.** Although Broker and Owner have endeavored to include in the Materials such information which they believe to be relevant to Prospective Buyer's evaluation of the Property, the Materials do not, by any means, represent all of the documents, records and information that may exist about the Property. Prospective Buyer understands, acknowledges and agrees that neither Owner nor Broker make any representation or warranty whatsoever, and each expressly disclaims any express or implied warranty, as to the accuracy or completeness of the Materials. Prospective Buyer shall conduct such investigation of the Property as Prospective Buyer, in its sole discretion, deems necessary or appropriate, and shall rely solely thereon in determining whether to acquire the Property. Prospective Buyer further acknowledges and agrees that it is solely Prospective Buyer's responsibility to investigate the condition of the Property and to determine the existence thereon of any hazardous materials. Neither Broker nor Owner shall have any liability to the Prospective Buyer nor Prospective Buyer's Agents in any manner arising from their respective use of or reliance on the Materials.

8. **Non-Exclusive Negotiations.** Owner and Broker hereby reserve the right, in their sole discretion, to negotiate with any party, sell to any party, or withdraw the Property from the market, all without incurring any liability to the Prospective Buyer.

9. **Prospective Buyer's Real Estate Agent:** Prospective Buyer hereby warrants that it is a principal and is entering into this Agreement on its own account and not as a broker, finder, agent, or otherwise on behalf of any other party. Prospective Buyer shall not disclose any of the Materials to its real estate agent ("**Buyer's Agent**"), if any, unless said Buyer's Agent **executes** a copy of this Agreement. By execution hereof, Buyer's Agent warrants that it will not use, disclose, or consider any of the Materials in connection with any other party other than Prospective Buyer, and acknowledges and agrees that at close of escrow, any compensation to Buyer's Agent shall be the exclusive responsibility of Prospective Buyer.

10. **No Assignment.** Prospective Buyer shall not assign its rights, obligations and interest in this Agreement to any other person or entity without first obtaining Broker's and Owner's written consent thereto. Any attempted assignment in violation of the foregoing provisions shall be null and void. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and permitted assigns.

11. **Miscellaneous.** If for any reason, any provision of this Agreement shall be held to be unenforceable, it shall not affect the validity or enforceability of any other provision hereof. No failure, partial exercise or delay of Broker or Owner in exercising any right, power or privilege hereunder shall operate as a waiver thereof. This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event of any suit or litigation to interpret or enforce this Agreement, the prevailing party shall be entitled to recovery of reasonable attorney fees, costs and



**CUSHMAN &
WAKEFIELD**

expenses relating thereto. This Agreement expresses the entire agreement of the parties and supersedes any and all previous discussions and agreements between the parties with regard to the subject matter hereof. There are no other understandings, oral or written, and no warranties or representations of any nature whatsoever, either expressed or implied, except as may be set forth herein. Any and all future modifications of this Agreement will be effective only if in writing and signed by the parties hereto. This Agreement may be executed in two or more counterparts, each of which shall be deemed originals, and all of which taken together shall constitute one instrument.

Broker has provided this Agreement as a condition precedent to the commencement of negotiations for the acquisition of the Property. By execution hereof, Prospective Buyer agrees, for itself and all Prospective Buyer's Agents, to be bound by the terms hereof.

Cushman & Wakefield U.S., Inc. License #01880493
Reuben Helick Managing Director License #01171272

AGREED AND ACCEPTED BY PROSPECTIVE BUYER:

Company: _____
Contact: _____
Address: _____

Signature: _____
Title: _____
Date: _____
Phone: _____
Facsimile: _____
E-mail: _____

IF APPLICABLE, PROSPECTIVE BUYER'S AGENT:

Company: _____
Contact: _____
Address: _____

Signature: _____
Title: _____
Date: _____
Phone: _____
Facsimile: _____
E-mail: _____