

# RED SPADE REALTY

369 Broadway, Everett, MA 02149  
www.redspaderealty.com | 617-315-2350

## Non-Disclosure and Confidentiality Agreement

This agreement made this \_\_\_ day of \_\_\_\_\_, 2019 between Red Spade Realty (Broker) and \_\_\_\_\_ (Buyer).

Buyer agrees to conduct business exclusively through Broker with regard to any real estate or restaurants listed by Broker ("Listing(s)"). In connection with the possible acquisition by Buyer of the Listings, Broker will furnish Buyer information regarding the Listings ("Confidential Information"). In consideration of obtaining Confidential Information, Buyer hereby agrees:

- 1. Genuine Business Interest.** Buyer is genuinely interested in pursuing and possibly purchasing a potential Listing as marketed by the Broker.
- 2. Permitted Use.** Buyer will use the confidential information solely for purposes of evaluating the Listing.
- 3. Confidentiality.** Buyer acknowledges that all information and materials furnished from the Broker concerning the above referenced Property is confidential and may not be used for any purpose other than evaluation. Access to any information furnished by the Broker will be limited to attorneys, accountants, banking representatives, and business advisors directly involved with the Property listed above.
- 4. Nondisclosure.** Buyer agrees not to disclose to any other person the fact that any discussion or negotiations are taking place with respect to the Listing or the actual or potential terms, conditions or facts involved in any such discussions or negotiations.
- 5. Discretion.** Buyer agrees not to contact the Property or Business owner, employees, suppliers, customers or anyone else associated to the Listing except through Broker. Buyer further agrees not to circumvent or interfere with Broker's written contract or verbal agreement with Seller in any way.
- 6. Binding Effect.** This agreement shall be governed and construed in accordance with the laws of the State of Massachusetts.
- 7. Cost of Enforcement.** In the event either party commences a judicial action to enforce the provision of this Agreement, the prevailing party in such action shall be entitled to recover, in addition to such other amounts as may be permitted by law, call costs and expenses incurred by it in the prosecution of defence of such action, including reasonable attorneys' fees.
- 8. Warranty.** It is understood by both the Broker and the Buyer that all information regarding the Listing is provided by the seller ("Seller"). Red Spade Realty does not guarantee, warrant, either expressed or implied, any information and/or figures supplied by the Seller. Buyer should rely on his own verification of this information as a part of his or her own due diligence. Buyer agrees that Broker is not responsible

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for the accuracy or completeness of any of the information Buyer receives or fails to receive, and Buyer agrees to, defend, indemnify and hold harmless Broker and any of its agents from any claims or damages which may occur by reason of the inaccuracy or incompleteness of any information provided to Buyer with respect to any business Buyer might purchase.

**9. Reproduction Prohibited.** No copies shall be made or retained of any written information supplied to Buyer by Broker. At the conclusion of any discussion, negotiation or upon demand by Broker, all information including written notes, photographs, or notes taken by Buyer shall be returned to Broker or Broker's Agent. Any information shall not be disclosed to any employee or consultant unless they agree to execute and be bound by this agreement.

**10. Listing Agent.** The Buyer acknowledges and understands that Red Spade Realty is a listing agent of the Seller.

**11. Severability.** A determination that any provision or provisions of the Agreement is invalid, illegal or otherwise unenforceable in any respect in any instance shall not affect the validity, legality or enforceability of any other provision or provisions of the Agreement.

**12. Execution.** The Agreement shall become effective when executed by all parties and may be executed in counterparts, any one of which shall be deemed to be an original instrument. Any proof of the Agreement shall require production of only one such counterpart duly executed by the party to be charged therewith.

**13. Entire Agreement.** The parties hereto agree that the Agreement constitutes the entire agreement between the parties relating to the subject matter of the Agreement and that there are no other agreements, understandings, representations or warranties made or given, except as expressly set forth herein. All prior agreements, understandings, letters and/or communications relating to the subject matter of the Agreement shall be null and void and shall be superseded by the Agreement, except as expressly set forth herein.

**14. Interpretation.** Should any provision of the Agreement require interpretation or construction, the parties hereto agree that the court, administrative body, or other entity interpreting or construing the Agreement shall not apply a presumption that the provisions herein shall be more strictly construed against one party by reason of the rule of construction that the provisions of a document shall be more strictly construed against the party who itself or through its representatives prepared same; it being agreed that the parties and their respective attorneys have fully participated in the preparation of all provisions of the Agreement.

**15. Authority.** The undersigned individuals represent, warrant and certify that s/he is authorized to execute the Agreement in the capacity indicated.

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**16. Assignment.** The rights and obligations of the parties under this Agreement shall not be assignable except with the prior written consent of the other party hereto.

**17. Counsel.** This Agreement is a legal document that creates binding obligations. All parties have been advised and have been given an opportunity to consult an attorney.

**BUYER**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

Funds Available: \_\_\_\_\_

**BROKER**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_