

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (this "Agreement") is entered into and effective as of the _____ day of _____, 2019 (the "Effective Date"), by and between _____ ("Vendor") and LAGUARDIA GATEWAY PARTNERS, LLC, a Delaware limited liability company ("LGP"). Vendor and LGP are also referred to herein individually as a "Party" and together as the "Parties."

WHEREAS, Vendor and LGP are interested in a possible transaction or relationship with respect to Terminal B (aka the Central Terminal Building) at New York LaGuardia Airport in Queens, New York (the "Transaction");

WHEREAS, either Party (the "Recipient Party") may seek or be furnished with certain Information (as defined below) from the other Party (together with its representatives and advisors, the "Disclosing Party") in connection with the Transaction; and

WHEREAS, Disclosing Party desires that such Information it furnishes to Recipient Party remain Disclosing Party's confidential and proprietary and/or trade secrets material.

NOW, THEREFORE, for good and valuable consideration, the parties hereby agree as follows:

1. The term "Information" shall mean all oral or written information (including, without limitation, information in electronic form) and material, in tangible or intangible form (including, but not limited to, trade secrets, technical, operating, business, marketing and financial information), that the Disclosing Party has furnished or will furnish to Recipient Party or its Representatives (as defined below) in connection with the Transaction, whether furnished before or after the date of this Agreement, as well as all information generated by Recipient Party or by its Representatives that contains, reflects or is derived from such furnished information pertaining to the Transaction, which furnished information is clearly identified or marked as "confidential" or "proprietary" or is, or should be reasonably understood to be, confidential or proprietary in nature. Without limiting the foregoing, Information may include documents; data; reports; notes; studies; projections; records; manuals; graphs; electronic files; computer generated data; drawings; sketches; charts; tables; diagrams; photographs and other media or renderings; calculations; estimates; pricing; cost or expense information; schedules; CADD and design formatted documents; plans; specifications; information relating to systems, processes or techniques; personnel data; technical data; models, know-how; timing and other strategic information; vendor and customer information and lists; and contracting information.
2. The Information is being made available and shall be reviewed by Recipient Party in accordance with the following conditions: (a) it shall keep the Information strictly confidential, and the Information shall not be used by it, directly or indirectly for any purpose, except as reasonably required to assess its willingness to propose or enter into the Transaction; and (b) Recipient Party shall only disclose the Information to those of its directors, officers, partners, affiliates, agents, auditors, attorneys, contractors, consultants, accountants, and employees (collectively, "Representatives") who need to know the Information for the purposes of Recipient Party assessing the Transaction, and who are informed of Recipient Party's obligations under this Agreement. For purposes of clarification and not limitation, any disclosure by Recipient Party or any of its Representatives to another of such Recipient Party's Representatives who are not participating in the Transaction is strictly prohibited, and such disclosure shall constitute a breach of this Agreement. Recipient Party shall be responsible for the compliance with any requirements set forth in this Agreement by Recipient Party and any Representative to whom the Information is disclosed by Recipient Party, directly or indirectly, intentionally or inadvertently, and Recipient Party shall be responsible for any breach thereof.
3. Vendor acknowledges and agrees that it may also be provided with information deemed to be "Confidential Information" and/or "Confidential Privileged Information" information (collectively "Protected Information") as defined by the Port Authority of New York and New Jersey's (the "Port

Authority”) Protected Information Practices and Procedures (the “PIPP”) and that if Vendor is provided with such Protected Information, it shall (i) be bound by and comply with the PIPP and the Port Authority’s Information Security Handbook, which can be provided upon request or also is available at www.panynj.gov and (ii) execute any required Port Authority documents provided by Disclosing Party; provided, that such execution shall not in any way compromise Vendor’s obligations to comply with the terms and conditions of this Agreement. For purposes of clarity, “Protected Information” shall be deemed Information under this Agreement.

4. Notwithstanding any provision contained herein to the contrary, Information shall in no event include materials that: (a) are or become known or generally available in the public domain at the time of disclosure through no act or omission of Recipient Party; (b) are or become known to Recipient Party, without any wrongful act of Recipient Party, at the time of disclosure; (c) were disclosed with the prior approval of Disclosing Party; (d) has been or is subsequently developed independently, without any use of the Information, by Recipient Party’s Representatives who have not had access to such Information; (e) Recipient Party’s attorneys or accountants are required to disclose by rules of professional responsibility; and (f) subject to Section 6 below, Recipient Party is required to disclose pursuant to law or court order.
5. Upon written request of Disclosing Party, Recipient Party shall, and shall cause its Representatives to, immediately destroy all copies of the Information disclosed to it or them by or on behalf of Disclosing Party. Recipient Party’s and its Representatives’ obligations of confidentiality and non-disclosure under this Agreement shall continue despite termination of its investigation of a possible Transaction.
6. Recipient Party and its Representatives shall not be prohibited from disclosing such portions of the Information as may be required pursuant to law, court order or regulation or legal or regulatory proceeding (including order of any tribunal, authority, regulatory or self-regulatory body or stock exchange); provided, however, that Recipient Party, unless prohibited by law, shall, prior to its or any Representative’s compliance with such law, court order or regulation or legal or regulatory proceeding: (i) give Disclosing Party written notice of such anticipated disclosure promptly after Recipient Party discovers the need therefore, including a description of the documents or information requested thereby; (ii) consult with Disclosing Party on the advisability of taking legally available steps to resist or narrow such request; and (iii) to the extent that Disclosing Party determines that the requested documents or information contain trade secrets or other proprietary or confidential information, then Disclosing Party shall provide to Recipient Party within ten (10) business days of notification a letter setting forth which documents or information it seeks to have withheld and the basis for its determination. If, after reviewing such request to withhold documents or information, Recipient Party determines that it must disclose or cause or allow any of its Representatives to disclose any such requested documents or information, it shall (unless prohibited by law) promptly notify Disclosing Party of such determination. Neither Recipient Party nor any of its Representatives shall release or share such documents or information until after said ten (10) business day period, except to the extent required by law, and shall furnish only such portion of the Information as, in the written opinion of counsel satisfactory to Disclosing Party, it is legally compelled to disclose and shall exercise its best efforts to obtain an order or other reliable assurance that confidential treatment will be afforded to the disclosed Information.
7. Recipient Party understands that neither Disclosing Party nor any of its representatives or advisors have made or make any representation or warranty as to the accuracy or completeness of the Information. Recipient Party agrees that, except as may be provided in any definitive agreement with respect to the Transaction, neither Disclosing Party nor its representatives or advisors shall have any liability to Recipient Party, its Representatives, owners, lenders or any other person resulting from the use of the Information. It should be noted that the Information may include certain estimates and projections which involve numerous and significant subjective determinations. Accordingly, no representation or warranty can be or is made as to the accuracy or attainability of any such estimates, projections and underlying assumptions, and none of Disclosing Party or its representatives shall have any liability with respect thereto. Recipient Party is expected to ascertain for its own benefit the accuracy and completeness of all information.

8. The terms and conditions of this Agreement shall terminate two (2) years from the Effective Date.
9. This Agreement may not be amended or terminated in any manner except by an instrument in writing executed by the parties.
10. This Agreement and any claim related directly or indirectly to this agreement shall be governed and construed in accordance with the laws of the State of New York (without giving regard to the conflicts of law provisions thereof).
11. Each Party irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any New York State court or federal District Court of the United States of America sitting in the Borough of Manhattan in New York City, and any appellate court from any thereof, in any action or proceeding arising from, arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the Parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such federal District Court. Each Party hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each Party waives any objections which it may now or hereafter have based on venue and/or forum non conveniens for any such suit, action or proceeding filed in any New York State court or federal District Court of the United States of America sitting in the Borough of Manhattan in New York City.
12. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES THE RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE INFORMATION.
13. This Agreement shall inure to the benefit of and shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto, but shall not be assigned without the prior written consent of the parties hereto.
14. It is agreed that money damages would be an inadequate remedy for the breach of this Agreement because of the difficulty of ascertaining the amount of damages that would be suffered by Disclosing Party or other parties that are the subject of the Information in the event of such breach. Therefore, Recipient Party agrees that in addition to any other rights and remedies available at law or in equity, Disclosing Party shall be entitled to equitable relief, including without limitation specific performance of this Agreement and injunctive relief against any breach of this Agreement (without posting bond or other security, without having to show any irreparable harm and without proving that money damages would be an inadequate remedy) to enforce this Agreement and that neither Recipient Party nor its Representatives will oppose the granting of such relief. Notwithstanding the foregoing, the Parties expressly agree that neither Party shall be liable to the other Party for incidental, consequential, punitive, special or exemplary damages with respect to any breach of this Agreement.
15. Recipient Party agrees to defend, indemnify and hold harmless Disclosing Party and its respective direct and indirect equity holders for any and all damages, losses (including economic loss), claims, demands, causes of action, obligations, liabilities, injuries, judgments, fines, penalties, interest, costs and expenses arising out of any breach or failure to comply with any of the terms of this Agreement by Recipient Party, its Representatives and any other person to whom Recipient Party or its Representatives disclose Information without the written consent of Disclosing Party. Without limiting the generality of the foregoing, Recipient Party agrees to reimburse Disclosing Party for all costs and expenses, including reasonable attorney's fees, incurred by Disclosing Party in attempting to enforce the obligations of Recipient Party or its Representatives hereunder.

16. No failure or delay by Disclosing Party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof.
17. Should any provision or clause of this Agreement be determined by a court or arbitrator to be unenforceable, such a determination shall not affect the validity and enforceability of any other provision or clause hereof which shall remain operative and binding, and this Agreement, generally, shall, to the fullest extent permitted by law be interpreted to meet the intent of the parties.
18. This Agreement may be executed in any number of counterparts, each of which shall constitute an original agreement, and all of which taken together shall constitute one and the same agreement and shall become effective (unless otherwise therein provided) when one or more counterparts have been signed by each party and delivered to the other party. Any photographic, photocopy or similar reproduction copy of this Agreement, or any PDF file of this Agreement, or any copy of this Agreement sent by facsimile transmission, in each case with all signatures reproduced on one or more sets of signature pages, will be considered for all purposes as if it were a manually-executed counterpart of this Agreement.

The Parties hereto have executed this Agreement as of the Effective Date.

_____:

By: _____

Name: _____

Title: _____

LAGUARDIA GATEWAY PARTNERS, LLC:

By: _____

Name: _____

Title: _____